

Lemos, June

From: David Gurney <jugglestone@comcast.net>
Sent: Tuesday, November 13, 2018 11:54 AM
To: Lemos, June
Subject: Consent Calendar

Nov. 13, 2018

Dear Council Members,

Please remove items 5D and 5H from the consent calendar at tonight's City Council meeting. Both of these items represent issues of major importance to the public and future growth and planning of the city, that need to be conducted with discussion in an open and transparent manner, not swept under the rug by placing them without review on the consent calendar.

In particular, a resolution for item 5D, set to be approved, contains in paragraph twelve (12) the following statement:

"WHEREAS, the original Professional Services Agreement with Michael Baker International did not include an adequate scope to cover the quantity of public comment received on the Draft EIR and subsequently expired;"

This recital, in the same sentence, conflates the facts that the Public Services Agreement with Michael Baker International has expired with the claim that the agreement "did not include an adequate scope to cover the quantity of public comment received on the Draft EIR."

Indeed, the DEIR generated 722 pages of public comment, the overwhelming majority of which expressed strong opposition to the project. To conflate the inadequacy of MBI's ability to respond to public comment with the expiration date of the contract is both absurd and a disservice to your constituents. As written, this resolution is misleading and must be removed from the consent calendar for further review.

As others have expressed, Item 5H has not gone through the required steps of the CEQA process, and requires further review, beyond mute consent approval by the Council.

Please have both of these items removed from the consent calendar.

Thank you,

Sincerely,
David Gurney
jugglestone@comcast.net

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Lemos, June

From: John <jkriege@att.net>
Sent: Monday, November 12, 2018 12:28 PM
To: Peters, Lindy; Turner, Dave; Cimolino, Michael; Lee, Will; Norvell, Bernie; Miller, Tabatha; Lemos, June; Perkins, Scott
Cc: Citizens for Appropriate Coastal Land Use
Subject: Item 5D on the 11/13/2018 City Council agenda

This my comment on this item to write a new contract with Michael Baker International to complete the final EIR process for the Hare Creek Development.

I ask the one of the council members direct that this item be moved off the Consent Calendar. MBI is already contracted to complete the final EIR, including responding to public comments received. It appears that the existing contract was based on responding to 25 comments, so it appears that more than 25 have been received.

But the existing contract did include hourly rates for responding to additional comments beyond the first 25. I believe moving this item from the Consent Calendar will allow the council, contractor, and city to discuss publicly:

- 1) How many comments have been received,
- 2) How many of these comments require a unique response,
- 3) Whether the new proposed contract will cost the city more or less than using the hourly rates in the existing contract.

John Kriege
jkriege@att.net

Lemos, June

From: Miller, Tabatha
Sent: Tuesday, November 13, 2018 9:46 AM
To: Lemos, June
Subject: FW: Please remove 5D and 5H from tonight's consent calendar - additional letter
Attachments: CACLU'S TECHNICAL COMMENTS.pdf

From: Citizens for Appropriate Coastal Land Use [mailto:caclu@mcn.org]
Sent: Tuesday, November 13, 2018 9:11 AM
To: Peters, Lindy <LPeters2@fortbragg.com>; Lee, Will <Wlee@fortbragg.com>; Turner, Dave <dturner@fortbragg.com>; Cimolino, Michael <MCimolino@fortbragg.com>; Norvell, Bernie <Bnorvell2@fortbragg.com>
Cc: Miller, Tabatha <TMiller@fortbragg.com>; Perkins, Scott <SPerkins@fortbragg.com>; Jones, Marie <mjones@fortbragg.com>
Subject: Please remove 5D and 5H from tonight's consent calendar - additional letter

To the Members of the City Council,

It has come to my attention that the CACLU letter being specifically excluded from the MBI contract may have been the following (and not the one attached to the previous message):

Leslie Kashiwada
on behalf of Citizens for Appropriate Coastal Land Use

**CACLU'S TECHNICAL COMMENTS: City of Fort Bragg Draft EIR (March, 2018)
on the Hare Creek Center Development Project
Submitted by Annemarie Weibel 5-22-18**

Introduction. The following comments address the City of Fort Bragg Draft Environmental Impact Report (DEIR) for the Hare Creek Center (HCC) Project (strip mall), dated March, 2018. In summary, the DEIR presents (a) an incomplete project description, (b) relies on superannuated (outdated) and variously erroneous data and other information, (c) omits significant potential adverse environmental effects (including on coastal resources and public/recreational access) from analysis, (d) proposes measures that do not, or do not fully, mitigate identified significant adverse project effects, (e) impermissibly relies on deferred mitigation, and (f) omits available, likely feasible, project alternatives from analysis. As further indicated in the comments, below, the DEIR is inadequate to serve as the environmental information document required by CEQA, and therefore should be substantially revised and recirculated for public review and comment.

1. DEIR section 2.1: Incomplete Project Parcels Description. (Electronic Page 45/369 ff.) The DEIR erroneously and misleadingly omits from analysis that the predicate to the proposed grading and structural development for the strip mall consists of a lot line adjustment of two County Assessor's parcels (APN 018-450-40, APN 018-450-41, the Parcels), located in the coastal zone. The parcels are unsupported by documentation (or reference to documentation) in the DEIR that they and their respective specific boundaries (property lines) were legally established prior to February 3, 1973, or in the alternative were legally established pursuant to a coastal development permit (CDP) issued by the California Coastal Commission, the interim North Coast Regional Coastal Commission, the interim predecessor California Coastal Zone Conservation Commission, or the interim predecessor North Coast Regional Coastal Zone Conservation Commission. (See, Certified City Coastal Zoning Ordinance [CZO] sec. 17.90.060.A.)

The January, 2015 City Planning Commission Agenda Staff Report (at 30/34) described the then-proposed project area Lot Line Adjustment to consist of parcels APN 018-120-48 and APN 018-120-49. The DEIR does not address whether these two parcels are the same in extent, location, and size, as APN 018-450-40 and APN 018-450-41, or how the previous APN's morphed into the present APN's. CZO sec. 17.90.060.A provides, *inter alia*, that "Development that occurred after March 1, 1972 [sic], the effective date of the Coastal Zone Conservation Act, if applicable, that was not authorized by a required coastal development permit or otherwise authorized under the Coastal Act, is not lawfully established or lawfully authorized development." The effective date of the coastal development permit requirement pursuant to the California Coastal Zone Conservation Act of 1972 was February 3, 1973. (See, former Public Resources Code [PRC] sec. 27400.)

The uncertainty about the specific extent, location, size, and legal status of each of the Parcels – i.e., whether either parcel is a “legal parcel” or an unlawfully established regulatory development in the coastal zone – is illustrated by the applicant’s, City’s, and DEIR’s presenting four different sizes for APN 018-450-40. Whereas the DEIR describes the size of APN 018-450-40 as 2.24 acres (at 45/369), the City’s CEQA Initial Study (2014) described it as 2.42 acres, the City’s CEQA Mitigated Negative Declaration (2015, at 1/213) described it as “currently 2.42 acres”, and the City Planning Commission Agenda Item Summary Report for CDP 8-13 (January, 2015) described it as “approx. 2.42 acres” (at 1/34). The Planning Application Form submitted to the City by Group II Commercial Real Estate, Inc. for CDP 7-15 (November, 2015), for three commercial buildings (29,500 sf) on APN 018-450-40, identified its “property size” to be “2.5+ acres”. However, the DEIR nowhere identifies whether parcel APN 018-450-40 or parcel APN 018-450-41, of any size, constitutes a legal parcel in the coastal zone and thus whether it is available at all for the coastal regulatory development analyzed in the DEIR.

Whereas the DEIR illustrates the location and boundaries of parcel of APN 018-450-41 (at 51/369), the DEIR does not identify the finite existing size of that parcel, or disclose its legal status. In 2013, the Mendocino County Assessor identified this parcel as a “remainder parcel”, with 18.18 acres. Notably, the discussion of “previous applications for development of the Hare Creek site” in DEIR section 2.3, Project Background (at 46/369), altogether omits any discussion whatsoever of any previously issued CDP that created the Parcels, for which the Project proposes an “other division of land” (Lot Line Adjustment), grading, and structural and other LCP-regulatory development. Similarly, neither the April, 2016 Project site plan, nor the April, 2016 topographical map for the Project, identifies the specific extent (southerly and westerly boundaries), full location, or size of parcel APN 018-450-41, which the Project proposes by a lot line adjustment to decrease in size by 1.68 acres, and to add that 1.68 acres to APN 018-450-40.

Based on the uncertainty about the extent, location, size, and legal status of the Parcels that the Project proposes to develop by coastal program regulatory development (including, but not limited to the proposed Lot Line Adjustment coastal program regulatory development), the DEIR lacks the necessary threshold finite (clear, factual, specific) project description to serve as the required informational document pursuant to CEQA. The DEIR should be revised to disclose the true extent, location, size, and legal status of the Parcels, analyze the environmental effects of the proposed other land division, analyze whether it is consistent with the LCP, and on that basis be revised and recirculated for public review and comment.

2. DEIR section 2.1: Inaccurate Description of the Project Site’s Local Setting.
The DEIR inaccurately states that the “project site fronts SR-1” (at 45/369) and

depicts the “project site” to be contiguous, on its easterly side, with the California Highway 1 (SR-1) pavement (Figure 2.0-2, at 49/369). As illustrated, e.g., on the City zoning map (<https://city.fortbragg.com/DocumentCenter/View/1276/Zoning-Map>) and the Project topographical map (Sheet G1, April, 2016), the Project site is located between the first continuous public road (here, Highway 1; see, 14 Cal. Code of Regs, sec. 13577(i)) and the sea, ± 36 feet west of the westerly edge of the Highway 1 pavement, and, at the current Project site topographical elevations, between ± 4 to ± 18 feet above the respective landward Highway 1 pavement elevations. (See, the base topographical elevations in: DEIR Figure 2.0-8, Project Site Grading, at 65/369, and the plan view of Todd’s Point in the aerial photographic map in DEIR Figure 3.8-1; compare the somewhat less inaccurate project site delineation relative to the Highway 1 pavement in DEIR Figure 3.2-2, Site Photos Location map, at 93/369. The dirt road that extends southerly and south-southwesterly from Harbor Avenue does not constitute the first continuous public road pursuant to 14 CCR 13577(i).)

As further discussed below, the erroneous spatial location of the Project site in the DEIR constitutes a significant factual misrepresentation, given the proposed significant Project grading, blockage of public views from Highway 1 – an eligible State Scenic Highway - to seaward, and the strip mall’s aesthetic inconsistency with the prominent City gateway location of the site, among other significant Project inconsistencies with the controlling certified Local Coastal Program (LCP) and applicable Coastal Act standards of review and CDP decision-making. (See, e.g., the illustrative renderings of the terrain, with an earlier massing study of the strip mall, as seen from the turn lane from westbound Highway 20 to northbound Highway 1, in Draft MND Figure 2, at 8/213, and from across Highway 1, looking south-southwest, in Draft MND Figure 4, at 9/213.)

3. DEIR section 2.2: Incomplete and Inaccurate (Summary) Description of Existing Conditions. The characterization that the “topography of the site is relatively flat with a knoll in the center” (at 45/369) tellingly omits any reference to any related public point of observation in this designed coastal zone “scenic view area”. (City LCP land use plan, Map CD-1 [<https://city.fortbragg.com/DocumentCenter/View/1264/Map-CD-1-Scenic-Views-in-the-Coastal-Zone>].) As seen from Highway 1 (looking west along the ± 625 -foot long (north-south) Project site, from along the ± 300 feet of northbound Highway 1, north of the Hare Creek Bridge, and from along southbound Highway 1 approaching its intersection with eastbound Highway 20), the Project site topography ascends both along the immediate highway right-of-way and through the public viewshed to the south-southwest through west. (See, e.g., DEIR Figure 3.2-2b, Existing Setting Photos, Frames 6 and 7, and the more revealing previous City illustrations of the topography in the City’s previous Hare Creek Center Draft Mitigated Negative Declaration [MND] photo 1 (at 6/213), and in photos 2 and 3 (at 7/213)). The other photographs presented by the DEIR in Figures 3.2-2a and 3.2-2b appear to be all from within the Project site, and thus not indicative of the protected scenic resource.

The proposed Project building and landform/vegetation alteration silhouette (as illustratively rendered, without disclosure of its salient landscape and seascape context, in DEIR Figures 3.2-6 (at 116/369), 3.2-7 (at 117/369), 3.2-8 (at 119/369), and 3.2-9 (at 121/369)) will have a significant adverse effect, directly and cumulatively, on coastal scenic resources, contrary to certified LCP land use plan Policy LU-10.2. (“New ... commercial development... shall be located ... where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.”)

Based on “limited test borings and visual observations”, the Project site contains “predominantly loosely placed and not properly compacted” “fill materials” - consisting of sand and silty sand, located intermixed with clay - along its edges and within it, and “thicker fill may be present at the site”. (DEIR, Appendix F, at 8-9/40.) However, the DEIR fails to disclose, or analyze, whether this fill – and any other, thicker fill - was placed subsequent to February 3, 1973 (the effective date of the coastal development permit regulatory program) pursuant to the requisite CDP, either under the 1972 Coastal Zone Conservation Act or the 1976 Coastal Act.

The Project site also contains “cohesionless” sandy soils, which “have a tendency to cave in during trench wall excavations”. (DEIR, App. F, at 11/40.) To the extent that such soils may likely occur outside the locations of geotechnical borings B1-B6 (Id., at 19/40) - for instance in trench wall excavation areas for removal of existing buried utilities or other structures, or for the location of new subsurface utilities, including, but not limited to, areas along the perimeter of the site (proposed lot line adjusted parcel) -, the DEIR fails to disclose, or analyze, whether grading of these soils may occur

The Project site also likely contains buried utility and possibly other buried structures (DEIR, App. F), which the Project geotechnical report recommends be demolished and removed. However, the DEIR fails to disclose, or analyze, whether any of these buried structures contain any hazardous materials, or even their location(s).

Moreover, as further discussed below, the Project site is within the area reported to be utilized by white-tailed kites (*Elanus leucurus*), a California fully protected native raptor species. LCP land use plan Policy OS-5.1 requires the preservation of this species and its habitat, as here.

The proposed Project for these, and other reasons discussed below, thus does not conform to the mandatory LCP standards of review for new development in the coastal zone, as here. (“A Coastal Development Permit shall be required for all development [in each Commercial zoning district], ... and such CDP shall be fully consistent with the applicable provisions....”. City LCP CZO sec. 17.22.030.) Notably, and erroneously, the DEIR omits a specific analysis of the

Project with all of the applicable LCP and applicable or guiding Coastal Act standards. (PRC sec. 30604(c); LCP land use plan Policy 1.1 [“The policies of the Coastal Act (Coastal Act Sections 30210 through 30264) shall guide the interpretation of the Land Use Plan.”])

4. DEIR section 2.2: Incomplete and Inaccurate (Summary) Description of Surrounding Zoning. The DEIR (at 45/369) inaccurately characterizes the zoning to the west and east of the “project site” – which consists of the Parcels proposed for lot line adjustment (see, e.g., DEIR Figure 2.0-3, at 51/369) – as “primarily zoned CH [Highway Visitor Commercial], with an area zoned for General Commercial (CG) to east, and an area zoned for medium density residential (RM) further to the west between the Mendocino College – Mendocino Coast Center and the Pacific Ocean.” The City zoning map (<https://city.fortbragg.com/DocumentCenter/View/1276/Zoning-Map>) zones the area immediately to the west of the Project site, within the City’s jurisdiction, as “PF” (Public Facilities and Services”, rather than as “CH” (Highway Visitor Commercial), and the area that abuts the easterly edge of the Project site along more than 75% of its north-south length as “CG” (General Commercial). DEIR Figure 2.0-3, “Existing Zoning”, at 51/369, illustrates that zoning, albeit with specific inconsistencies with the zoning map in the southeasterly area of the Project site (APN 18-450-41), on the Highway 1 right-of-way adjacent to APN 18-450-40 and APN 18-450-41, and along the boundary of the Highway 1 right-of-way and the “Boatyard” shopping center.

5. DEIR section 2.3: Removal of Major Vegetation. The DEIR, at 46/396, discloses that Group II Real Estate in 2000 removed six Monterey Pine trees (which constitute “major vegetation removal” under the meaning of PRC section 30106 and LCP CZO section 17.100.020.D. and potentially served as raptor roosting habitat) from “the property at 1250 Del Mar Drive”, pursuant to “Scenic Corridor Review permit SCR 10-00.” However, the DEIR does not address whether Group II Real Estate also obtained issuance of the required CDP for that major vegetation removal. If Group II Real Estate did not obtain issuance of the required CDP, the trees were removed in violation of the LCP and Coastal Act, and the DEIR is required to analyze the Project site as if these trees, and the habitat for native and other species they represent(ed), are present on the Project site now.

6. DEIR Figure 2.0-1, Regional Location. The easterly and southerly “Project site” boundary locations depicted on Figure 2.0-1, at 47/396, are inconsistent with (a) the textual description of the Project, which includes parcel APN 18-450-41 for the proposed other division of land, (b) the location of the easterly boundaries of parcels APN 18-450-40 and APN 18-450-41 in relation to the Highway 1 right-of-way, and (c) the location of the proposed southerly boundary of proposed lot line-adjusted APN 18-450-40. Moreover, the Project grading plan inconsistently depicts Project fill areas on proposed post-lot line adjusted parcel APN 18-450-41, and outside the Project CDP application area. The DEIR

specifically omits analysis of this latter Project grading, and should be revised to address it for its likely significant adverse effects on the environment and inconsistency with the applicable LCP standards of review.

7. DEIR Figure 2.0-2, Project Location. The easterly and southerly “Project site” boundary locations depicted on Figure 2.0-2, at 49/396, are also inconsistent with (a) the textual description of the Project, which includes parcel APN 18-450-41 for the proposed other division of land, (b) the location of the easterly boundaries of parcels APN 18-450-40 and APN 18-450-41 in relation to the Highway 1 right-of-way, and (c) the location of the proposed southerly boundary of proposed lot line-adjusted APN 18-450-40.

In addition, Figure 2.0-2, at 49/396, erroneously depicts the terrestrial “Coastal Zone” (PRC sec. 30103) boundary in the true area of the Project, which boundary in the area of parcels APN 18-450-40 and APN 18-450-41 is not congruent with the Fort Bragg City limits.

8. DEIR Figure 2.0-3, Existing Zoning. Figure 2.0-3, at 51/369, erroneously depicts (a) the “Project parcel”, which is not congruent with the boundaries of shown APN 018-450-40-00, (b) the “Project Site (12/21/2016)”, which as a result of the proposed lot line adjustment consists of the entirety of parcels APN 18-450-40 and APN 18-450-41 (if they constitute legal parcels at all), (c) the easterly boundary of the “CH” Highway Visitor Commercial Zoning District (as shown on the City Zoning Map), (d) the westerly boundary of the “CG” General Commercial Zoning District (as shown on the City Zoning Map), and (e) the easterly and northerly boundaries of the “RH” High Density Residential District (as shown on the City Zoning Map).

9. DEIR section 2.4: Project Objective 1. As further discussed below, no matter what its “objectives”, stated at 53/369, the Project does not conform, in various specific parts, to the mandatory standards of the City LCP land use plan (“Coastal General Plan”) or to the mandatory standards of the City LCP CZO (“Coastal Land Use and Development Code”). These Project inconsistencies constitute unmitigated significant direct and cumulative adverse effects on the environment, on coastal resources, and on public access and recreational opportunities in the coastal zone, contrary to the City LCP and the Coastal Act.

10. DEIR section 2.4: Project Objective 2. As further discussed below, no matter what its “objectives”, stated at 53/369, the Project is not served by adequate existing public water and street/roadway/intersection infrastructure and therefore does not conform, in specific parts, to the mandatory standards of the City LCP land use plan (“Coastal General Plan”) or to the mandatory standards of the City LCP CZO (Coastal Land Use and Development Code). These Project inconsistencies constitute unmitigated significant direct and cumulative adverse effects on the environment, on coastal resources, and on public access and recreational opportunities in the coastal zone, contrary to the City LCP and the

Coastal Act.

11. DEIR section 2.4: Project Objective 3. The Project description in the DEIR, at 53/369, nowhere contains, or references, an enforceable restriction on the proposed development that the proposed strip mall “provides lower-cost groceries to area residents, employees, and visitors”, and therefore this “objective” is speculative and without significance for CEQA environmental impact analysis. As further discussed below, the sole Project-identified tenant acquires, offers for sale, and sells goods generated variously in California, the United States, and abroad, the production, packaging, storage, and transportation of which directly, indirectly, and cumulatively has likely significant adverse effect on the environment.

12. DEIR section 2.5: Project Details. The DEIR, at 53/369, describes a proposed lot line adjustment of (a) an unspecified “existing 2.24-acre lot”, without any information whatsoever about its area calculation or that it constitutes a legal lot within the coastal zone; with (b) an “additional 1.68 acres” proposed to be “added” to that 2.24-acre lot, without any information whatsoever about the area calculation of the 1.68 acre area, the entire area of the parcel of which it is a part, or that the latter constitutes a legal lot within the coastal zone. The DEIR thus lacks the requisite threshold information for determining the permissibility of the proposed lot line adjustment, and (as further discussed herein) its direct and cumulative potentially significant effects on the environment, coastal resources, and public access and recreational opportunities.

13. DEIR section 2.5: Project Elements. Remarkably, the DEIR description of the Project elements (components) altogether omits (beyond the missing lot line adjustment information identified above) any description of the previous major vegetation removal, size and location of potable water pipes, size and location of on-site and any off-site stormwater retention structures, or the location and height of proposed retaining walls.

Further, the Preliminary Project Plan in DEIR Figure 2.0-4 by its own prominent notation is “Not to Scale”, which renders shown dimensions both internally inconsistent and unsupported, and altogether omits identification of the location of the Highway 1 right-of-way and of the Highway 1 pavement.

While the legend to Figure 2.0-4, Preliminary Project Plan (at 55/369) presents a symbol (circle with hachures) to represent a “Rain Water Tank”, inspection of the Preliminary Project Plan drawing reveals that no such “Rain Water Tank” is proposed to be located on or in the Project structural development envelope. Similarly, the Preliminary Project Plan drawing identifies no location for the speculatively/conditionally mentioned “rooftop photovoltaic systems” (plural) and “skylights”, and the DEIR omits simply omits disclosure of “Sheets A11-A13”, which the Preliminary Project Plan drawing references.

14. DEIR section 2.5: Parking and Vehicle Access. The number of total

parking spaces shown in the Preliminary Project Plan differs from the number described in the DEIR at 53/369.

The description of the “proposed entryway” to the strip mall as “from Harbor Drive just off Ocean View Drive, north of the project site”, at 53/369, is on its face incomplete, as shown (e.g.) on DEIR Figure 2.0-2, Project Location, which indicates that ingress and egress from the Project is between the Highway 1-Ocean View Drive intersection, thence by winding narrow Ocean View Drive, to its intersection with Harbor Avenue (not to be confused with the frontage road called Harbor Drive), and thence south on narrow Harbor Avenue to the northwesterly stub of the internal strip mall parking lot. Notably, whereas the DEIR describes an “access road from Harbor Drive [that] would include two 13-foot side (sic) lanes” (at 53/369), the Preliminary Project Plan in DEIR Figure 2.0-4 depicts no access road that connects with Harbor Avenue (not Harbor Drive as stated), no 13-foot wide travel lanes, no 9-foot wide “parking lanes on either side of the street”, no “sidewalk on the west side of the street only”, and no “100-foot turning radius for emergency vehicle turnaround”. (At 53-54/369.)

The Preliminary Project Plan also does not depict “widening the eastbound approach to the intersection of SR1 and Ocean View Drive by adding a right turn lane.” (At 54/369.) To the extent that the City has already made a decision, without environmental or CDP review – or intends to make a future decision - to require this development project as a condition of future Project approval, the DEIR is required to fully disclose and analyze it. To the extent that the Project relies on this right turn lane development to mitigate peak hour or peak day traffic generated by the Project to below a level of significance, the DEIR is required to analyze those effects and mitigations, rather than incur impermissible piece-meal environmental review and deferred mitigation of the Project. In this context, the DEIR also fails to disclose the ownership of the land on which the right turn lane is proposed, or any analysis of its current or lawful (permitted) environmental condition(s). As further discussed below, the Project circulation scheme is based on superannuated (outdated) data and is inadequate to connect the strip mall to Highway 1, without directly or cumulatively incurring unmitigated significant adverse traffic impacts. Further, given the existing and planned traffic capacity limitations of Highway 1, including, but not limited to the area of its intersection with Ocean View Drive, the Project will impermissibly function to significantly adversely effect and preclude Coastal Act priority public access and recreation, commercial recreation, and visitor-serving land uses in the affected area.

15. DEIR section 2.5: Pedestrian Access. Whereas the DEIR describes the Project to “include ... a sidewalk along SR-1” (at 54/369), the Preliminary Project Plan reveals the sidewalk to be located not on the Project development site, but rather on a strip of otherwise unidentified land to the east of the proposed lot line adjusted area in parcel APN 18-450-40. However, the DEIR identifies no property interest by the strip mall proponent in the property immediately to the east of parcel APN 18-450-40, which renders the “sidewalk along SR-1” merely

speculative and therefore impermissible deferred mitigation. Conversely, if the Project proponent has a currently undisclosed interest in this unidentified land, the DEIR is required to specifically describe it and the location, elevation, and any proposed grading, safety barriers, and other improvements to render such a sidewalk functional and safe.

Whereas the DEIR, at 54/369, describes quantified numbers of specifically located, canopy-covered, “bike racks” as part of the Project, the Preliminary Project Plan also does not depict them.

16. DEIR section 2.5: Bioswales and Infiltration Areas. Whereas the DEIR describes the Project to “include ... bioswales, eight infiltration areas and filters” (at 54/369), DEIR Figure 2.0-5, Project Stormwater Management, depicts no bioswales and identifies “Infiltration Areas” S1, S2, S3, S4, S6, S7, S8, and S9 to consist of variously narrow, landscaped (see, DEIR Figure 2.0-7, Project Landscaping), otherwise developed (e.g., with monument signs), and 810-3,200 square foot strips and polygons, without identified percolation capacity or perimeter overland flow controls.

17. DEIR section 2.5: Architectural Design. DEIR Figures 3.2-5 through 3.2-9 depict various illustrative renderings of the Project, and document that its design is neither consistent with, nor protective of, the scenic and visual qualities of the City’s southern coastal area gateway. The opaque foreground and background in these renderings removes the Project from its coastal and ocean visual environment. Further, the Project buildings, ancillary development, and landscaping are proposed to be sited and designed to impede, rather than, protect public views to and along the ocean and scenic coastal areas. The proposed development does not minimize the alteration of natural land forms, is not visually compatible with the character of surrounding areas, and does not contribute to restored and enhanced visual quality in the City’s Highway 1 and Highway 20 southern coastal gateway.

18. DEIR section 2.5: Lot Line Adjustment. As noted above, the DEIR assumes – but provides no evidence or reference to evidence to support – that parcels APN 18-450-40 and APN 18-450-41 constitute existing legal parcels (lots). Without such evidence, the proposed lot line adjustment and the proposed structural development on any future lot line adjusted parcel APN 18-450-40 is premature, and on its face – given the uncertainties about these two parcels’ legal status – inconsistent with the LCP and Coastal Act.

19. DEIR section 2.5: Grading. The DEIR, at 60/369, indicates that the Project proposes unbalanced excavation and fill grading that totals 17,596 cubic yards (475,092 cubic feet), including 4,301 cubic yards (116,127 cubic feet) of exported soils and 2,230 cubic yards (60,210 cubic feet) of imported soils. “Materials would be removed (cut) from the northern three quarters of the site, while the bottom quarter of the site would be filled.” (Id.) An unspecified amount of the

graded soils consists of hydric soil, which the LCP identifies to constitute protected wetlands, in which cut and fill grading for a strip mall is not a permitted use. (See, LCP Glossary; Policy OS-1.3.) DEIR Figure 2.0-8, Project Site Grading, also indicates that the proposed Project grading envelope extends beyond the proposed lot line adjusted southerly and easterly property lines of parcel APN 18-450-40.

20. DEIR section 2.5: Construction. The DEIR, at 60/369, discloses that “construction vehicles would access the site via SR 1”, which may likely have potentially significant impacts on public access, recreational, and other Coastal Act high priority traffic use of Highway 1 in the area. The DEIR further indicates that the Project would require “temporary rerouting during construction of the southbound turn lane [of eastbound Ocean View Drive], which would be constructed as part of the project and required by the City.” (*Id.*) Ocean View Drive serves as the only public street, shown on the certified LCP land use map, that connects the public, visitor-serving, and private developed uses on Todd’s Point with Highway 1. Establishment by the City of an alternative public street to connect Todd’s Point with Highway 1 would require the City to (a) analyze the potentially significant environmental, coastal resource, and public access-recreational impacts of any such alternative road, and the changes in the kinds and intensities of use it may likely entail, as part of this EIR, and (b) amend the certified LCP (e.g., land use and zoning maps) to specify the location and capacities of such an alternative street, before acting on any EIR or Project CDP.

21. DEIR section 3.1.1: Inadequate and Inapplicable 2014 Initial Study. The City’s 2014 Initial Study (2014 IS), reproduced as Appendix A to the DEIR, addressed a substantially different project (e.g., with a smaller proposed lot-line adjusted parcel size, other building locations, other building plans, and a different (“Bayview Drive”) circulation plan to serve it). On that basis alone, the 2014 IS is inapplicable to, and incapable of serving, as a threshold environmental screening of the Project that the DEIR describes. Further, the IS erred in, and in relevant parts was unsupported by, substantial evidence in the record to support, its conclusion that the then-proposed project raised no potential significant adverse environmental effects in relation to hazardous materials/transport, land use and planning, public services, and recreation, as contemporary commenters on the City’s Draft Mitigated Negative Declaration/IS noted. Therefore, the DEIR cannot rely on the 2014 IS to now exclude these CEQA resource areas from environmental review, and constitutes an inadequate and incomplete CEQA document that requires substantial revision and recirculation for public comment.

22. DEIR section 3.1, Geologic Hazards.

The Project site is located within the area of the North Coast segment of the San Andreas Fault System, which locally is bounded by the San Andreas Fault Zone on the west and the Maacama Fault Zone on the east. The USGS has estimated that the San Andreas Fault System has a 10% probability of generating a $\geq M6.7$

earthquake between 2000-2030 (Mendocino County General Plan EIR sec. 4.6. Geology, Soils, and Mineral Resources, at 4.6-5) and the estimated maximum capable earthquake magnitude for the Maacama Fault is M7.3. (*Id.*, at 4.6-6.) In addition, the region located off Cape Mendocino, is characterized by thrust faults, capable of strong and extended seismic shaking; the 1700 earthquake on the Cascadia Subduction Zone is estimated to have been a M9.0 event. (*Id.*) A geology and soils impact is considered significant pursuant to CEQA (CEQA Guidelines Appendix G threshold of significance) if implementation of the proposed project would expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking, seismic-related ground failure, including, but not limited to, liquefaction, if the development is located on expansive soil, and/or if the development is located on soil that would become unstable as a result of the project and potentially result in lateral spreading, subsidence, liquefaction, or collapse. Whereas the 1995 Kazan geotechnical letter report referenced in the DEIR provides no current assessment of the maximum site-specific (subareal) peak ground acceleration, and generally references (without citation) an estimated 0.10g horizontal acceleration associated with an historical earthquake, the 2009 USGS Earthquake Design Map, for instance, places the area that includes the Project site within 0.40 to 0.70g peak acceleration contours. (<ftp://hazards.cr.usgs.gov/web/earthquake-designmaps/pdfs/AASHTO-2009-Figure-3.4.1-2.pdf>.)

On the other hand, whereas the 1995 Kazan geotechnical letter report (on a previous project iteration in this same area) identified the potential for “relatively large total and differential settlements” as a result of “the loose, and, thus, compressible nature of the upper 4 to 5 feet of sands” (at 11/82), considered (but rejected, on the basis of cost) deep foundations instead of on-grade slab foundations, anticipated “relatively large cuts and fills will be required during grading to provide ... level building pads”, and premised the reduction of risk of instability on “positive drainage” (*Id.*), the DEIR proposes deferral of a Project grading plan to City grading ordinance review, notwithstanding that the LCP prohibits excavation of hydric soils (an LCP regulatory wetland) and the Project drainage scheme proposes to infiltrate stormwater runoff to relatively shallow and expansive soils beneath the development envelope., which will likely saturate them. The Project grading plans (Sheets G3 [“of 10 sheets”] and G3A [“of 10 sheets”]), dated 4/1/2016, at:

<https://city.fortbragg.com/DocumentCenter/View/5693/Hare-Creek-Project-Plans-Group-II>) depict the plan view location of one excavation (cut) area, locally with fill pads, and a total of five (5) fill areas, which in two locations extend beyond the shown boundaries of the proposed lot-line adjusted parcel APN 018-450-40. Although Sheet G3A appears to depict eight (8) east-west trending sections through the proposed grading envelope, neither Sheet G3A nor any other sheet posted to the above City web site contains those sections, which are essential to public understanding and analysis of the proposed Project grading. The City should post, and the DEIR should analyze, the full set of Project (including, but

not limited to, grading) plan sheets, and recirculate the revised DEIR, when complete, for public comment.

The Project site also contains an unknown (due to limited subsurface geotechnical borings) quantity of fill that is, or may likely consist of, improperly placed and improperly compacted earthen and other materials. These earthen materials are “moisture sensitive” and “moderately compressible under saturated conditions”, a site geological hazard. (DEIR, App. F.) “Structures within the general vicinity have experienced excessive post-construction movement when the foundation soils become near-saturated.” (*Id.*) The Project description therefore does not accurately or completely identify the Project’s grading (cut and fill) volumes, and on that basis precludes accurate, complete, and objective environmental review of the Project, or adequately analyzed, designed, or described mitigations (e.g., in light of the Project proposal for infiltration of intercepted storm water runoff from impervious structural surfaces). The DEIR project description, in relevant part, should therefore be revised, based on a complete (representative) set of subsurface geotechnical borings, including, but not limited to, areas within the site with thicker fill, and the revised DEIR, when complete, be recirculated for public review.

Further, the DEIR fails to describe, or analyze, the composition and location of buried utility and other structures, and their adjoining soils or other materials, on the Project site (which constitute the requisite meaningful information), but instead recommends their excavation, demolition, removal, and reuse (soils) and recompaction as engineered fill. However, neither the DEIR nor the Project geotechnical report (DEIR, App. F) contains any analysis, or professional expert opinion based on such analysis, to support its conclusion that such compaction “should stabilize the upper soils and locate any unsuitable or pliant areas not found during our field investigation”. (*Id.*) The DEIR thus proposes in this context to defer identification of the required Project mitigation (and to rely on speculative future mitigation), contrary to CEQA. The DEIR project description, in relevant part, should therefore be revised, based on a complete (representative) set of subsurface geotechnical borings, including, but not limited to, areas within the site with thicker fill, and the revised DEIR, when complete, be recirculated for public review.

23. DEIR section 3.1, Hazardous Materials. The Project involves proposed trenching and removal of underground utilities, which potentially include hazardous materials in their conduits, fixtures, and equipment.

The Project centrally relies on a spatially and temporally extended food and goods production, storage, disposal, and transportation chain that, in its individual components and cumulatively, likely also has potentially significant adverse effects on the environment in California (as well as elsewhere). The DEIR should be revised to address these direct and cumulative Project impacts, and be recirculated for public review and comment.

24. DEIR section 3.1, Land Use and Planning. As further discussed in comment 29, below, the Project is inconsistent with numerous Coastal Commission-certified LCP land use plan (Coastal Element) policies. The DEIR should specifically and fully analyze the Project, considered as a whole, for consistency with these LCP policies, and be recirculated for public review and comment.

25. DEIR section 3.1, Public Services. The City of Fort Bragg has a demonstrated inadequate municipal water supply system, which has involved saline water contamination of, and restrictions on use of, its water supply (e.g., during the recent multi-year drought), with associated significant adverse effects on coastal resources. The municipal water system thus has inadequate capacity to accommodate the proposed new commercial development, which is not a coastal-dependent land use, but which would by its demand for very limited potable water in the City serve to preclude coastal-dependent land uses, essential public services, basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and coastal visitor-serving land uses.

Further, the Project requires, as its only connection to its market area, vehicular (car and truck), bicyclist, and pedestrian ingress and egress by proposed narrow and curved Harbor Avenue, existing narrow and curved Ocean View Drive, the unsignalized Highway 1-Ocean View Drive intersection, and coastal Highway 1. However, as the DEIR traffic study notes, these streets, the intersection, and the highway are inadequate to serve current traffic demands during peak hours, and the Project – its stub entry road and offsite turn lane from EB Ocean View Drive to SB Highway 1 notwithstanding - is incapable of implementing traffic mitigation measures that reduce the Project's significant adverse effects on traffic to below the level of significance.

26. DEIR section 3.1, Recreation. Highway 1 serves as the principal north-south coastal access and public recreational traffic route through south Fort Bragg. The Project, for want of a vehicular traffic mitigation plan that reduces its impacts to below the level of significance and establishes coordinated non-motorized means of circulation (e.g., connecting ADA-compliant sidewalks, bike paths, adequate bike parking), will have impermissible direct and cumulative significant adverse effects on Highway 1 public access and public recreational traffic, contrary to the requirements of the Coastal Act (PRC sec. 30604(c), 30254) and LCP policies C-1.3, C-1.4, C-9.2, C-9.4, C-10.2, C-10.5.

27. DEIR section 3.1.1, Farmland. The Project site was historically cultivated (farmed, see, e.g., US Coast & Geodetic Survey topographical map sheet T-2980, 1909) and has remained substantially undeveloped since the advent of the 1972 California Coastal Zone Conservation Act (see, e.g., the illustrative California Department of Navigation and Ocean Development low altitude oblique aerial posted to the California Coastal Records Project

[<http://www.californiacoastline.org/cgi-bin/image.cgi?image=7208116&mode=big&lastmode=timecompare&flags=0&year=1972>]). The DEIR presents no analysis that the two vacant parcels could not again be farmed, the statement that “project construction would not convert any farmland to nonagricultural use” is unsupported by substantial evidence, or reference to substantial evidence, and therefore conclusory and invalid. The DEIR therefore has failed to disclose and analyze the Project’s direct adverse effect, through conversion, of historic agricultural land that may likely again be cultivated in the current economy, with its emphasis on local food production. The City should analyze the range of potentially feasible and environmentally consistent agricultural uses of the parcels, and in a recirculated DEIR present that analysis for public review.

28. DEIR section 3.1.5, Other Farmland and Forestland Conversion. The Project identifies as its sole tenant a commercial enterprise that in its existing stores, e.g., overtly offers and sells agricultural and other products from forest land that has been converted to non-forest use, and from farmland that has been converted to nonagricultural use, and the same commercial enterprise would likely also do so from its tenancy in the Project. The DEIR statement, to the contrary, that the “project would not involve other changes to the existing environment which, due to their location or nature, could result in conversion of farmland to nonagricultural use or conversion of forestland to non-forest use” is unsupported by any substantial evidence, reference to substantial evidence, or analysis of substantial evidence, and therefore invalid. The DEIR therefore has failed to disclose and analyze the Project’s cumulative adverse effect in terms of farmland and forestland conversion. The City should analyze the true direct, indirect, and cumulative effect of the Project’s sole disclosed tenant on farmland and forestland conversion, in California, the United States, and in other places from where the tenant obtains products grown, manufactured, packaged, stored, or otherwise handled, and in a recirculated DEIR present that analysis for public review.

29. DEIR section 3.1.16, Conflict with LCP and Coastal Act. The Project, as further discussed herein, is inconsistent with LCP policies and Coastal Act section 30254, rendered applicable by PRC section 30604(c). The DEIR statement that the “project would not conflict with the City’s Coastal General Plan or any other land use plan, policy, or regulation by an agency with jurisdiction over the project” is factually incorrect, unsupported by substantial evidence, or by reference to substantial evidence. In relevant parts, the DEIR impermissibly relies on deferred mitigation or on inadequate mitigation measures that do not reduce identified and likely potential significant adverse Project effects on the environment below the respective thresholds of significance. The City should analyze the Project for consistency with all applicable standard of reviews, including, but limited to, those in the certified LCP, Coastal Act, and other environmental protection laws, and in a recirculated DEIR present that analysis for public review.

Specifically, the Project is inconsistent with LCP policies regarding aesthetics (public visual quality), biological resources, circulation, water, public services, land division, and public access, and recreation.

The Project proposes structural and other (e.g., landscaping) development, in the environmentally sensitive open public viewshed from Highway 1, and from Highway 20, toward the Pacific, that blocks and otherwise impedes these public views. (See, DEIR Figures 3.2-6, at 115/369, and 3.2-7, at 117/369.) Such view corridors as the Project proposes (e.g., as shown on DEIR Figure 3.2-8, at 119/369) do not clearly extend to the Pacific and fail to mitigate for the significant adverse impacts on visual quality at the southern coastal gateway to the City. Policy OS-15.2 requires that “During the development review process, protect and restore open space areas such as wildlife habitats, view corridors, coastal areas, and watercourses as open and natural.” The Project plainly fails the Policy OS-15.2 test.

Policy OS-1.2 provides that “any area that ... meets the ESHA definition is ESHA and shall be accorded all the protection provided for ESHA in the LCP.” Policy OS-1.1 defines ESHA as ““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.” “The following areas shall be considered ESHA: Any habitat area that is rare or especially valuable because of their special nature or role in an ecosystem and is easily degraded or disturbed by human activities or developments. Any habitat area of plant or animal species designated as rare, threatened, or endangered under State or Federal law. Any habitat area of species designated as Fully Protected or Species of Special Concern under State law or regulations. Any habitat area of plant species for which there is compelling evidence of rarity, for example, those designated 1b (rare or endangered in California and elsewhere) or 2 (rare, threatened or endangered in California but more common elsewhere) by the California Native Plant Society. Raptor foraging and roosting habitat – such as that reported utilized by the white-tailed kite at the Project site – constitutes ESHA, in which fill for a shopping center, or a shopping center, is not allowed. “Development within Other Types of ESHA shall protect ESHA against any significant disruption of habitat values and shall be limited to the following uses: a. Resource Dependent Uses. Public nature trails within riparian ESHA are considered a resource dependent use provided that: (1) the length of the trail within the riparian corridor shall be minimized; (2) the trail crosses the stream at right angles to the possible (4) trail development involves a minimum of slope disturbance and vegetation clearing; and (5) the trail is the minimum width necessary. Interpretive signage may be used along permissible nature trails accessible to the public to provide information about the value and need to protect sensitive resources. b. Restoration projects where the primary purpose is restoration of the habitat. c. Invasive plant eradication projects if they are designed to protect and enhance habitat values. d. Pipelines and utility lines

installed underneath the ESHA using directional drilling techniques designed to avoid significant disruption of habitat values.” (Policy OS-1.6.) Further, given reports that white-tailed kite foraging habitat also occurs adjacent to the Project site, Policy OS-1.7 also controls: “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.” However, the DEIR altogether omits any analysis of the Project in light of this test, and on that basis is also defective.

Policy PF-1.2 requires, in relevant part, that “No permit for development shall be approved unless it can be demonstrated that such development will be served upon completion with adequate services”. With regard to water, Policy PF-1.2(a) requires that “Demonstration of adequate water and sewer facilities shall include evidence that adequate capacity will be available within the system to serve the development and all other known and foreseeable development the system is committed to serving, and that the municipal system will provide such service for the development”. However, the City experienced water production and supply deficiencies to existing users during the recent 5-year drought, which the DEIR remarkably omits to address in its discussion of how the City proposes to meet the Project’s average daily and maximum daily water demands. The DEIR’s reference to, and reliance on, water supply components, that have not been permitted, constructed, or become operational, constitutes deferred – and, hence, impermissible - mitigation for the Project during its economic life, given that the City does not have sufficient water to supply it, all other current users, and LCP-consistent priority Coastal Act uses in the coastal zone. Notably, the DEIR also does not address the LCP test that “New development that increases demand for new services by more than one equivalent dwelling unit (EDU) shall only be permitted in the Coastal Zone if, adequate services do or will exist to serve the proposed development upon completion of the proposed development, and adequate services capacity would be retained to accommodate existing, authorized, and probable priority uses upon completion.” (LCP Policy PF-1.3.) Further, “new or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division.” (LCP Policy PF-1.4.) Further, “any expansion of capacity of water facilities shall be designed to serve no more than the maximum level of development in the coastal zone allowed by the certified LCP that is consistent with all other policies of the LCP and Coastal General Plan.” (Policy PF-2.2.) However, as discussed herein, the Project is not consistent with either the LCP or the Coastal Act (“this division”), and therefore any new or proposed City water supply system cannot be designed, or permitted, to serve the Project.

With regard to circulation, Policy PF-1.2(b) requires that “Demonstration of adequate road facilities shall include information demonstrating that (i) access roads connecting to a public street can be developed in locations and in a manner consistent with LCP policies; and (ii) that the traffic generated by the

proposed development, and all other known and foreseeable development, will not cause Levels of Service (LOS) of roads, streets, and intersections within the City to reduce below LOS standards contained in Policy C-1.1 of the Circulation Element of the Coastal General Plan.” Notably, the traffic counts performed for the Project traffic study (Thursday, August 22, 2013) and Saturday (August 24, 2013) are during the summer school vacation period and not on a summer holiday or major local event weekend (e.g., the Fort Bragg Salmon Barbecue on the first Saturday in July), and thus do not constitute true peak day measurements of traffic. For the intersection of Ocean View Drive, a stop sign-controlled “side street” in the nomenclature of the LCP, and Highway 1, a peak hour LOS D (long traffic delays, >25 to 35 seconds) applies. (Policy C-1.1; DEIR, at 277/369.) The DEIR indicates that in 2014 there were 26,126 average daily trips in the City on Highway 1 south of Noyo Harbor Bridge. (*Id.*) While Highway 1-Ocean View Drive intersection traffic (all directions) operated in 2013 – pre-Project - at LOS B (DEIR, at 280/369), the traffic study (2017) identifies a Project traffic generation rate during the PM weekend peak hour of 398 vehicle trips, and of 267 during the PM weekday peak hour. Notably, the DEIR does not present, or analyze, the comparable proposed traffic volumes after Project full occupancy with the unsignalized Ocean View Drive-Highway 1 intersection, either at it or the other impacted intersections along Highway 1 with the Commercial Driveways, and with Boatyard Drive. (See, e.g., DEIR Table 3.10-9, at 294/369, at footnote 2, thereto.) As a result, the Project will likely have unmitigated substantial adverse traffic effects on, among others, coastal public access and public recreational travellers on Highway 1 in the area of the Project. As the DEIR acknowledges, notwithstanding the proposed eastbound Ocean View Drive to southbound Highway 1 turn lane, “The project could contribute to future traffic intersection impacts. This impact would be cumulatively considerable.” (At 301/369.) Again erroneously utilizing a non-existent/not-proposed signalized intersection at Ocean View Drive and Harbor Avenue, the DEIR projects a deteriorated Project-plus-future conditions scenario LOS C at it during peak weekday and weekend hours, LOS F at the nearby Highway 1-Commercial Driveways intersection during peak weekday and weekend hours, LOS D at the nearby southbound Highway 1 to eastbound Boatyard Drive peak weekday hour, and LOS E during the peak weekend hour (all based on August, 2013 data). The DEIR traffic study is thus both methodologically in error and superannuated, and for those reasons does not present the requisite current data set for analyzing the traffic generation of the currently proposed Project (i.e., without a signalized Highway 1- Ocean View Drive intersection).

The Project proposes at its core an “other division of land”, consisting of a lot line adjustment between parcels APN 018-450-40 and APN 018-450-41. Reports of observations indicate that both parcels comprise white-tailed kite foraging habitat, and, hence, ESHA. However, Policy OS-1.11 (“OS-1-11”, LCP land use plan, at 4-5) “Prohibit(s) new land divisions creating new parcels located entirely within an environmentally sensitive habitat area or buffer area unless the parcel to be created is restricted at the time of its creation solely for open space, public recreation, or conservation.” Thus, the lot line adjustment that is fundamental to

create the proposed 3.92-acre parcel APN 018-450-40 is legally unavailable, with a consequent fatal flaw for the Project. Previous removal of vegetation, that served the white-tailed kite on the area of either parcel APN 018-450-40 and APN 018-450-41 (or their predecessor parcels), without a validly issued coastal development permit constitutes an ongoing violation of Policy OS-1.14 that runs with the land, if after the effective certification of the LCP, or of Coastal Act section 30240(a) (and, possibly, (b)), if after January 1, 1977 and prior to that effective LCP date. In that context, Policy OS-5.1 requires the preservation of “native plant and animal species and their habitat.”

Hydric soils in the Project site constitute an LCP regulatory wetland. (See, definition of “Wetland” *in the* LCP Glossary.) Policy OS-1.3 prohibits – by omission on the specified list of permitted uses - placement of fill, or other grading, of such hydric soils for, e.g., a shopping center. Incongruously, the DEIR altogether omits analysis of the Project pursuant to this LCP policy, and on that basis is also defective.

The Project relies on a substandard Highway 1-Ocean View Drive intersection (upcoast from a crumbling Hare Creek Bridge), a narrow and curved Ocean View Drive segment, and a narrow and curved southerly extension of Harbor Avenue to provide delivery truck and customer ingress and egress. Further, the Project provides for no continuous pedestrian sidewalk along either Ocean View Drive or Harbor Avenue, as required by Policy C-9.1, but instead shows a sidewalk on the State of California Highway 1 right-of-way that the Project does not own, control, and for which it has no identified easement or encroachment rights. In short, the Project is not served by adequate transportation facilities, contrary to Policy C-1.2 (“Ensure that the amount and phasing of development can be adequately served by transportation facilities.”). Moreover, the Project will – as the DEIR acknowledges – substantially deteriorate the already reduced traffic Level of Service at the Highway 1- Ocean View Drive intersection, without mitigation measures to reduce that adverse impact below a level of significance, contrary to Policy C-1.3 (“Do not permit new development that would result in the exceedance of roadway and intersection Levels of Service standards unless one of the following conditions is met: a) Revisions are incorporated in the proposed development project which prevent the Level of Service from deteriorating below the adopted Level of Service standards; or b) Funding of prorata share of the cost of circulation improvements and/or the construction of roadway improvements needed to maintain the established Level of Service is included as a condition or development standard of project approval.”).

30. DEIR section 3.1.18, Cumulative Land Use Impacts and Conflicts. The Project, as further discussed herein, has identified and potential cumulative significant adverse effects on an environmentally sensitive habit area, farmland, forest land, and scenic visual open space, and specifically conflicts with provisions of the LCP, Coastal Act, and other environmental laws that protect them. The DEIR therefore has failed to disclose and analyze the Project’s

cumulative effects on land use and conflicts with adopted controlling land use standards of development regulation. The City should analyze the true cumulative effects of the Project and its conflicts with the controlling standards, and in a recirculated DEIR present that analysis for public review.

31. DEIR section 3.1.23, Project Physical Impacts on Public Services. The Project proposes to consume an artificially calculated volume of potable water, 3,014,900 gallons/year, based on an average daily demand identified as 8,260 gallons/day – notwithstanding that the DEIR also identifies (Table 3.12-2, at 324/369) the Project “maximum daily demand” to be twice that amount (16,520 gallons/day) -, multiplied by what may be the uniquely Fort Bragg Year, which consists of a stated 365 days. The DEIR does not state, or analyze, how many such maximum daily demand days may likely occur per year, during year 1 or any other subsequent year during the economic life of the Project, or whether the City’s available potable water supply (e.g., during drought conditions, when certain of the City’s water production wells have been inoperative) is adequate to meet that cumulative demand for potable water by the Project. The DEIR does, however, appear to rely on as yet unpermitted and unbuilt additional City water supplies to mitigate the anticipated total or likely potential demand for potable water by the Project, which thus (apparently) constitutes impermissible deferral of required Project mitigation. The City should analyze the true potential maximum daily and annual (364.25 day) Project demand for water, and in a recirculated DEIR present that analysis for public review.

32. DEIR section 4.0, Inadequate Alternative Analysis. The DEIR (at 335/369) states that the applicant “owns the project site”, which at present consists of two separate Assessor’s parcel numbers that apparently exceed 18 acres in size. First, the DEIR omits analysis of a development that avoids the significant aesthetic adverse effects of the project, e.g., by locating the proposed parking and buildings below ground and maintaining/restoring the land surface to open space and resource protective uses. Second, the DEIR omits analysis of a development that avoids reliance on the City’s inadequate municipal water system, i.e., by solely utilizing recycled City wastewater (to the appropriate levels for public health and safety) for operational and emergency purposes. Third, the DEIR omits analysis of Highway 1-Ocean View Drive intersection alternatives to fully mitigate the identified unmitigated significant direct and cumulative traffic impacts of the Project, e.g., a tunnel under or bridge over Highway 1 from EB Ocean View Drive to NB Highway 1, and from NB Highway 1 to WB Ocean View Drive. Fourth, the DEIR omits analysis of returning the applicant’s 18-acre ownership to productive high-value (organic) farming, with its significant beneficial community and Fort Bragg market effects. Fifth, the DEIR omits analysis of alternative potential sites, within the applicant’s 18-acre ownership, for development that is specifically and fully consistent with all applicable standards of development review. For these reasons, the DEIR alternatives analysis inadequately presents available project alternatives, which avoid or minimize potentially significant adverse effects on the environment, and therefore

should be substantially revised and recirculated for public review and comment.

Lemos, June

From: Miller, Tabatha
Sent: Tuesday, November 13, 2018 9:44 AM
To: Lemos, June; Jourdain, Brenda
Subject: FW: Please remove 5D and 5H from tonight's consent calendar
Attachments: CACLU_SummaryLetter.pdf

I am not sure what you have received as public comment but didn't see you on the email list.

From: Citizens for Appropriate Coastal Land Use [mailto:caclu@mcn.org]
Sent: Tuesday, November 13, 2018 8:37 AM
To: Peters, Lindy <LPeters2@fortbragg.com>; Lee, Will <Wlee@fortbragg.com>; Turner, Dave <dturner@fortbragg.com>; Cimolino, Michael <MCimolino@fortbragg.com>; Norvell, Bernie <Bnorvell2@fortbragg.com>
Cc: Miller, Tabatha <TMiller@fortbragg.com>; Perkins, Scott <SPerkins@fortbragg.com>; Jones, Marie <mjones@fortbragg.com>
Subject: Please remove 5D and 5H from tonight's consent calendar

To the Members of the City Council,

Citizens for Appropriate Coastal Land Use requests that two items be pulled from the consent calendar so that there can be more thorough discussion about concerns regarding:

5D - Adopt City Council Resolution Approving Professional Services Agreement with Michael Baker International, Inc., to Respond to Public Comments on the Hare Creek Center Draft Environmental Impact Report (EIR) and Complete the EIR for the Hare Creek Center Development Application and Authorizing City Manager to Execute Same (Amount Not to Exceed \$48,350; Account No. 110-4320-3415)

5H - Approve Scope of Work for a Request for Proposals (RFP) to Assist the City in the Environmental Evaluation of the Proposed Avalon Project Pursuant of the California Environmental Quality Act (CEQA)

With regards to 5H, CACLU wants to point out that issuing RFPs for environmental work on this project is premature. Until the City has held a public meeting to hear the concerns of the public, the full scope of work to be considered is unknown. By bringing on a consultant company and executing a contract in advance of such meeting, substantive concerns expressed by the public may not be included in the scope of work. CACLU feels this is putting the cart before the horse.

With regards to 5D, CACLU wishes to express profound disappointment with the Draft EIR produced by Michael Baker International (MBI). The Draft EIR was not the thorough, objective, and up-to-date document the public requested. It was superficial and dismissed many important impacts while continuing to rely on outdated studies with minimal or no updates. In addition, its mitigation measures were inadequate, with many of them relying on the appearance of mitigation or on deferred mitigation. In short, the Draft EIR was an embarrassment. For these reasons, a revised Draft EIR (RDEIR) needs to be prepared and recirculated for public review.

Unfortunately, the scope of work in the Professional Services Agreement does not propose preparation of a RDEIR. Instead, the document titled “Michael Baker Contract” clearly states that the scope of work is only to respond to public comments and prepare the Final EIR (FEIR). In particular, the “Consultant’s Proposal (Exhibit 1)” mentions the following:

Letters can be segregated into **3 categories**:

- 1) Many of the letters (120) generally **question the merits of the project**
most could be addressed with a standard response
- 2) Around 40 letters **raise 1-2 EIR specific issues**
for these approx 50 comments, assume 1 hour/response
- 3) 10 comment letters with **multiple substantive project-specific comments**
some can be addressed with master responses

however, these 10 letters contain a total of approx 40 individual comments
this will require substantial work, requiring a multidisciplinary effort
included time for our biologist, archaeologist, and other specialists
estimated 80 hours plus input from subject matter experts

Assumptions:

responses will be based on available information

will not require new data collection or impact analysis with applicant’s traffic consultant or other subcontractors

responses will address comments provided as editorial comments in attached sections of the EIR

responses will be written without providing a summary of the comments to lead off the response

will assemble a complete response to comments document and respond to one round of consolidated City comments

Based on your direction, our base price **does not include preparing responses to the last batch of comments** you received, **including the May 22 letter from Citizens for Appropriate Coastal Land Use (CACLU)**. However, the CACLU letter was submitted within the comment period and should be addressed at some level.

The DEIR concluded that the only significant impact of this project would be on traffic, and that this impact could not be mitigated. CACLU does not agree with this conclusion, and asserts that there are many other significant impacts that were ignored or were mitigated in inappropriate ways. One egregious example of use of an outdated study was for the traffic analysis. It relied on data collected in August 2013. The timing of this study was unfortunate because all schools were out of session, no special events were scheduled, and the Dollar Store was not yet open. In addition, the study only focused on the Highway 1 corridor and did not address the impact of traffic on Ocean View Dr, currently the only point of entry and exit for Todd Point residences, schools, and coastal access. At minimum, a new traffic study is warranted. Merely preparing “master responses” dodges the substantive concerns brought up during the public comment period and no amount of dissembling can make these issues go away.

Finally, many documents were turned in on May 22, the last day of the comment period. It is unclear from the statement in the contract about the "last batch of comments" which of these will be inappropriately excluded from response. In particular, the letter from CACLU was specifically called out for exclusion, "based on the your direction" (City Staff). CACLU is perplexed at this request for exclusion, and is concerned that other unspecified and significant comments will be excluded from the scope of work. This is ill-advised at best. The May 22 letter from CACLU is attached.

Thank you for your attention to these concerns.

Leslie Kashiwada
on behalf of Citizens for Appropriate Coastal Land Use

Scott Perkins
 Special Projects Manager
 City Hall
 416 North Franklin Street
 Fort Bragg, CA 95437

22 May 2018

Dear Scott,

Citizens for Appropriate Coastal Land Use (CACLU) wants to make it clear that this Draft EIR is deficient and indefensible. We expressed our concerns when the contract was given to Michael Baker International (MBI) and our concerns have been borne out. We stated at the City Council meeting where City Staff gave their recommendation to accept the MBI bid, that the structure of this contract was designed to save money and not to produce a full, thorough, and up-to-date Draft EIR as requested by the public. The updates are disappointing as they mostly reiterate information from previous outdated studies and do not address the well-documented issues and concerns of the public; concerns that were conveyed to City Staff (and therefore MBI) during the public scoping session conducted September 2016 for the revised project. Many of these concerns were the same as those expressed about the MND for the previously proposed 2015 project. Unfortunately, some sections of this Draft EIR are even less thorough than the MND. It is as if these issues were swept under the rug in hopes that one would notice. Well, we noticed. The package of mitigations is sparse and many of the mitigations do not address the real impacts, many of which are dismissed with bland reassurances and no real data.

What follows is a table listing areas of concern. The second column shows a string of initials each one representing a member of CACLU who submitted comments, which specifically address that area. The third column gives a brief summary of the most important issues in that area of concern.

Area of Concern	Comments by:	Issues of Concern:
Project Description	DG, LK, AR, AW	incomplete, elevations not shown
Lighting	LK	light pollution, affects seabird behavior
Agricultural & Forestry Resources	DG	previous use was agricultural
Hazards & Hazardous Materials	LK	compounds in asphalt, fire
Land Use	LK, AW	zoning not appropriate
Public Services	DG, EO	police, fire, emergency, solid waste
Recreation	LK	loss of use for passive recreation
Socioeconomic	DG, AR, AW	impact on other businesses, low wage jobs; cheap food & alcohol
Aesthetics	DD, DG, LK, AR, AW	huge impact; hill itself has scenic value impact on scenic gateway not addressed
Air Quality	DD	decrease
Biological Resources	DG, LK, AR, AW	Mitigation for removal of mature pines diverse native plant community

Cultural Resources	DD, AW	wider definition not used
Geology and Soils	DG, GB, LK	update doesn't address concerns
Greenhouse Gas Emissions	DD	increase
Hydrology	GB, LK, AW	update doesn't address concerns
Stormwater Management	LK	system overwhelm not addressed
Noise	LK	impacts during operation not addressed
Transportation	DG, EO, AW	impacts can't be mitigated inadequate infrastructure
Traffic	DD, DG, LK, AW	complexity of Ocean View Dr. not addressed
Pedestrian and Cyclist Safety	DG, EO, LK	not addressed
Utilities: Water	DD, LK, AW	City doesn't have enough
Utilities: Wastewater	LK, AW	City system upgrade years off
Conflicts With Existing Code	DG, AW	numerous

Members contributing comments:

Guy Burnett (GB)

Daney Dawson (DD)

David Gurney (DG)

Leslie Kashiwada (LK)

Edward Oberweiser (EO)

Ann Rennecker (AR)

Annemarie Weibel (AW)

In conclusion, the Draft EIR is not the thorough, objective, and up-to-date document the public requested. It is superficial and dismisses many important impacts. In addition, its mitigation measures are inadequate, with many of them relying on the appearance of mitigation or on deferred mitigation. This is contrary to case law (e.g., Sundstrom vs Mendocino County 1988). In short, this Draft EIR is an embarrassment. For these reasons, a revised Draft EIR needs to be prepared and recirculated for public review.

Citizens for Appropriate Coastal Land Use (CACLU)

Lemos, June

From: Miller, Tabatha
Sent: Tuesday, November 13, 2018 9:42 AM
To: Lemos, June
Cc: Jourdain, Brenda
Subject: FW: item 5D on the City Council consent agenda for today's meeting
Attachments: Ed's final 111318 FB City Council agenda letter.pdf

Public Comment

From: Eduardo Oberweiser [mailto:marbury.1947@gmail.com]
Sent: Tuesday, November 13, 2018 9:15 AM
To: Miller, Tabatha <TMiller@fortbragg.com>
Subject: item 5D on the City Council consent agenda for today's meeting

Dear Tabatha Miller,

I am enclosing a letter requesting 5D be removed from the consent calendar for today's City Council meeting. I am enclosing a copy of my letter.

Ed Oberweiser
19244 Benson Lane
Fort Bragg, Ca 95437
707-964-7965

I urge the Fort Bragg City Council to remove item 5D from the consent agenda for today's meeting. We citizens haven't had adequate time to study the final Draft Environmental Report (DEIR) for the Hare Creek Mall proposal.

This is a massive, more than 360-page document to read and learn whether or not our concerns over the preliminary Draft Environmental Impact Report were properly addressed. This final DEIR was only made available this month.

Item 5D needs to be placed as an agenda item for a future meeting to allow us to study and comment on it before the Council approves more funds to be expended to finish the flawed final DEIR document by the same company who wrote it in the first place. Even worse, in order to see the studies the final DEIR was based on, the public cannot study them on line from their computer at home. They have to go to city hall and get CDs from the City to see them.

From what I was able to read in the final DEIR, I can see that my traffic concerns were not addressed at all. My major concern is that the increased traffic resulting from the proposed strip mall coming from south of the Hare Creek Bridge will be be gridlocked by the unsafe, crumbling bridge.

CALTRANS has already stated that the Hare Creek Bridge needs to be replaced. However, when I called CALTRANS to find out when that replacement will be done, I learned that it's not even on their schedule. A CALTRANS spokesperson told me this means it could be 8-10 years before the replacement happens.

I am a member of Seniors On Bikes Fort Bragg. We encourage more people to ride their bicycles for exercise and pleasure. We lead many different rides in Mendocino County. Our rides include bicycling south to Mendocino and Big River. I've lived in Fort Bragg for ten years and have observed a sizeable increase in the traffic in our community. I dread riding my bicycle over the Hare Creek Bridge now and I am a very experienced bicycle rider. I don't feel good about how much more dangerous that route will be with even more traffic.

I worked for six and a half years for a bicycle delivery company in Santa Barbara whose population was more than 50,000 when I was working. If that bridge is not replaced, it is only a matter of time before a bicyclist is seriously injured or killed.

Cyclists from all over the world come to the west coast of the United States and ride from as far as Canada to South America. They spend money in every community they ride through including Fort Bragg. These tourist dollars are a serious boon to Fort Bragg's troubled economy. Even more international riders will be enticed to come here due to the beautifully constructed new north and south coastal trails.

A whole new traffic study needs to be done to address this issue. This alone tells me that the Final DEIR is woefully inadequate. Once again I urge you to take item 5D off the consent agenda and place it on a future City Council meeting so that the public has adequate time to address it. Otherwise there will be accusations of a lack of transparency in Fort Bragg City Council proceedings and possibly resulting lawsuits.

Ed Oberweiser

19244 Benson Lane, Fort Bragg, CA 95437 707-964-7965