



**COUNTY OF SAN MATEO**  
**Inter-Departmental Correspondence**  
Planning and Building Department



**DATE:** October 17, 2011  
**BOARD MEETING DATE:** November 1, 2011  
**SPECIAL NOTICE/HEARING:** 10 days; within 300 feet  
**VOTE REQUIRED:** Majority

**TO:** Honorable Board of Supervisors

**FROM:** Jim Eggemeyer, Community Development Director

**SUBJECT:** EXECUTIVE SUMMARY: Public hearing to consider an appeal of the Planning Commission's decision to approve the Hodge and County Parks project, consisting of: (1) an "After-the-Fact" Coastal Development Permit, and (2) certification of a Mitigated Negative Declaration, to legalize land clearing on two parcels, located at the corner of Magellan and Alameda Avenues in the unincorporated Miramar area of San Mateo County. This project is appealable to the California Coastal Commission.

**RECOMMENDATION:**

1. Deny the appeal and uphold the decision of the Planning Commission to approve the "After-the-Fact" Coastal Development Permit, County File Number PLN 2009-00358; and
2. Certify the Mitigated Negative Declaration, subject to the findings and conditions of approval included in Attachment A.

**BACKGROUND:**

The applicants are requesting an "After-the-Fact" Coastal Development Permit (CDP) to address unpermitted land clearing and vegetation removal on two undeveloped parcels in Miramar (triggering two violation cases). The parcels are under separate ownership. The larger parcel, whose owner did the clearing, is proposed for development with a single-family residence (PLN 2008-00380). The smaller parcel is comprised of a single lot, owned by the San Mateo County Department of Parks (Parks Department) and is also proposed for development with a public restroom facility (not yet considered at a public hearing). The project site was also used to store equipment and soil associated with the adjacent Parks Department's Mirada Surf Trail Project, under an agreement between the applicant and a contractor working on the project. The Parks Department did not authorize this agreement and required all stored equipment and soil to be removed from the project site.

**DISCUSSION:**

On February 23, 2011, the Planning Commission approved the applicant's request for an "After-the-Fact" Coastal Development Permit (CDP) to legalize unpermitted land clearing and vegetation removal that occurred on two properties under separate ownership. The Planning Commission considered the subject proposal at several public hearings prior to this decision. Previously, on May 20, 2010, the Zoning Hearing Officer had considered the project, but after several hearings did not render a decision due to its complicated and contested history.

In previous hearings, the Planning Commission continued the project, requesting additional information from the project biologist, including a current biological assessment of the project site to determine the extent, if any, that sensitive habitats were affected by the infraction and the appropriate restoration measures for the project site. Based on current findings, the project biologist concluded that the unpermitted activities did not affect an existing willow riparian habitat that encroaches onto the northeast portion of the project site and that there were no other sensitive habitats located within the project site prior to the violation nor do any exist currently. The Planning Commission also requested that the Mitigated Negative Declaration, prepared for this project and an associated project for a new single-family residence on the larger parcel, be separated into two separate applications. While the "After-the-Fact" CDP was approved by the Planning Commission, the CDP for the proposed house was denied.

An appeal of the Planning Commission's approval was filed on April 6, 2011, with the appellant stating the following issues: (1) the findings of the Negative Declaration are erroneous and based on inaccurate biological data; (2) a Biological Impact Form, pursuant to LCP Policy 7.5, was not completed for the project site prior to the land clearing and vegetation removal; (3) the applicant purposefully cleared the lot without requesting a permit because he was aware that such a permit would be denied since both a County parcel tag and a disclosure at the time of sale indicated that the project site was not buildable due to sensitive habitats; and (4) a landscaping plan does not mitigate the removal of riparian willows and the destruction of wetlands.

Staff has reviewed and addressed each issue in the appeal. Staff's review and analysis of the project and the appeal, together with the Planning Commission's previous and unanimous approval of the project, supports the findings that the project complies with all applicable General Plan, Zoning, LCP regulations and policies, and CEQA.

County Counsel has reviewed and approved the materials as to form and content.

The approval of this project contributes to the 2025 Shared Vision outcome of a Livable Community by allowing the owners to restore the project site to a reasonable natural state previous to its initial clearing, furthering applicable LCP policies.

**FISCAL IMPACT:**

Nominal costs to the Planning and Building Department for monitoring of the restoration work.



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County File Number: PLN 2009-00358 (Hodge/San Mateo County Department of Parks)

**RECOMMENDATION:**

1. Deny the appeal and uphold the decision of the Planning Commission to approve the "After-the-Fact" Coastal Development Permit, County File Number PLN 2009-00358; and
2. Certify the Mitigated Negative Declaration, subject to the findings and conditions of approval included in Attachment A.

**BACKGROUND:**

Proposal: The applicants are requesting an "After-the-Fact" Coastal Development Permit (CDP) to address unpermitted land clearing and vegetation removal on two undeveloped parcels under separate ownership in Miramar (triggering violation cases VIO 2008-00124 and VIO 2008-00125). The large parcel, owned by David and Hi-Jin Hodge, is proposed for development with a single-family residence (PLN 2008-00380). The smaller parcel is comprised of a single lot, currently owned by the San Mateo County Department of Parks (Parks Department) and is also proposed for development with a public restroom facility to support their Mirada Surf property (PLN 2010-00356 pending; not yet taken to public hearing). The project site was also used to store equipment and soil associated with the adjacent Parks Department's Mirada Surf Trail

Project, under an agreement made with the applicant and a contractor working on the project. The Parks Department did not authorize this agreement and required all stored equipment and soil to be removed from the project site.

Planning Commission Action: Approved on February 23, 2011

Zoning Hearing Officer Action: Referred to Planning Commission on May 20, 2010

Report Prepared By: Dave Holbrook, Senior Planner, Telephone 650/363-1837

Appellant: Evy Smith

Applicants: David and Hi-Jin Hodge

Owners: David and Hi-Jin Hodge and San Mateo County Department of Parks

Location: Corner of Magellan and Alameda Avenues, Miramar

APNs: 048-016-010 and 048-016-020

Parcel Sizes: APN 048-016-010 (Hodge Property - Parcel 1) – 10,802 sq. ft.  
APN 048-016-020 (Parks Department Property – Parcel 2) - 3,200 sq. ft.

Existing Zoning: R-1/S-94/DR/CD (Single-Family Residential/10,000 sq. ft. Minimum Lot Size/Design Review/Coastal Development)

General Plan Designation: Medium Low Density Residential (2.1-6.0 dwelling units/acre)

Parcel Legality: A Certificate of Compliance, Type A, has been recorded for Parcel 1 on January 20, 2010, Document No. 2010-005909. The legal status of Parcel 2 (County Parks) will need to be resolved prior to any proposed development on APN 048-016-020.

Existing Land Use: Vacant

Water Supply: Coastside County Water District

Sewage Disposal: Granada Sanitary District

Flood Zone: Zone C (Areas of minimal flooding); Community Panel No. 060311 0225C, effective date August 5, 1986.

Environmental Evaluation: The Initial Study and Mitigated Negative Declaration were issued with a public review period from January 21, 2010 to February 10, 2010. Mitigation measures have been included as recommended conditions of approval in Attachment A. Comments received in response to the Mitigated Negative Declaration are addressed in Section E.1 of this staff report.

Setting: The two parcels are located at the corner of Magellan and Alameda Avenues, west of Cabrillo Highway, within the designated Cabrillo Highway County Scenic Corridor. Parcel 1 is 10,802 sq. ft. in size and in the shape of a “U.” Parcel 2 is 3,200 sq. ft. in size and is located in the middle part of Parcel 1’s “U” (see Attachment B). Adjacent and within the County-owned land known as the Mirada Surf property is an existing perennial creek that is surrounded by willow riparian habitat, which encroaches into the northeast corner of the project site. The area to the south of the project site is zoned for single-family residential use; some parcels are developed, while others are currently vacant.

#### Chronology:

<u>Date</u>	<u>Action</u>
September 3, 2008	- Violation complaint received, and violation cases opened by Code Compliance.
September 10, 2008	- Code Compliance conducted field inspection and sent Notice of Violation to property owners.
November 4, 2008	- Original Variance, CDP, Coastsides Design Review and “After-the-Fact” CDP application submitted (PLN 2008-00380).
April 9, 2009	- Coastsides Design Review Committee (CDRC) reviewed and continued the item to its May hearing.
May 14, 2009	- The CDRC unanimously recommended approval.
June 16, 2009	- Second violation complaint received by staff.
June 2009 - September 2009	- Biological documents and reports submitted for review.
November 10, 2009	- Peninsula Open Space Trust (POST) purchased Parcel 2.
December 22, 2009	- “After-the-Fact” CDP application separated from application for new residence.
January 4, 2010	- Application deemed complete.
January 20, 2010	- Certificate of Compliance (CoC) Type A recorded to verify the legality of Parcel 1.
January 21, 2010 - February 10, 2010	- Initial Study and Mitigated Negative Declaration circulated for review and comment. Comments received from public.

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|-------------------|--|
| April 1, 2010     | - Zoning Hearing Officer considered the project and continued it to a date uncertain.                            |
| May 4, 2010       | - POST dedicated Parcel 2 to the Parks Department.   |
| May 6, 2010       | - Additional biological information submitted (see Attachment J).  |
| May 20, 2010      | - Zoning Hearing Officer considered the project and referred it to the Planning Commission.                      |
| June 2010         | - Applicant requested that Planning Commission hearing be pushed to the fall, upon return from traveling abroad. |
| November 10, 2010 | - Planning Commission considered the project and continued it to a date uncertain.                               |
| December 2, 2010  | - Comprehensive and current biological study submitted (Attachment J).   |
| February 23, 2011 | - Planning Commission considered the project and continued it to its March 23, 2011 hearing.                     |
| March 2011        | - Initial Study and Mitigated Negative Declaration separated for the two projects.                               |
| March 23, 2011    | - Planning Commission considered the project and unanimously approved the project.                               |
| April 6, 2011     | - Appeal application submitted by appellant.   |
| November 1, 2011  | - Board of Supervisors hearing.  |

## **DISCUSSION:**

### **A. PREVIOUS ACTIONS**

The project was first considered by the Zoning Hearing Officer (ZHO) on April 1, 2010 and continued to allow time for additional review and clarification of several items that arose at the hearing, including the validity of a Certificate of Compliance (CoC) Type A recorded for the Hodge parcel, the role of the Parks Department in storing equipment and dirt associated with the Mirada Surf Trail Project on the project site, and the accuracy of the biological reports submitted for the project. Staff presented their review of the additional information gathered to the ZHO on May 20, 2010. Although the validity of the recorded CoC Type A was confirmed, and the role of the Parks Department in the violation was clarified, the ZHO referred the project to the Planning Commission, due to contested issues raised by some

public members. The public was unsatisfied with the findings of the submitted biological documents, and there remained questions regarding the extent of damage, if any, caused by the unpermitted land clearing and vegetation removal and the appropriate remedies necessary to restore the project site.

The Planning Commission first considered the project on November 10, 2010 and continued the item to a date uncertain, requesting that the project biologist conduct a current biological assessment of the project site to: (a) determine the previous extent of wetland and riparian conditions within the project site, and (b) provide recommendations to restore the site to its original condition based on the most recent findings. Additionally, the Commission requested that the two property owners (Mr. Hodge and the Parks Department) work together to review the two development proposals for their respective properties—a new single-family residence on Parcel 1 and a restroom facility to serve the Mirada Surf property on Parcel 2—and discuss options to create a comprehensive plan for the project site that better integrated the incompatible uses.

The project was taken back to the Planning Commission on February 23, 2011 for consideration. The Planning Commission was satisfied with the findings and recommended restoration measures included in the recent biological report, as well as the attempt made by the property owners to create a comprehensive plan. (The two parties could not agree on an alternative plan that incorporated either a lot line adjustment or land swap.) However, the Planning Commission continued the project to March 23, 2011, requesting that the Initial Study and Mitigated Negative Declaration prepared for this project and the associated project for a new single-family residence on Parcel 1 (PLN 2008-00380) be separated into two documents, one Initial Study and Mitigated Negative Declaration for each project. On March 23, 2011, the Planning Commission unanimously approved the project.

## B. KEY ISSUES OF THE APPEAL

The following are points and issues raised by the appellant, Evy Smith, as part of her appeal application (Attachment D). In addition, points and issues raised and submitted by the appellant at previous public hearings are included in this section. Several of the submitted materials, including the appeal application, address similar issues and have been aggregated and summarized by staff.\*

Each issue (*in italicized text*) is followed with staff's response.

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\* Throughout Sections B and C of this report, there are references to the project site's biological resources and the applicant's submitted biological reports. Aside from the December 2, 2010 report (included as Attachment E), the other reports (as entitled in Attachment J) are omitted and, instead, located under the Planning and Building's website, under "Pending Projects" (10/18/11 BOS Hearing – Hodge Bio Reports).

## Appeal Application Supplemental Statement

1. *The Mitigated Negative Declaration erroneously concludes, “that, on the basis of the Initial Study, comments received hereto, and testimony presented and considered at the public meeting, **there is no substantial evidence that the project will have a significant effect on the environment.**” The Negative Declaration for this project is based on studies performed on behalf of the applicant that are erroneous and ignores the basic facts of the case.*

Staff’s Response: The findings of the Negative Declaration for this project were made based on information submitted by the project biologist, who is certified and qualified to conduct biological assessments of the project site and infer accurate findings. Based on the several field evaluations and outside research completed by the project biologist, it has been determined that the unpermitted land clearing and vegetation removal on the project site did not have a significant effect on the environment. It is common practice for staff to rely on information obtained from qualified professionals to determine the impact of a project on the environment, and there is no reason in this particular case for staff to question the findings made by the project biologist.

2. *The applicant did not perform the Biologic Impact Form for the project site, as mandated by the County’s Local Coastal Program (LCP) Policy 7.5, until after the site had been cleared twice.*

Staff’s Response: A biological assessment of the project site prior to the unpermitted land clearing and vegetation removal could not be obtained because the infraction was done without the benefit of a permit. Therefore, as part of the applicant’s request to remedy the violation, the requested biological documents required the project biologist to determine the most accurate information regarding the state of the project site prior to the violation. The project biologist has completed field studies and surveys of the project site to the best of their ability and has given a professional interpretation of the previous and current conditions of the site.

3. *Both a County parcel tag and a disclosure during the transfer of Parcel 1 indicate that the site is not buildable due to existing riparian and wetlands habitats on the parcel. The property owner was fully aware of the above, and purposely cleared the lot without requesting a permit because such a permit would have been denied by the County Planning Department. This is in clear violation of numerous LCP policies regarding protected habitats.*

Staff’s Response: The County parcel tag for Parcel 1 indicated that the site may not be buildable due to findings made by a 2005 biological report completed for the adjacent Parks Department’s Mirada Surf Trail Project. That report indicated that a seasonal wetland was in the vicinity of the project site; however, the main focus of the 2005 biological study was the Mirada Surf property, and the assessment was not specific to the project site.



Staff cannot assume that an application to conduct land clearing on the project site would have been denied nor the intent, if any, of the applicant in the actions that occurred. It is the burden of any applicant to present evidence regarding the conditions of a site in determining whether sensitive habitats exist on a property when development is proposed, including current biological documents.

As discussed above, the applicant submitted several biological reports for the project, including a wetland delineation study, which have concluded that the unpermitted actions did not have a significant effect on the environment and that there is no wetland on the project site. The applicant has demonstrated that the unpermitted land clearing caused no adverse impacts to sensitive habitats.

4. *A landscaping plan does not mitigate the removal of protected riparian willows and the destruction of seasonal wetlands.*

Staff's Response: The project biologist has concluded that the violation did not include the removal of any riparian willows or the destruction of a wetland. Part of the field survey of the project site included an examination of the riparian dripline and adjacent cleared area. The project biologist did not find evidence of willow stumps, willow stump-sprouting, and/or woody debris that would indicate the removal of any willows. The project biologist also conducted a wetland delineation study of the project site and determined that the area does not meet the criteria of a "wetland" under either the Army Corps of Engineers (ACOE) or the County's LCP definitions. As no areas of sensitive habitat were removed or destroyed, a restoration/landscaping plan of the project site is sufficient to mitigate for the native vegetation that was removed during the unpermitted land clearing and vegetation removal.

#### Points and Issues Raised at Previous Public Hearings

5. *The applicant is well aware of the demands of building on the Coast in unincorporated San Mateo County and of his responsibilities of due diligence. The applicant has developed other property in the area and was made aware of the sensitive habitats on the project site during the purchasing of the parcel. The applicant blatantly removed sensitive habitat from the project site without requesting a permit because he was aware that the County would not allow development on such habitat. Even after the applicant was notified by the County that the land clearing was a violation, he cleared the project site a second time, with no repercussions. Granting an "After-the-Fact" CDP for the illegal land clearing is only "rewarding" the applicant for committing actions he knew to be illegal in the first place. The applicant should be required to restore the project site to its pre-clearing state, removing the imported fill and restoring the riparian willow and wetland vegetation that was destroyed, and fined for the time and effort County staff has spent on this permit.*

Staff's Response: The applicant has stated that he was not aware that a permit was required for the land clearing and vegetation removal that occurred on his property. Once the applicant was notified that a violation had been committed, steps to remedy the violation were taken, in the form of an application for an "After-the-Fact" CDP, which is the subject of this request. An "after-the-fact" permit is not automatically approved. Staff reviews the proposal as a new request and determines whether the project complies with County Regulations. If staff is unable to make the required findings necessary to approve a permit, the permit is denied.

The applicant has also stated that the second clearing that occurred in June 2009 was in response to a letter for weed abatement received from the Coast-side County Fire Protection District, and that he did not view minor mowing to comply with fire requirements as a further violation. Staff did inform the applicant to cease and desist from any additional land clearing or vegetation removal during the processing of this permit; thus, an additional violation case was not opened. The applicant was also advised that any future land clearing and/or vegetation removal would require a permit prior to the start of such activities.

Based on findings made by the project biologist, there was no wetland on the project site at the time of the infraction, and the unpermitted land clearing and vegetation removal did not include the removal of any riparian willows. The site was primarily dominated by blackberry bushes and ruderal herbaceous grassland, both of which are to be included in the required restoration plan staff has included as a recommended condition of approval. In addition, staff has also included a recommended condition of approval requiring that the applicant pay fees in an amount to be determined by the Community Development Director to cover the time, in excess of the standard process time, staff has spent processing this permit.

6. *The biological documents submitted from the project biologist are inaccurate and do not correlate with the findings from a 2005 biological study conducted in association with a County Parks Department's project for the adjacent County-owned land known as the Mirada Surf property. The 2005 study indicated riparian and wetland habitat on the project site. The recent studies for this project were done AFTER land clearing had already occurred, and their findings are tainted because the site was disturbed.*

Staff's Response: When development is proposed, staff requires an applicant to submit a current biological study as part of the application and typically does not rely on older biological assessments, especially those that were not completed specifically for the project site. As mentioned above, the 2005 biological report prepared for the adjacent Mirada Surf Trail Project was not specific to the project site for this particular request.

The reports prepared by the project biologist, in accordance with LCP Policy 7.5, reflect the current environmental conditions of the project site, as well as, to the best of their ability, the previous conditions of the project site. Again, based on field studies and surveys conducted, the project biologist has determined that the existing riparian habitat was not affected by the unpermitted activities and that there is no wetland currently on the project site nor was there at the time the infraction occurred. Even though the project site was disturbed, the project biologist ascertains that soil studies conducted on-site to determine whether there were any hydric soils in the area were taken below the top layers of any imported or disturbed soil. Therefore, any land disturbance on the project site did not affect the overall conditions of the site and would not have caused the destruction of a "wetland" in the area.

7. *A biological report prepared for Parcel 2 in August 2010 concludes that, although the presence of a wetland on the project site is not found AFTER two illegal clearings and added fill per the stricter LCP policy, the project site DOES pass the Army Corps of Engineers' wetlands dominance test AFTER the clearing.*

Staff's Response: The US Army Corps of Engineers (ACOE) has specific diagnostic environmental characteristics to determine whether an area is considered a "wetland." This requires the presence of hydrophytic vegetation, hydric soils and hydrology. In order to make a positive wetland determination, the ACOE requires that "evidence of a minimum of one positive wetland indicator from EACH parameter (hydrology, soil, and vegetation) must be found." While it has been determined that the project site meets the hydrophytic vegetation dominance test under ACOE regulations, there are no indications of hydric soils or hydrology on either parcel based on a wetland delineation study prepared for the project. Therefore, the project site does not contain a "wetland" as defined by the ACOE.

8. *It is a physical impossibility that the "unpermitted land clearing did not involve the removal of any riparian or sensitive habitats." Google satellite images from 2007 show that Parcel 1 is covered with willows. Additionally, willows were observed on the site prior to the land clearing and vegetation removal that occurred.*

Staff's Response: While aerial photos can be suggestive of vegetative types on the ground, they do not supersede a qualified biologist's "on-site" investigative conclusions. The project biologist has concluded that the existing willow riparian habitat was not affected by the unpermitted land clearing and vegetation removal and that no willows were removed. As the project biologist is certified and qualified, staff has no reason to infer that the submitted reports are erroneous.

9. *The most recent report completed by the project biologist (December 2, 2010) in response to a request from the Planning Commission on November 10, 2010, is inaccurate, unclear and did not address the Commission's specific request to provide a current survey of the project site and recommendations for appropriate restoration of the site. The report did not include any Google photographs or other photographic evidence to support the findings made. In addition, the report does not include a review of any biological documents written PRIOR to the land clearing, only those completed AFTER the clearing.*

Staff's Response: The December 2, 2010 report (Attachment E) prepared for the Planning Commission was reviewed by the Commission for its February 23, 2010 hearing. The Commission was satisfied with the updated report, as they did not express any issues or concerns with the document nor request any additional biological information from the project biologist at the hearing. The Commission agreed with the findings made by the project biologist that the existing willow riparian habitat was not affected and that there was not a wetland on the property at the time of the infraction. The restoration recommendations included in the current report were also approved by the Commission.

10. *The applicant's desire to work with the County Parks Department and discuss potential lot line adjustment options so that the proposed residence for Parcel 1 would be located on Parcel 2 instead, proves that the applicant has no intention of taking responsibility for the illegal land clearing that destroyed environmentally protected habitats. The applicant not only wants to be given clemency for the illegal land clearing but also wants a better land situation than he purchased. The intent of dedicating Parcel 2 to the Parks Department was for "its utility as a site for restroom facilities for the public's use," as specified in Resolution No. 070733 adopted by the Board of Supervisors in April 2010. Therefore, a lot line adjustment between the two property owners should not be an option considered.*

Staff's Response: As previously discussed, at its December 10, 2010 public hearing, the Planning Commission requested that the applicant work with the Parks Department (owner of Parcel 2) to review their respective development proposals (a new residence on Parcel 1 and a new restroom facility on Parcel 2) to possibly collaborate on a better plan for the project site. Therefore, at the request of the Planning Commission, the applicant discussed several options with the Parks Department, including a potential lot line adjustment. However, an agreement could not be made that satisfied both property owners.

11. *Staff's response to public comments are inaccurate, dismissive and lack due diligence on their part. Staff is not seeking an accurate representation of the situation to best represent the interests of San Mateo County and its residents. Rather, staff continues to defend the actions of the applicant and*

*dismiss any documentation submitted by the community that conflicts with the applicant's statements.*

Staff's Response: Staff has reviewed and analyzed this project based on all the information provided and researched and has found that the project complies with all applicable County regulations and policies. While staff acknowledges the discrepancies between a previous biological study done for the County Parks Department and the several studies conducted by the project biologist for this project, the previous study was not specific to the project site, whereas, the current reports submitted by the applicant are. As previously mentioned, staff relies on the information obtained by private consultants with the proper credentials. LCP Policy 7.5 places the burden on the applicant to obtain qualified professionals to demonstrate impacts on sensitive habitats, if any, which the applicant has done.

#### C. RESPONSE TO PUBLIC COMMENTS

1. *Previous documentation regarding the stream and surrounding sensitive habitats adjacent to the project site has been submitted to the County in conjunction with a project appealed to the Board of Supervisors (Board) in March 2006. The Board decision in the "Bolsa Chica" case, that even damaged coastal resources are worthy of protection and that not only should environmentally sensitive habitat areas be protected from development but adjacent areas should be as well, fully apply to the current projects. The project site is adjacent to sensitive habitats and should be restored to its natural state.*

Staff's Response: Staff has consulted with County Counsel as to whether the "Bolsa Chica Decision" applies to the proposal at hand. County Counsel has determined that because the project does not impact any sensitive habitats, and the required setbacks for development are met, there is no conflict with the "Bolsa Chica Decision."

2. *The March 4, 2009 report prepared by the project biologist concludes that, even after clearing, fill and grading, all three sample points for their wetland delineation report met the wetland vegetation criterion.*

Staff's Response: For clarification, the date of the above-referenced report is incorrect, and the correct date is June 16, 2009. For this report, the project biologist conducted a wetland delineation study of the project site, following the current methodology of the ACOE and the California Coastal Commission (CCC). While all three sample points met the wetland vegetation criterion of both the ACOE and CCC, the hydric soils and hydrology criteria were not met. The ACOE criteria require the presence of hydric soils and hydrology in addition to hydrophytic vegetation for an area to be considered a "wetland." Based on the CCC's definition of "wetland," hydrology is the feature used to describe wetlands in the Coastal Act. Based on studies of the project site,

including soils tests, hydric soils and a clear hydrology source were not identified. Therefore, although the project site meets the wetland vegetation criterion, it is not considered a wetland pursuant to the ACOE criteria and the Coastal Act.

In addition, the project biologist chose to evaluate the project site against CCC criteria rather than the County's LCP criteria because the CCC's definition is not as narrow. The LCP definition of "wetland" is narrower in regard to the specificity of the plants that must occur in a feature to be considered a wetland. Specifically, LCP Policy 7.14 states that "wetlands typically contain the following plants: cordgrass, pickleweed, jaumea, frankenia, marsh mint, tule, bulrush, narrow-leaf cattail, broadleaf cattail, pacific silverweed, salt rush, and bog rush. To qualify, a wetland must contain at least a 50% cover of some combination of these plants." The plant species observed on the project site did not fit the above plant criteria. In fact, none of the plant species stipulated in LCP Policy 7.14 were found on the project site. Thus, even under the LCP, the project site would not be considered a wetland.

3. *The adjacent Mirada Surf Trail Project undertaken by the County Parks Department required extensive review and permits from several agencies, including the California Department of Fish and Game (DFG), the Army Corps of Engineers and the US Fish and Wildlife Service. Mr. Hodge's request for permits should include the same review and approval from these same agencies, as the project site is adjacent to the Mirada Surf property, and the 2005 biological study conducted for the area indicates that the subject project site contains sensitive habitats. Specifically, a Streambed Alteration Agreement should be required for the project.*

Staff's Response: The adjacent Mirada Surf Trail Project was different in substance and scope from the current proposal. That project was a much larger project that included the construction of a coastal trail through the Mirada Surf property and a new bridge to connect the trail over the existing perennial stream that runs on the property, immediately north of the project site. The actual construction activities for the project also involved the removal of several willows. Because the project included construction over an existing watercourse and the removal of sensitive riparian habitat, review and approval by other agencies, such as DFG, was required.

As discussed previously, the applicant has provided documentation from a qualified biologist confirming that no sensitive habitats were affected or removed by the unpermitted land clearing and vegetation removal on the project site. Based on these findings, staff did not refer the project to DFG. Furthermore, as this proposal does not include any alteration to the existing perennial creek, staff concluded that a Streambed Alteration Agreement with DFG was not required. Staff attempted to contact DFG to confirm the above, and a response was never received.

4. *Section 6103.5 of the Zoning Regulations, "Determination of Violation by Decision Maker," establishes the process by which a zoning or building violation is addressed. The violation on the project site does not meet any of the required criteria under this section. Therefore, the applicant's request for an "After-the-Fact" CDP should be denied, and the illegal grading and removal of riparian and wetland vegetation on the project site must be remedied by restoring the areas destroyed.*

Staff's Response: Under Section 6105.3 of the Zoning Regulations, a permit can be granted to remedy a violation if certain criteria are met. These include that the applicant was not aware that such action constituted a violation, the violation was minor in nature and the applicant has taken the required steps to resolve the issue. The applicant has stated that he was not aware that minor land clearing on his property required a permit. Once notified that the actions taken did in fact constitute a violation, the applicant was advised of how to remedy the violation by applying for the required permits, which has been done.

In addition, as previously mentioned, the project biologist has determined that there were no areas of sensitive habitat negatively affected or removed by the violation, and that the project site was primarily dominated by blackberry bush and ruderal herbaceous grassland. The Planning Commission and staff have included a condition of approval that requires a restoration plan for the project site that incorporates the project biologist's findings and restoration recommendations.

5. *Staff has failed to interpret and enforce the required regulations and repercussions for the violations committed on the project site. In spite of several documents submitted to staff, which include aerial photographs of the project site and the 2005 biological study, that clearly show previous sensitive habitat on the project site prior to the illegal land clearing and are in direct contradiction to the findings made by the project biologist, staff has continued to ignore facts and "side" with the applicant.*

Staff's Response: Pursuant to County Regulations, when a violation is committed, a violation case is opened, and the property owner is required to remedy the issue by either applying for the appropriate permits and/or abating the violation. The appropriate actions were taken by the County in this situation: the applicant was issued a violation notice, a violation case was opened for the unpermitted land clearing and vegetation removal that occurred, and an "After-the-Fact" CDP was applied for to remedy the violation. For further discussion, refer to staff's response to Comment No. 11 in Section B above.

## D. REGULATORY COMPLIANCE

### 1. Compliance with General Plan

Staff has reviewed the project for conformance with the General Plan and has determined that the project is in conformance with all applicable policies, with specific discussion of the following:

Chapter 1 – Vegetative, Water, Fish and Wildlife Resources. Policies 1.27 (*Regulate Development to Protect Sensitive Habitats*), 1.43 (*Develop Standard Mitigation Measures*) and 1.44 (*Improvement of Damaged Resources*) call for, respectively, the regulation of land uses and development within and adjacent to sensitive habitats; the development of mitigation measures to protect sensitive resources and habitats; and the implementation of programs which repair and/or enhance damaged sensitive resources and habitats with the goal of returning them to their natural condition.

The project biologist has determined that the unpermitted land clearing and vegetation removal on the project site did not involve the removal of any sensitive habitats. Several field studies of the project site have been conducted, including a wetland delineation study, and results indicate that an existing willow riparian habitat encroaches into the northeast corner of the project site. There was no indication that riparian willows were removed during the unpermitted land clearing, as the project biologist did not find evidence of willow stumps or sprouting during field evaluations. Slight trimming of willows did occur during the unpermitted land clearing, which, according to the project biologist, did not cause a significant negative effect on the riparian habitat. The remainder of the site is dominated primarily by grassland and non-native plant species, which do not provide suitable habitat for special status plant and/or wildlife species nor qualify as a sensitive habitat. The biologist has determined that the cleared area was also most likely dominated by blackberry bushes. A revegetation plan of the project site will be required to restore the cleared area to its previous natural condition.

Chapter 2 – Soil Resources. Policy 2.23 (*Regulate Excavation, Grading, Filling, and Land Clearing Activities Against Accelerated Soil Erosion*) calls for the regulation of land clearing activities to protect against accelerated soil erosion and sedimentation. Due to the minimal vegetation removed, as determined by the project biologist, and the relatively level slope of the property, the land clearing likely did not result in significant soil erosion and sedimentation. Conditions of approval have been recommended to ensure that the disturbed area is stabilized and that additional land clearing or vegetation removal, which would possibly result in accelerated soil erosion and sedimentation, does not occur.

Chapter 4 – Visual Quality. Policy 4.3 (*Protection of Vegetation*) calls for the minimization of the removal of visually significant trees and vegetation to



accommodate structural development. The land clearing and minimal vegetation removal that occurred on the site did not include the removal of any heritage or significant trees. The land clearing that occurred was partly done in anticipation of future development on this parcel and does not exceed that which is needed to accommodate a reasonable level of development.

## 2. Conformance with Local Coastal Program

A Coastal Development Permit is required pursuant to LCP Policy 1.1, which mandates compliance with the California Coastal Act for any development proposed within the Coastal Zone. Pursuant to Policy 1.2 of the LCP, the unpermitted land clearing and vegetation removal is considered development. Staff has completed a Coastal Development Checklist for this project. Summarized below are the sections of the LCP that are relevant:

### a. Sensitive Habitats Component

Policies 7.3 (*Protection of Sensitive Habitats*) and 7.5 (*Permit Conditions*) call for, respectively, the prohibition of any land use or development which would have significant adverse impact on sensitive habitat areas, and the applicant to: (1) demonstrate that there will be no significant impact on sensitive habitats, and (2) propose and implement a restoration plan for any portions of a sensitive habitat that may be damaged.

As mentioned above, the project biologist has determined that the only sensitive habitat on the site is an existing willow riparian habitat that is associated with an adjacent unnamed perennial creek. The biologist has mapped the limit of riparian vegetation in accordance with Policy 7.7 (*Definition of Riparian Corridors*). A large portion of the project site is designated as a buffer zone for the willow riparian habitat, as established by Policy 7.11 (*Establishment of Buffer Zones*). Unpermitted land clearing and vegetation removal did occur in the required 50-foot riparian buffer zone but did not include removal of or damage to the riparian habitat, as previously stated. Pursuant to Policy 7.5, the restoration of the cleared area has been included as a condition of approval in Attachment A.

### b. Visual Resources Component

Policy 8.10 (*Vegetative Cover*) calls for the replacement of vegetation removed during construction with plant materials which are compatible with surrounding vegetation and is suitable to the climate, soil, and ecological characteristics of the area. The project biologist has provided recommendations to restore the project site to its pre-clearing conditions based on findings determined from field surveys of the site and surrounding area. The Planning Commission and staff have included the

requirement for a revegetation plan and its implementation in the recommended conditions of approval found in Attachment A.

## E. ENVIRONMENTAL REVIEW

An Initial Study was completed and a Negative Declaration (Attachment F) issued in conformance with California Environment Quality Act (CEQA) guidelines for this project and an associated project for a new single-family residence on Parcel 1 (PLN 2008-00380). The public review period for this document was January 21, 2010 to February 10, 2010. (This document was subsequently separated for each project in March 2011 and did not require another public review according to County Counsel.) Public comments were received during the initial review period. Mitigation measures pertaining to this project have been included as recommended conditions of approval in Attachment A.

### 1. Response to Public Comments

Public comments regarding this project were received during the posting period. Many comments addressed similar issues and, therefore, have been aggregated and summarized below. Refer to Attachment E for complete comments.

- a. *Staff's response to Section 2.g of the Negative Declaration is inaccurate as the land clearing done did not include the entirety of Parcel 1, as only blackberry and various brush were removed, which covered only 20% of Parcel 1.*

Staff's Response: Based on a site plan submitted by the applicant on November 24, 2008, the extent of land clearing and vegetation removal done on the two properties included all of Parcel 2 and a large majority of Parcel 1, except for an area in the northeast corner of the parcel (see Attachment C). Section 2.g of the Initial Study/Negative Declaration asks: "Will (or could) this project involve clearing land that is 5,000 sq. ft. or greater (1,000 sq. ft. within a County Scenic Corridor), that has slopes greater than 20% or that is in a sensitive habitat or buffer zone?" The two parcels are located within the Cabrillo Highway County Scenic Corridor and adjacent to willow riparian habitat, which encroaches onto the project site and is considered a sensitive habitat. The buffer zone for a riparian corridor is 50 feet, as required by LCP Policy 7.11 and, therefore, extends onto the project site. The two parcels total 14,002 sq. ft. As the majority of Parcel 1 and all of Parcel 2 are shown on the site plan as being cleared, staff's response to Section 2.g of the Negative Declaration is accurate.

- b. *It is a physical impossibility that the "unpermitted land clearing did not involve the removal of any riparian or sensitive habitats." Google satellite images from 2007 show that Parcel 1 is covered with willows.*

*Additionally, willows were observed on the site prior to the land clearing and vegetation removal that occurred.*

Staff's Response: Refer to staff's response to Comment No. 8 in Section B above.

- c. *The biological documents submitted from the project biologist are inaccurate and do not correlate with the findings from a 2005 biological study conducted in association with a County Parks Department's project for the adjacent County-owned land known as the Mirada Surf property. The 2005 study indicated riparian and wetland habitat on the project site. The recent studies for this project were done AFTER land clearing had already occurred, and their findings are tainted because the site was disturbed.*

Staff's Response: Refer to staff's response to Comment No. 6 in Section B above.

- d. *Both a County parcel tag and a disclosure during the transfer of Parcel 1 indicate that the site is not buildable due to existing riparian and wetlands habitats on the parcel. The property owner was fully aware of the above, and purposely cleared the lot without requesting a permit because such a permit would have been denied by the County Planning Department.*

Staff's Response: Refer to staff's response to Comment No. 3 in Section B above.

#### F. REVIEWING AGENCIES

Building Inspection Section  
Department of Public Works  
Geotechnical Section  
Coastside County Fire Protection District  
California Coastal Commission  
Coastside County Water District  
Granada Sanitary District  
City of Half Moon Bay Planning Department  
Midcoast Community Council

County Counsel has reviewed and approved the materials as to form and content.

The approval of this project contributes to the 2025 Shared Vision outcome of a Livable Community by allowing the owners to restore the project site to a reasonable natural state previous to its initial clearing, furthering applicable LCP policies.

**FISCAL IMPACT:**

Nominal costs to the Planning and Building Department for monitoring of the restoration work.

**ATTACHMENTS:**

- A. Recommended Findings and Conditions of Approval
- B. Location Map
- C. Site Plan of Disturbed Area
- D. Appeal Document
- E. WRA Report: Wetland and Vegetation Summary Report – December 2, 2010
- F. Initial Study/Negative Declaration
- G. Planning Commission Decision Letter (Revised), Dated April 22, 2011
- H. Letter from Hodge Submitted to Planning Commission at March 23, 2011 Hearing
- I. Aerial Photos of Site (2005 – Before Hearing; 2008 – Just after Clearing; 2010 – Most Recent)
- J. Project Biological Reports\*
  - 1. WRA Biological Resource Assessment – February 24, 2009\*
  - 2. WRA Report: Previous Habitat Conditions of Cleared Area: Proposed Hodge Residence, Magellan Avenue, Miramar – May 20, 2009\*
  - 3. WRA Report: Wetland Delineation at Proposed Hodge Residence, Magellan Avenue, Half Moon Bay – March 4, 2009\*

\*These documents are available on the County's Planning and Building's website, under "Pending Projects" (10/18/11 BOS Hearing – Hodge Bio Reports).

COUNTY OF SAN MATEO  
PLANNING AND BUILDING DEPARTMENT

**RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL**

Permit File Number: PLN 2009-00358

Board Meeting Date: November 1, 2011

Prepared By: Dave Holbrook, Senior  
Planner

For Adoption By: Board of Supervisors

**RECOMMENDED FINDINGS:**

Regarding the Negative Declaration, Find:

1. That the Negative Declaration is complete, correct and adequate, and prepared in accordance with the California Environmental Quality Act and applicable State and County guidelines. The public review period for this document was January 21, 2010 to February 10, 2010.
2. That, on the basis of the Initial Study, comments received hereto, and testimony presented and considered at the public hearing, there is no substantial evidence that the project will have a significant effect on the environment. The Initial Study/Negative Declaration does not identify any significant or cumulative impacts associated with this project.
3. That the Negative Declaration reflects the independent judgment of San Mateo County. The Negative Declaration was prepared by the project planner.
4. That the mitigation measures in the Mitigated Negative Declaration and agreed to by the owner and placed as conditions on the project have been incorporated into the Mitigation Monitoring and Reporting Plan in conformance with the California Public Resources Code Section 21081.6.

Regarding the Coastal Development Permit, Find:

5. That the project, as described in the application and accompanying materials required by Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms with the plans, policies, requirements and standards of the San Mateo County LCP. Project plans and materials have been reviewed against the application requirements, staff has completed an LCP Policy Checklist, and the project has been conditioned in accordance with the Sensitive Habitats and Visual Resources Components of the LCP.
6. That the project conforms to the specific findings required by the policies of the LCP with regard to the Sensitive Habitats and Visual Resources Components.

Specifically, the project conforms with the protection of sensitive habitats because no special status plants, animals, or habitats were removed. Compliance with LCP requirements for buffer zones and the minimization of vegetative cover removal will be achieved through the implementation of the restoration plan required by Condition No. 4.

**RECOMMENDED CONDITIONS OF APPROVAL:**

**Current Planning Section**

1. The approval applies only to the proposal as described in this report and materials submitted for review and approval by the Planning Commission on March 23, 2011 and subsequently by the Board of Supervisors on November 1, 2011. Any changes or revisions to the approved plans shall be submitted for review by the Community Development Director to determine if they are consistent with the intent of and in substantial conformance with this approval.
2. This permit shall be valid for one (1) year from the date of final approval by which time revegetation shall be initiated. Any extension of this permit shall require submittal of an application for permit extension and payment of applicable permit extension fees sixty (60) days prior to expiration.
3. Additional land clearing and/or vegetation removal shall not be allowed as part of this approval. Any additional or future clearing of either of the parcels must be addressed by a separate application submitted prior to any such land clearing or vegetation removal.
4. The applicant shall submit a revegetation plan within 60 days of this application's final approval for review and approval by the Community Development Director. The revegetation plan shall be prepared by the applicant's biologist and include the recommendations indicated in Section 5.0 (Conclusions and Recommendations) of the December 2, 2010 report submitted by WRA Environmental Consultants. The plan shall identify the existing riparian dripline and 50-foot required buffer area, and specify the types, density, general location and size of the plant species recommended for the buffer area and outside of the buffer area, in accordance with the biologist's recommendations, LCP Policy 7.13 and State water efficiency standards. The plan shall cover the entirety of both parcels (048-016-010 and 048-016-020). Within 60 days of the Community Development Director's approval, or at the earliest and best time to plant during the closest upcoming fall or growing season, as determined by the applicant's biologist (but in no case later than this year, 2011), the aforementioned plan shall be implemented. If the revegetation plan is proposed to be implemented prior to the upcoming fall or growing season, the applicant shall submit a plan to ensure that all plantings are adequately irrigated. Any subsequent approvals of development related to this project, including PLN 2008-00380 for a new single-family residence on Parcel 1 and/or PLN 2010-00356 for a new restroom facility on Parcel 2, shall BE DEEMED TO INCORPORATE AND INCLUDE this requirement for a revegetation plan of the project site, and COMPLIANCE WITH CONDITIONS OF SUBSEQUENT APPROVALS

INCORPORATING THIS REQUIREMENT shall constitute compliance with this condition.

5. The applicant shall submit a \$2,000.00 Certificate of Deposit (COD) to the Planning Department to ensure the implementations and maturation of the landscaping/ revegetation plan, payable upon confirmation that the plan has been implemented. The COD shall be held for a period of two (2) years after the Planning and Building Department has confirmed that the approved plan has been installed. At the end of the two-year period, the applicant shall confirm that all implemented landscaping is thriving and that any dead plantings have been replaced in like-kind. Upon verification, the COD shall be returned to the applicant.
6. No trees are permitted to be removed as part of this approval. If any tree is proposed for removal, the applicant shall be required to obtain approval of a tree removal permit for the proposed removal of any tree with a diameter greater than 12 inches as measured 4.5 feet above the ground.
7. The only permitted uses within the buffer zone for the riparian area on the properties shall be those allowed by Policies 7.9 (*Permitted Uses in Riparian Corridors*) and 7.12 (*Permitted Uses in Buffer Zones*) of the San Mateo County Local Coastal Program (LCP), subject to CDP approval. All other uses shall be prohibited.
8. Noise levels produced by construction shall not exceed the 80-dBA level at any one moment. Construction activities shall be limited to the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. Construction operations shall be prohibited on Sunday and any national holiday.
9. The applicant shall submit the following fees to the Current Planning Section: Within four (4) working days of the final approval date of this permit, the applicant shall pay an environmental filing fee of \$2,044.00 (fee effective February 1, 2011), as required under Fish and Game Code Section 711.4(d), plus a \$50.00 recording fee. The applicant shall submit a check in the amount of \$2,094.00, made payable to San Mateo County, to the project planner to file with the Notice of Determination.

#### Department of Public Works

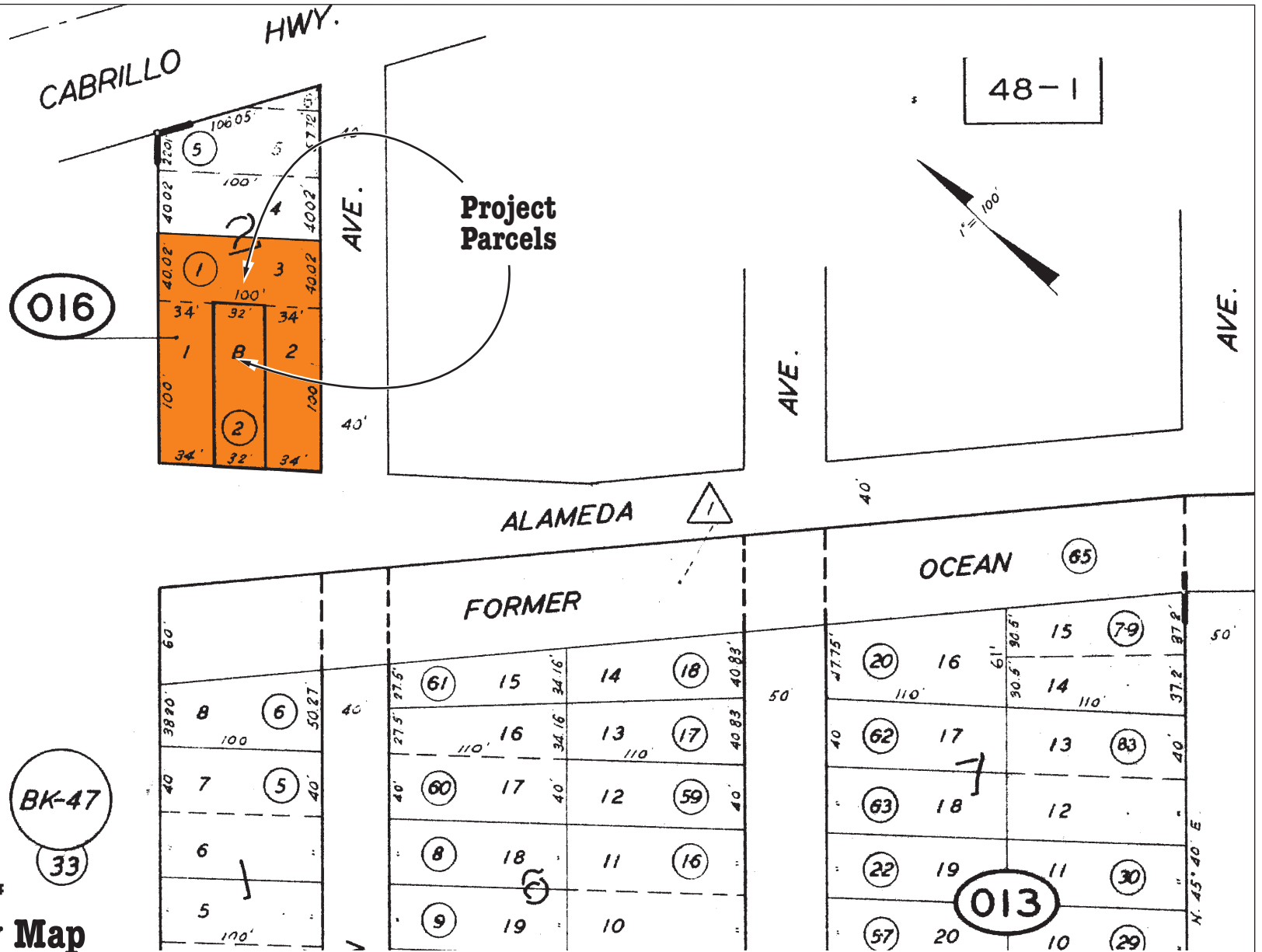
10. No proposed construction work within the County right-of-way shall begin until County requirements for the issuance of an encroachment permit, including review of the plans, have been met and an encroachment permit issued.



**County of San Mateo - Planning and Building Department**

# **ATTACHMENT B**





# San Mateo County Board of Supervisors

Owner/Applicant: **David & Hi-Jin Hodge**

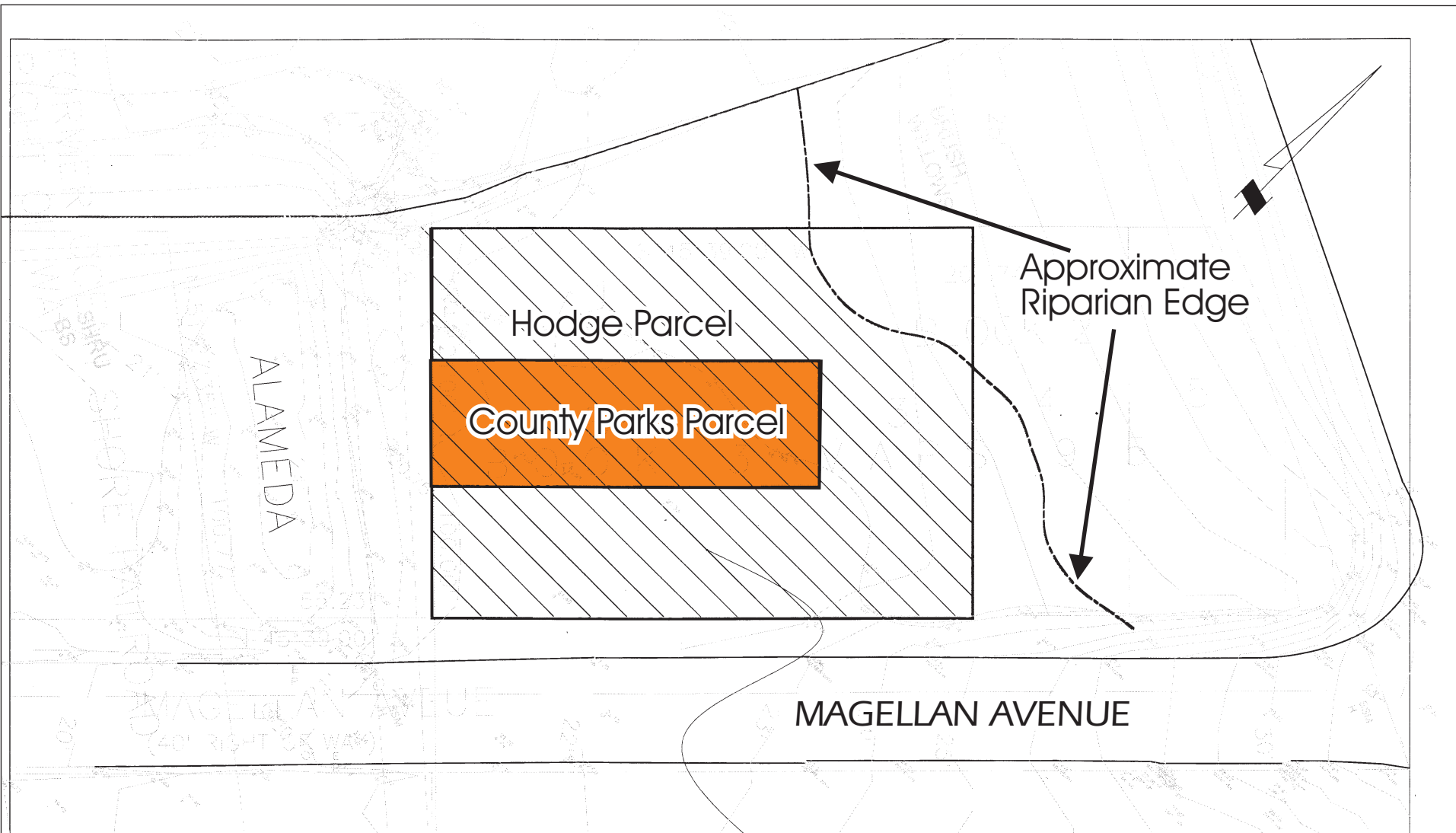
Attachment: **B**

File Numbers: **PLN2009-00358**



**County of San Mateo - Planning and Building Department**

# **ATTACHMENT 7**



Area owner cleaned

## Site Plan of Disturbed Area

### San Mateo County Board of Supervisors

Owner/Applicant: **David & Hi-Jin Hodge**

Attachment: **C**

File Numbers: **PLN2009-00358**



**County of San Mateo - Planning and Building Department**

# **ATTACHMENT '8**

**Application for Appeal****Planning and Building Division**County Government Center • 590 Hamilton St. • Redwood City CA 94063  
Mail Drop PLN 122 • 415 • 363 • 416☐ To the Planning Commission☒ To the Board of Supervisors**1. Appellant Information**Name: Evvy SmithAddress: 216 Magellan Ave.Half Moon BayPhone, W: 415-543-8368 H: 650-712-0582CA Zip: 94019**2. Appeal Information**

Permit Numbers involved:

file# PLN2009-00358APNs: 048-016-010 & 048-016-020to clear violations VIO 2008-00124 &  
I hereby appeal the decision of the: VIO 2008-00125

- ☐ Staff or Planning Director  
☐ Zoning Hearing Officer  
☐ Design Review Committee  
☒ Planning Commission

made on March 28 2011 to approve/deny  
the above-listed permit applications.I have read and understood the attached information  
regarding appeal process and alternatives.☒ yes☐ no

Appellant's Signature:

Evvy M. Smith

Date:

04.06.11**3. Basis for Appeal**

Planning staff will prepare a report based on your appeal. In order to facilitate this, your precise objections are needed. For example: Do you wish the decision reversed? If so, why? Do you object to certain conditions of approval? If so, then which conditions and why?

The purpose of this appeal is to reverse the decision of the San Mateo County Planning Commission to approve the After-the-Fact Coastal Development Permit for PLN 2009-0038. The decision to approve the permit was based on acceptance of the revised conditions of the Planning Staff's Negative Declaration.

The Negative Declaration is based on studies performed on behalf of the applicant that are erroneous and ignores the basic facts of the case. The Negative Declaration states, "That, on the basis of the Initial Study, comments received hereto, and testimony presented and considered at the public meeting, ***there is no substantial evidence that the project will have a significant effect on the environment.***" (emphasis added). A landscaping plan does not mitigate removal of protected riparian willows and the destruction of seasonal wetlands.

This project consists of the applicant purchasing a lot know to be in a wetlands and riparian willow area that was (according to listing) "not currently buildable". Applicant also signed disclosures at time of sale noting that "lot is in wetlands/riparian corridor, may not be buildable". The County log for the lot states that "there is both wetland and riparian area encumbering this parcel". Applicant purchased the lot and proceeded to clear and fill the land (twice) for both his lot and the lot adjoining without permits. This is in clear violation of numerous LCP Policies regarding protected habitats.

Additionally, applicant never performed the LCP 7.5 Policy mandated Biologic Impact Form regarding the properties until after the land had been cleared twice. Disregarding previous evidence to the contrary, the Planning Commission has given approval to the After-the-Fact permit.

For these reasons, I am appealing the decision and requesting that the Board of Supervisors reverse the Planning Commission decision.



**County of San Mateo - Planning and Building Department**

# **ATTACHMENT '9**

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# Wetland and Vegetation Summary Report

## PROPOSED HODGE RESIDENCE

### MAGELLAN AVENUE, MIRAMAR

### SAN MATEO COUNTY, CALIFORNIA

---

**Prepared For:**

David Hodge  
100 Coronado Avenue  
Half Moon Bay, CA 94019

**Contact:**

Jeff Dreier  
dreier@wra-ca.com

**Date:**

December 2, 2010





# TABLE OF CONTENTS

1.0 INTRODUCTION.....	2
2.0 PROJECT AREA.....	2
3.0 METHODS .....	3
3.1 Document Review .....	3
3.2 Aerial Photograph Interpretation .....	3
3.3 Wetlands .....	3
Regulatory Background.....	3
WRA Wetland Delineation.....	6
Biotic Resources Group Assessment.....	6
3.4 Riparian.....	6
3.5 Other Biological Resources.....	7
3.6 Vegetation Transect Study.....	7
4.0 RESULTS.....	8
4.1 Aerial Photograph Interpretation .....	8
4.2 Wetlands .....	9
Soils .....	9
Hydrology .....	9
4.3 Riparian.....	10
4.4 Other Biological Resources.....	10
4.5 Vegetation Transect Study.....	10
5.0 CONCLUSION AND RECOMMENDATIONS .....	12
6.0 REFERENCES.....	13

APPENDIX A   Aerial Photograph

## 1.0 INTRODUCTION

The purpose of this report is to 1) summarize previous biological resource assessments and surveys conducted within and adjacent to the Hodge Property (Project Area) to determine the previous extent of wetland conditions within and adjacent to the Project Area, and 2) provide recommendations for restoration of cleared areas to pre-disturbance conditions.

## 2.0 PROJECT AREA

The Project Area is located in the Miramar area of Half Moon Bay. The U-shaped site is an approximately 10,000 square foot vacant lot dominated by weedy, ruderal vegetation that nearly surrounds a portion of a County parcel. A portion of the site along the shoulder of Magellan Drive is used for off-street parking by the general public. The Mirada Surf Coastal Trail is adjacent to the site to the southwest. The trail was recently improved by installing a bridge crossing just to the west of an old unimproved trail. Improved surfacing was also constructed. A perennial creek that supports willow riparian habitat is located to the northwest.

A perennial drainage with willow riparian woodland traverses the northwest portion of the Project Area. This drainage empties into the Pacific Ocean (Half Moon Bay). The drainage supports willow-dominated riparian woodland. The woodland is comprised of arroyo willow (*Salix lasiolepis*), red willow (*S. laevigata*) and silky willow (*S. sitchensis* var. *coulteri*), as well as California blackberry (*Rubus ursinus*), bulrush (*Scirpus* sp.), and coyote brush (*Baccharis pilularis*). The creek also supports herbaceous species, such as water smartweed (*Polygonum amphibium*), cut-leaved water parsley (*Berula erecta*), nutgrass (*Cyperus esculentus*), watercress (*Rorippa nasturtium-aquaticum*), and water speedwell (*Veronica* sp.) (Biotic Resources Group 2010).

Upland ruderal vegetation occurs on a slope and flat area immediately east of the existing recreational trail. This area is dominated by upland grasses and forbs, such as wild radish (*Raphanus sativa*), wild oat (*Avena* sp.), cut-leaved plantain (*Plantago coronopus*), and bur clover (*Medicago polymorpha*), with lesser amounts of Italian ryegrass (*Lolium multiflorum*), bristly ox-tongue (*Picris echioides*), rattail fescue (*Vulpia myuros*), fennel (*Foeniculum vulgare*), and poison hemlock (*Conium maculatum*) (Biotic Resources Group 2010).

The Project Area was previously disturbed and is currently comprised of a mosaic of mesophytic and hydrophytic plant species. Dominant species include Italian ryegrass, bristly ox-tongue, velvet grass (*Holcus lanatus*), and curly dock. Species providing less than 20% cover include common plantain (*Plantago major*), bird's foot trefoil (*Lotus corniculatus*) spikerush (*Eleocharis* sp.), California aster (*Aster chilensis*), spring vetch, fiddle dock (*Rumex acetosella*), poison hemlock, and nutgrass (*Cyperus* sp.) (Biotic Resources Group 2010).

## **3.0 METHODS**

### **3.1 Document Review**

The following documents were reviewed to determine the presence/absence of wetlands within the Project Area:

- Mirada Surf West Restroom Project Biological Impact Form (Biotic Resources Group 2010)
- Biological Resource Assessment, Proposed Hodge Residence, Magellan Avenue, Miramar (WRA 2009a)
- Wetland Delineation results at proposed Hodge Residence, Magellan Avenue, Miramar (APN: 048-016-010). Letter to Stephanie Skangos, Planning and Building Department, County of San Mateo from WRA (2009b).
- Previous Habitat Conditions of Cleared Area: Proposed Hodge Residence, Magellan Avenue, Miramar. Letter to David Hodge from WRA (2009c).

### **3.2 Aerial Photograph Interpretation**

Historical aerial photographs were reviewed to compare existing Project Area vegetation cover with conditions prior to vegetation clearing. Historic aerial photographs were reviewed on *Google Earth*, the California Coastal Records Project (<http://www.californiacoastline.org/>), and Historic Aerials (<http://www.historicaerials.com/default.aspx>).

GPS point data were collected as part of the vegetation transect study described in Section 3.6. These points were plotted on historic aerial photographs to determine compare vegetation cover within and adjacent to the Project Area over time.

### **3.3 Wetlands**

In August 2009, WRA conducted a routine wetland delineation of the Project Area to determine if wetland conditions were present. The wetland delineation followed the methodology of the Army Corps of Engineers (Corps) in addition to that of the California Coastal Commission (CCC) since the Project Area is in the Coastal Zone.

In August 2010, Biotic Resources Group conducted an assessment of vegetation resources on County-owned property located adjacent to the Project Area. The assessment included a portion of the Mirada Surf West recreational trail and a County-owned parcel east of the trail. The report was prepared to evaluate the proposed project for compliance with the County's Local Coastal Program (LCP) riparian corridor and wetland policies.

## **Regulatory Background**

### *Section 404 of the Clean Water Act*

Section 404 of the Clean Water Act gives the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) regulatory and permitting authority regarding discharge of dredged or fill material into “navigable waters of the United States”. Section 502(7) of the Clean Water Act defines navigable waters as “waters of the United States, including territorial seas.” Section 328 of Chapter 33 in the Code of Federal Regulations defines the term “waters of the United States” as it applies to the jurisdictional limits of the authority of the Corps under the Clean Water Act. A summary of this definition of “waters of the U.S.” in 33 CFR 328.3 includes (1) waters used for commerce; (2) interstate waters and wetlands; (3) “other waters” such as intrastate lakes, rivers, streams, and wetlands; (4) impoundments of waters; (5) tributaries to the above waters; (6) territorial seas; and (7) wetlands adjacent to waters. Therefore, for purposes of the determining Corps jurisdiction under the Clean Water Act, “navigable waters” as defined in the Clean Water Act are the same as “waters of the U.S.” defined in the Code of Federal Regulations above.

The limits of Corps jurisdiction under Section 404 as given in 33 CFR Section 328.4 are as follows: (a) *Territorial seas*: three nautical miles in a seaward direction from the baseline; (b) *Tidal waters of the U.S.*: high tide line or to the limit of adjacent non-tidal waters; (c) *Non-tidal waters of the U.S.*: ordinary high water mark or to the limit of adjacent wetlands; (d) *Wetlands*: to the limit of the wetland.

Section 328.3 of the Federal Code of Regulations defines wetlands as:

*"Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas."*

EPA, 40 CFR 230.3 and CE, 33 CFR 328.3 (b)

The three parameters used to delineate wetlands are the presence of: (1) hydrophytic vegetation, (2) wetland hydrology, and (3) hydric soils. According to the Corps Manual, for areas not considered “problem areas” or “atypical situations”:

*"...[E]vidence of a minimum of one positive wetland indicator from each parameter (hydrology, soil, and vegetation) must be found in order to make a positive wetland determination."*

Data on vegetation, hydrology, and soils collected at sample points during the delineation site visit was reported on the Corps’ Western Mountains, Valleys and Coast Region data forms (attached). Indicators described in the Western Mountains, Valleys and Coast Region Supplement were used to make wetland determinations at each sample point in the Study Area.

#### California Coastal Commission

The California Coastal Act defines wetlands as:

*"Wetland" means land within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens."*

Generally, the California Coastal Commission (CCC) has utilized the same definition of wetlands adopted by the Department of Fish and Game. The Department's definition is the same as that used by the US Fish and Wildlife Service and requires the presence of wetland hydrology and one of three other attributes: wetland vegetation, undrained wetland (hydric) soils, or in the case of non-soils, saturated and covered with water. The CCC's definition, therefore, includes many non-vegetated areas such as mudflats, playas, and shallow water areas.

*Wetlands are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification wetlands must have one or more of the following three attributes: (1) at least periodically, the land supports predominantly hydrophytes, (2) the substrate is predominantly undrained hydric soil, and (3) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year.*

In the CCC's discussion of technical criteria for identifying and mapping wetlands (Appendix D of the *Statewide Interpretive Guideline for Wetlands and Other Wet Environmentally Sensitive Habitat Areas*), it states that:

*"...the single feature that most wetlands share is soil or substrate that is at least periodically saturated with or covered by water, and this is the feature used to describe wetlands in the Coastal Act. The water creates severe physiological problems for all plants and animals except those that are adapted for life in water or in saturated soil, and therefore only plants adapted to these wet conditions (hydrophytes) could thrive in these wet (hydric) soils. Thus, the presence or absence of hydrophytes and hydric soils make excellent physical parameters upon which to judge the existence of wetland habitat areas for the purposes of the Coastal Act, but they are not the sole criteria. In some cases, proper identification of wetlands will require the skills of a qualified professional."*

#### County of San Mateo's LCP

The County of San Mateo's LCP identifies wetlands for lands within the Coastal Zone as areas consisting of:

*Define wetland as an area where the water table is at, near, or above the land surface long enough to bring about the formation of hydric soils or to support the growth of plants which normally are found to grow in water or wet ground. Such wetlands can include mudflats (barren of vegetation), marshes, and swamps. Such wetlands can be either fresh or saltwater, along streams (riparian), in tidally influenced areas (near the ocean and usually below extreme high water or spring tides), marginal to lakes, ponds, and man-made impoundments. Wetlands do not include areas which in normal years are permanently submerged (streams,*

*lakes, ponds and impoundments), nor marine or estuarine areas below extreme low water or spring tides, nor vernal wet areas where the soils are not hydric.*

The LCP also states that a wetland must contain at least 50% cover of some combination of typical wetland plants, unless it is a mudflat (LCP Section 7.14). To qualify, a wetland must contain at least 50 percent of some combination of the following plants: cordgrass, pickleweed, jaumea, frankenia, marsh mint, tule, bulrush, narrow-leaved cattail, broadleaf cattail, pacific silverweed, salt rush, and bog rush (County LCP, 1998).

Other waterbodies and water-associated habitat in the project area that the LCP regulates include riparian habitat (associations of plants that grow next to freshwater streams, lakes) plus a 50 -foot wide upland buffer measured from the edge of riparian habitat for perennial streams or a 30-foot buffer for intermittent streams.

## **WRA Wetland Delineation**

While the county's definition is more narrow due to the specificity of the plants that must occur in a feature to be considered a wetland, the State Coastal Commission definition and jurisdiction supercedes that of the County's and is not as narrow. Therefore the CCC's wetland definition was followed for the purposes of the WRA study. At the request of the County of San Mateo Planning Commission, two additional wetland sample points were established to obtain additional data.

## **Biotic Resources Group Assessment**

This assessment was focused on evaluating the presence of LCP-designated wetlands. As part of this assessment, previous reports for the project area were reviewed, including a report for the Mirada Surf Trail in 2005 (Biotic Resources Group 2005) and reports prepared for the Hodges property (WRA, 2009). In addition, five sample points were obtained within the County's parcel to document the existing vegetation and to determine if any species listed in the County LCP's definition of a wetland occur on site (Biotic Resources Group 2010).

### **3.4 Riparian**

Under the County's LCP, riparian corridors are defined by the limit of riparian vegetation, where the vegetation contains at least 50 percent cover of riparian plants species (e.g., red alder, big leaf maple, cattail, willow, and/or dogwood). According to County LCP guidelines, the drainage adjacent to the Project Area is subject to land use restrictions under the LCP. Perennial streams, such as this drainage, require a 50-foot wide upland buffer measured from the edge of riparian habitat (or high water point where no riparian vegetation exists). The County LCP allows certain uses in the riparian buffer zone. On legal building sites, Section 7.12 allows a reduced setback (to 20 feet) if no feasible alternative exists and if no other building site on the parcel exists (Biotic Resources Group 2010).

GPS point data were collected as part of the vegetation transect study described in Section 3.6. These points were plotted to determine the existing riparian drip line within and adjacent to the Project Area.

### ***3.5 Other Biological Resources***

On February 20, 2009, WRA performed an assessment of biological resources within and adjacent to the Project Area. The purpose of the assessment was to gather information necessary to complete a review of biological resources under the California Environmental Quality Act (CEQA). The subsequent report described the results of the site visit, which assessed the Project Area for the (1) potential to support special status species; and (2) presence of other sensitive biological resources protected by local, state, and federal laws and regulations. The report also contained an evaluation of potential impacts to special status species and sensitive biological resources that may occur as a result of the proposed project and potential mitigation measures to compensate for those impacts.

Biotic Resources Group also conducted a rare plant habitat assessment of the adjacent County parcel in 2010.

### ***3.6 Vegetation Transect Study***

The County of San Mateo Planning Commission suggested that the Project Area be restored to pre-clearing conditions. In order to determine the composition of past vegetative cover in the Project Area, data was collected from an undisturbed adjacent area as a comparison.

Vegetation cover within the Project Area was measured by conducting 12-inch point-intercept analysis along seven transects extending from the approximate riparian drip line (Appendix A). Transects were separated by approximately 20 feet. In addition to those in the Project Area, three transects were located downstream of the Hodge Property in an area that likely represents pre-disturbance vegetation conditions. The control transects allowed a comparison of vegetation cover between the Project Area that had been cleared, and a relatively undisturbed adjacent area. Relative percent cover was determined by calculating the percentage of intercepts by species at the 12-inch intervals. Percent cover exceeded 100 percent as necessary to account for different vegetation strata.

## 4.0 RESULTS

### 4.1 Aerial Photograph Interpretation

Table 1 summarizes the results of the aerial photograph interpretation. By comparing transect GPS points on historic and recent imagery, the photographs indicate that ruderal vegetation has dominated the Project Area for decades.

Table 1. Summary of aerial photograph interpretation. No Google Earth aerals were available for 2008. No photos were found for the period between June 29, 2007 and October 1, 2008.		
Date	Source	Comments
1946-1956	Historicaerials .com	Poor resolution; stream apparently channelized as part of Highway 1 construction; agriculture dominates area
1968	Historicaerials .com	Willow habitat appears to cover less area than in more recent times
1972	California Coastal Records Project	Willow habitat covers smaller area west of Highway 1, but appears to have increased on east side. Highway likely became barrier for runoff, which accumulated on east side. This may have created a more shallow water table on west side, supporting an eventual increase in willow cover
6/11/1993	Google Earth	Poor resolution; vegetation types unidentifiable
7/9/1993	Google Earth	Poor resolution; vegetation types unidentifiable
7/8/2002	Google Earth	Georectification error
10/30/2002	Google Earth	Project Area dominated by low vegetation similar to that on nearby parcels.
12/30/2003	Google Earth	No change since 2002
2/28/2004	Google Earth	No change since 2002
7/30/2004	Google Earth	Poor resolution; vegetation types unidentifiable
10/3/2004	Google Earth	Georectification error
10/12/2005	Google Earth	No change since 2002
12/30/2005	Google Earth	Poor resolution; vegetation types unidentifiable
8/29/2006	Google Earth	Poor resolution; vegetation types unidentifiable
2/18/2007	Google Earth	Poor resolution, but it appears unchanged since 2002
6/29/2007	Google Earth	No change since 2002
10/1/2008	California Coastal Records Project	Soil is being stored in the Project Area during trail and bridge construction. No vegetation is visible except for willow riparian.
6/5/2009	Google Earth	Project Area has been recolonized by ruderal vegetation.



## **4.2 Wetlands**

In 2005, LCP-defined wetlands were documented from the Mirada Surf Trail project area (Biotic Resources Group 2010). At that time, bog (Pacific) rush (*Juncus effusus*) was common within the mapped wetlands and since this species is listed as a wetland indicator in the County LCP definition, all the wetlands mapped within the trail project area were identified as being LCP-defined wetlands.

The 2010 site survey and sampling points on the County parcel failed to locate bog rush, or any other plant species listed in the County's wetland definition (Biotic Resources Group 2010). As such, this area does not currently meet the definition of a wetland under the County's LCP. The area currently lacks plant species indicative of an LCP-defined wetland. In addition, field data contained in the 2009 WRA report has no listing of any LCP-defined wetland plant species on the property, providing further corroboration that the County parcel (which is almost surrounded by the Project Area) is currently not a LCP-defined wetland.

## **Soils**

The Project Area lies just outside of the area of mapped soils in the Soil Survey of San Mateo Area (USDA 1961). The soils adjacent to the Study Area are mapped as Denison Loam, nearly level. This soil type has loamy soil in the top 3 to 30 inches and a high water-holding capacity. This soil is not listed as a hydric soil in the San Mateo List of Hydric Soils.

Up to the top six inches of soil in the Project Area appeared to fill material. These soils were a mixture of sands, cobble, gravel, clays and loams. Under the top layer of fill material the soils appeared to match the description of Denison Loam, nearly level. These soils were very dark grayish brown (10YR 3/2) in the Munsell Soil Color Chart (GretagMacBeth 2000). No redoximorphic features such as oxidized rhizospheres or redox concentrations were observed. The soils were determined to not meet the hydric soil criteria for either the Corps or CCC definitions (WRA 2009b).

## **Hydrology**

No indicators of wetland hydrology were observed in the Project Area. Hydrology in the Project Area is from precipitation and stormwater runoff from adjacent lands. The southeastern portion of the property adjacent to Magellan Avenue appears to receive runoff from Magellan Avenue based on the topography of the area. That said there was no evidence of standing water or other indicators of wetland hydrology on-site during the 2009 wetland delineation conducted by WRA.

The Project Area lacked wetland hydrology indicators and hydric soils in all five WRA sample points which do not meet the criteria of a wetland for the Corps or the Coastal Commission. Although all sample points met the wetland vegetation criterion, the dominant vegetation was largely non-native and included species common to disturbed, non-wetland habitats in the region. The lack of wetland hydrology indicators, especially the lack of ponding in the photographs of the Project Area in February when adjacent

areas were ponded, demonstrates that the Project Area does not support wetland conditions (WRA 2009b).

### **4.3 Riparian**

Willow-dominated riparian vegetation associated with the perennial drainage extends into the Project Area. Based on a review of historic aerial photographs, the existing riparian drip line is similar to pre-disturbance conditions.

### **4.4 Other Biological Resources**

The 2009 biological resources assessment conducted by WRA concluded that no sensitive plant communities, including wetlands, were identified within the Project Area. The Project Area does not provide suitable habitat for special status plants and wildlife (WRA 2009).

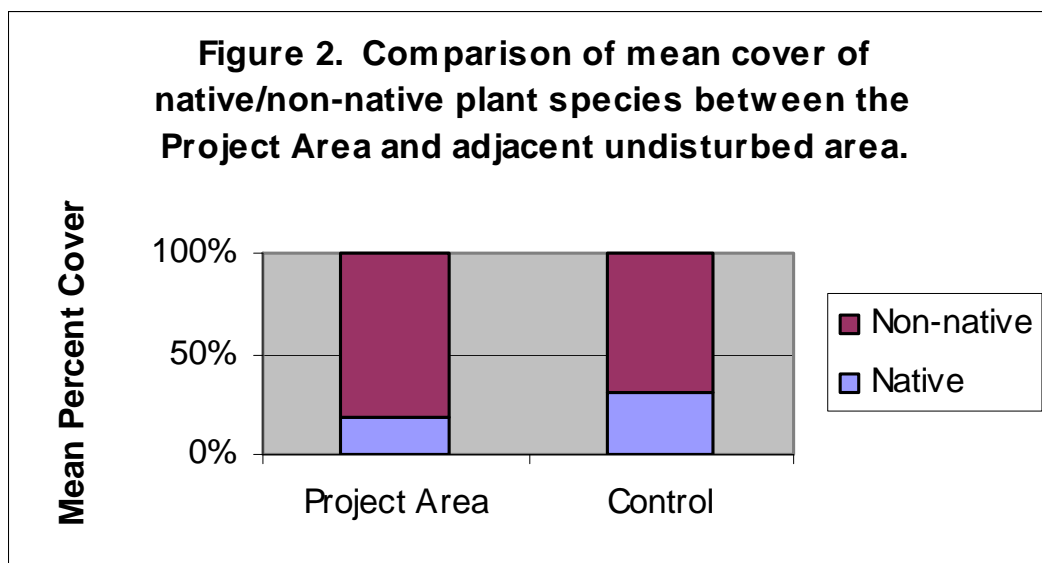
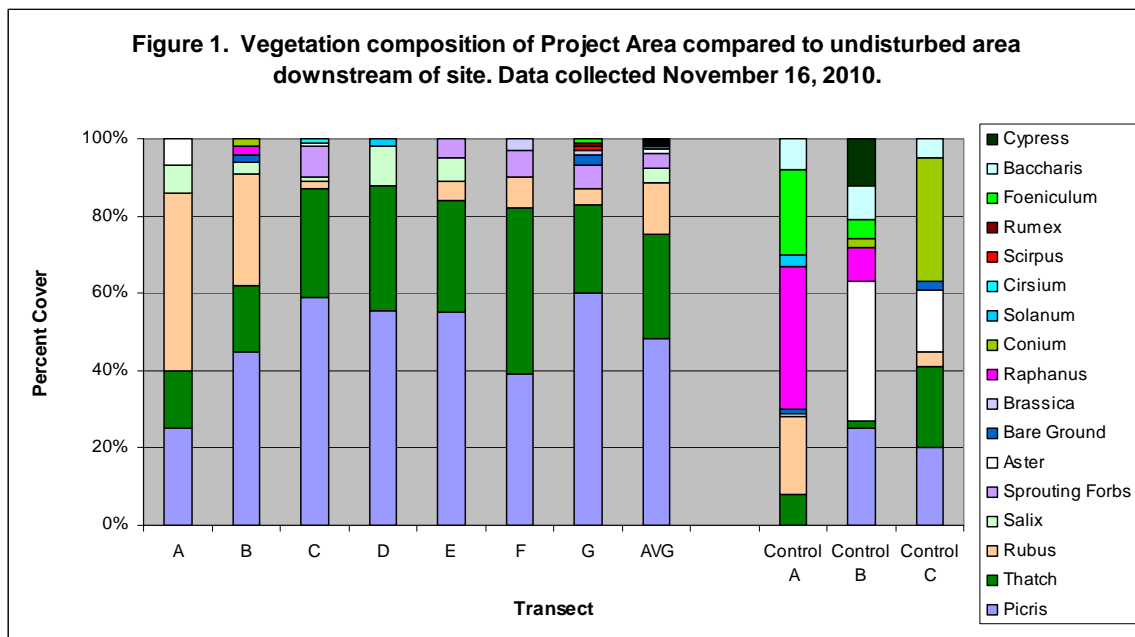
Biotic Resources Group conducted a rare plant assessment in 2010. They concluded that due to the habitat conditions on the site, including previous land disturbances and the dense growth of weedy, non-native species, the potential for special status plant species is considered low. No locally unique species as identified in the County LCP (e.g., beach strawberry) were observed in the study area (Biotic Resources Group 2010).

### **4.5 Vegetation Transect Study**

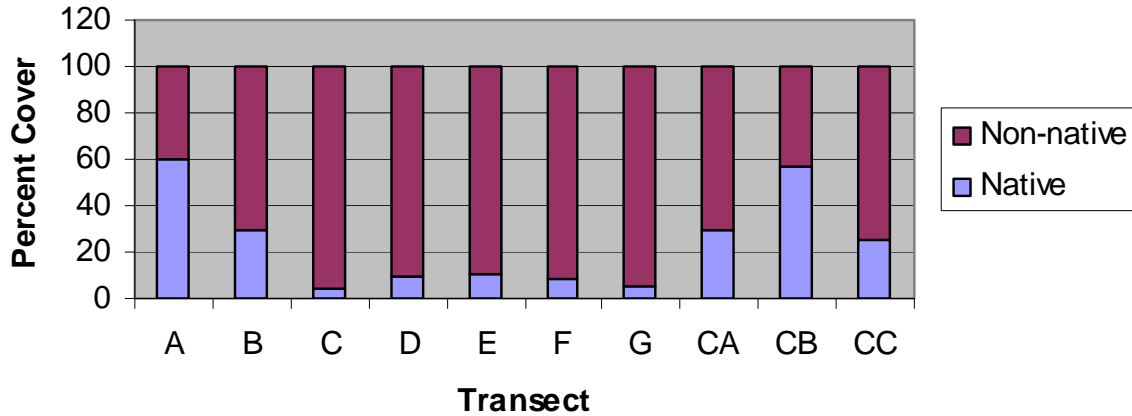
Vegetation transects conducted within the Project Area and the adjacent, relatively undisturbed area to the west of the trail determined that non-native weedy species represent the dominant cover (Figure 1). Due to the timing of the field work (November 2010), most herbaceous vegetation was characterized as thatch and could not be identified; however, it is likely that the thatch consisted of non-native annual grasses such as Italian ryegrass (*Lolium multiflorum*), Mediterranean barley (*Hordeum marinum*), foxtail barley (*Hordeum murinum*), and wild oats (*Avena fatua*), which were dominant in the Project Area during the wetland assessment field work (WRA 2009b).

A comparison of existing vegetation composition within the Project Area/County parcel and the relatively undisturbed area west of this area determined that the undisturbed area has more plant diversity and has greater native plant species cover than the Project Area/County parcel (Table 2; Figures 2 and 3).

Table 2. Summary of comparison of vegetation cover between Project Area (cleared) and undisturbed adjacent area.			
	Dominant Species	Native Species	Diversity
<b>Project Area</b>	<i>Picris</i> , grasses, <i>Rubus</i>	19% native species cover	83% of cover represented by <i>Picris</i> and grasses: Low diversity
<b>Undisturbed Area</b>	<i>Aster</i> , <i>Raphanus</i> , <i>Picris</i> , <i>Conium</i> , grasses	31% native species cover	85% of cover represented by 7 species: over 3 times greater plant diversity



**Figure 3. Native/non-native plant composition per transect**



## 5.0 CONCLUSION AND RECOMMENDATIONS

The purpose of this report is to 1) summarize previous biological resource assessments and surveys conducted within and adjacent to the Project Area to determine the previous extent of wetland conditions within and adjacent to the Project Area, and 2) provide recommendations for restoration of cleared areas to pre-disturbance conditions.

Based on the findings of both Biotic Resources Group and WRA, wetland conditions, as defined by the County of San Mateo LCP, do not exist within or adjacent to the Project Area.

A review of available historic aerial photography indicates that the existing riparian drip line appears to be similar to pre-disturbance conditions. The remainder of the Project Area appears to have been dominated by non-native invasive species for decades, as the photographic “signature” of the vegetation is similar to that of non-riparian habitat observed on nearby parcels. In addition, one or two small trees (possibly pine or cypress) are visible in some photos, but the site does not appear to provide suitable conditions for pine or cypress forest.

A comparison of existing vegetation composition within the Project Area/County parcel and the relatively undisturbed area west of this area determined that the undisturbed area has more plant diversity and has greater native plant species cover than the Project Area/County parcel. Both areas were dominated by non-native species.

It is recommended that the applicant implement habitat enhancement measures with the following goals:

- Increase diversity of plant cover within the riparian buffer area.
- Increase relative cover of native plant species within the riparian buffer.

Based on the speed of vegetative recovery within the Project Area since it was cleared, it is anticipated that these goals can be achieved quickly by implementing the following measures:

1. Allow the continuing colonization of blackberry throughout the buffer area (blackberry was present in all but one Project Area transect).
2. Plant and irrigate 25 1-gallon coyote brush (*Baccharis pilularis*) in the riparian buffer area.
3. Selectively remove hemlock, fennel, and *Picris* as the plantings become established and blackberry re-colonizes the area.

## 6.0 REFERENCES

Biotic Resources Group. 2010. Mirada Surf West Restroom Project Biological Impact Form. Prepared for County of San Mateo.

County of San Mateo. 1998. Local Coastal Program. Environmental Services Agency, Planning and Building Division. Redwood City.

GretagMacBeth. 2000. Munsell Soil Color Charts, revised washable edition.

U.S. Department of Agriculture, Natural Resources Conservation Service (USDA). 1961. Soil Survey of San Mateo Area, California. In cooperation with the University of California Agricultural Experiment Station.

WRA, 2009a. Biological Resource Assessment for Proposed Hodge Residence, February 12, 2009.

WRA. 2009b. Wetland Delineation results at proposed Hodge Residence, Magellan Avenue, Miramar (APN: 048-016-010). Letter to Stephanie Skangos, Planning and Building Department, County of San Mateo from WRA, August 14, 2009.

WRA. 2009c. Previous Habitat Conditions of Cleared Area: Proposed Hodge Residence, Magellan Avenue, Miramar. Letter to David Hodge from WRA, May 21, 2009.

## APPENDIX A

Project Area showing data collection points during wetland and vegetation studies conducted by Biotic Resources Group and WRA.





**County of San Mateo - Planning and Building Department**

**ATTACHMENT :**

COUNTY OF SAN MATEO, PLANNING AND BUILDING DEPARTMENT

**NOTICE OF INTENT TO ADOPT  
NEGATIVE DECLARATION**

A notice, pursuant to the California Environmental Quality Act of 1970, as amended (Public Resources Code 21,000, et seq.), that the following project: Legalization of Land Clearing, when adopted and implemented, will not have a significant impact on the environment.

FILE NO.: PLN 2009-00358

OWNERS/APPLICANTS: David and Hi-Jin Hodge/San Mateo County Parks Department

ASSESSOR'S PARCEL NOs.: 048-016-010 and 048-016-020

**PROJECT DESCRIPTION AND LOCATION**

***NOTE:** This mitigated Negative Declaration (N/D) is a revised version of the document that underwent the required 21-day circulation period (January 21 through February 10, 2010), and originally included both the project described below and the legalization of unpermitted land clearing on the same parcel as well as an adjacent parcel owned by the County Parks Department. Each of those projects was then and continues to be considered under separate Planning cases: PLN 2008-00380 (for the new residence) and PLN 2009-00358 (for the unpermitted land clearing). At their hearing of February 23, 2011, the Planning Commission requested that prior to acting on either case, the original N/D document be separated into two separate N/Ds, relative to each of the cited Planning cases. This allows the Commission to potentially certify the N/D specific to either project should they decide to approve either project without the other. County Counsel, upon review of CEQA law, concluded that this was feasible – without requiring recirculation of the two documents – because segregating the original N/D and its analysis into two N/Ds represented no substantial revision to the original N/D's conclusion regarding environmental impacts and associated mitigation measures respective to each project. In doing so, staff concludes that each project's respective impacts are not significantly different than as represented in the original N/D.*

The applicant is proposing the legalization of unpermitted land clearing on two parcels located on Magellan Avenue, west of Cabrillo Highway and immediately south of San Mateo County-owned park and open space land known as Mirada Surf. The parcels are under separate ownership. Parcel 1, owned by David and Hi-Jin Hodge, is 10,802 sq. ft. in size and in the shape of a "U." Parcel 2, owned by San Mateo County Parks Department, is 3,200 sq. ft. in size and is located in the middle part of Parcel 1's "U." Both parcels are proposed for development under separate applications (PLN 2008-00380 and PLN 2010-00356, respectively). The area to the south of the project site is zoned residential. Some properties are developed with single-family dwellings, while others are undeveloped. No trees are proposed for removal nor is additional land clearing included as part of this proposal.

As indicated in the NOTE above, a separate N/D for the unpermitted land clearing has been prepared and accompanies that project's permit application (PLN 2008-00380).



## FINDINGS AND BASIS FOR A NEGATIVE DECLARATION

The Current Planning Section has reviewed the initial study for the project and, based upon substantial evidence in the record, finds that:

1. The project will not adversely affect water or air quality or increase noise levels substantially.
2. The project will not have adverse impacts on the flora or fauna of the area.
3. The project will not degrade the aesthetic quality of the area.
4. The project will not have adverse impacts on traffic or land use.
5. In addition, the project will not:
  - a. Create impacts which have the potential to degrade the quality of the environment.
  - b. Create impacts which achieve short-term to the disadvantage of long-term environmental goals.
  - c. Create impacts for a project which are individually limited, but cumulatively considerable.
  - d. Create environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.

The County of San Mateo has, therefore, determined that the environmental impact of the project is insignificant.

MITIGATION MEASURES included in the project to avoid potentially significant effects:

**Mitigation Measure 1:** Additional land clearing and/or vegetation removal shall not be allowed as part of this permit approval. Any additional or future clearing of either of the parcels shall be addressed by a separate application submitted prior to any such land clearing or vegetation removal.

**Mitigation Measure 2:** The applicant's biologist shall prepare and submit a revegetation plan that includes recommended site restoration measures by WRA Environmental Consultants. The plan shall cover a planting area of 30 feet from the edge of the riparian vegetation. The plan shall identify the types, density, general location and size of the plant species to be planted and be prepared in compliance with State water efficiency standards. The plan shall be reviewed and approved by the Community Development Director prior to its implementation. Within 60 days of this application's final approval, or at the earliest and best time to plant near or during the closest upcoming winter or growing season, as determined by the applicant's biologist, the aforementioned plan shall be implemented.

**Mitigation Measure 3:** The applicant shall submit a \$2,000.00 Certificate of Deposit (COD) to the Planning Department to ensure the implementation and maturation of the landscaping plan. The COD shall be held for a period of two (2) years after final approval by the Building Inspection Section of the associated building permit. At the end of the two-year period, the applicant shall confirm that all implemented landscaping is thriving and that any dead plantings have been replaced in like-kind. Upon verification, the COD shall be returned to the applicant.

**Mitigation Measure 4:** No trees are permitted to be removed as part of this approval. If any tree is proposed for removal, the applicant shall be required to obtain approval of a tree removal permit for the proposed removal of any tree with a diameter greater than 12 inches as measured 4.5 feet above the ground.

**Mitigation Measure 5:** The only permitted uses within the buffer zone for the riparian area on the property shall be pursuant to Policies 7.9 (*Permitted Uses in Riparian Corridors*) and 7.12 (*Permitted Uses in Buffer Zones*) of the San Mateo County Local Coastal Program (LCP). All other uses shall be prohibited.

**Mitigation Measure 6:** Noise levels produced by construction shall not exceed the 80-dBA level at any one moment. Construction activity shall be limited to the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. Construction operations shall be prohibited on Sunday and any national holiday.

#### **INITIAL STUDY**

The San Mateo County Current Planning Section has reviewed the Environmental Evaluation of this project and has found that the probable environmental impacts are insignificant. A copy of the initial study is attached.

**REVIEW PERIOD:** January 21, 2010 to February 10, 2010

All comments regarding the correctness, completeness, or adequacy of this Negative Declaration must be received by the County Planning and Building Department, 455 County Center, Second Floor, Redwood City, no later than **5:00 p.m., February 10, 2010**

#### **CONTACT PERSON**

Stephanie Skangos  
Project Planner, 650/363-1814

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Stephanie Skangos, Project Planner

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County of San Mateo  
Planning and Building Department

**INITIAL STUDY**  
**ENVIRONMENTAL EVALUATION CHECKLIST**  
(To Be Completed By Current Planning Section)

**I. BACKGROUND**

Project Title: Legalization of Land Clearing

File No.: PLN 2009-00358

Project Location: Corner of Magellan and Alameda Avenues, Miramar

Assessor's Parcel Nos.: 048-016-010 and 048-016-020

Applicants/Owners: David and Hi-Jin Hodge/San Mateo County Parks Department

Date Environmental Information Form Submitted: November 4, 2008

**PROJECT DESCRIPTION**

The applicant is proposing the legalization of unpermitted land clearing on two parcels located on Magellan Avenue, west of Cabrillo Highway and immediately south of San Mateo County-owned park and open space land known as Mirada Surf. The parcels are under separate ownership. Parcel 1, owned by David and Hi-Jin Hodge, is 10,802 sq. ft. in size and in the shape of a "U." Parcel 2, owned by San Mateo County Parks Department, is 3,200 sq. ft. in size and is located in the middle part of Parcel 1's "U." Both parcels are proposed for development under separate applications (PLN 2008-00380 and PLN 2010-00356, respectively). The area to the south of the project site is zoned residential. Some properties are developed with single-family dwellings, while others are undeveloped. No trees are proposed for removal nor is additional land clearing included as part of this proposal.

## II. ENVIRONMENTAL ANALYSIS

Any controversial answers or answers needing clarification are explained on an attached sheet. For source, refer to pages 11 and 12.

	IMPACT					SOURCE
	NO	YES				
		Not Significant	Significant Unless Mitigated	Significant	Cumulative	
<b>1. <u>LAND SUITABILITY AND GEOLOGY</u></b>  Will (or could) this project:						
a. Involve a unique landform or biological area, such as beaches, sand dunes, marshes, tidelands, or San Francisco Bay?			X			B,F,O
b. Involve construction on slope of 15% or greater?	X					E,I
c. Be located in an area of soil instability (subsidence, landslide or severe erosion)?	X					Bc,D
d. Be located on, or adjacent to a known earthquake fault?	X					Bc,D
e. Involve Class I or Class II Agriculture Soils and Class III Soils rated good or very good for artichokes or Brussels sprouts?	X					M
f. Cause erosion or siltation?			X			M,I
g. Result in damage to soil capability or loss of agricultural land?	X					A,M
h. Be located within a flood hazard area?	X					G
i. Be located in an area where a high water table may adversely affect land use?	X					D
j. Affect a natural drainage channel or streambed, or watercourse?	X					E

	IMPACT					SOURCE
	NO	YES				
		Not Significant	Significant Unless Mitigated	Significant	Cumulative	
<b>2. <u>VEGETATION AND WILDLIFE</u></b>  Will (or could) this project:						
a. Affect federal or state listed rare or endangered species of plant life in the project area?	X					F
b. Involve cutting of heritage or significant trees as defined in the County Heritage Tree and Significant Tree Ordinance?	X					I,A
c. Be adjacent to or include a habitat food source, water source, nesting place or breeding place for a federal or state listed rare or endangered wildlife species?	X					F
d. Significantly affect fish, wildlife, reptiles, or plant life?	X					I
e. Be located inside or within 200 feet of a marine or wildlife reserve?	X					E,F,O
f. Infringe on any sensitive habitats?			X			F
g. Involve clearing land that is 5,000 sq. ft. or greater (1,000 sq. ft. within a County Scenic Corridor), that has slopes greater than 20% or that is in a sensitive habitat or buffer zone?			X			I,F,Bb
<b>3. <u>PHYSICAL RESOURCES</u></b>  Will (or could) this project:						
a. Result in the removal of a natural resource for commercial purposes (including rock, sand, gravel, oil, trees, minerals or topsoil)?	X					I

	IMPACT					SOURCE
	NO	YES				
		Not Significant	Significant Unless Mitigated	Significant	Cumulative	
b. Involve grading in excess of 150 cubic yards?	X					I
c. Involve lands currently protected under the Williamson Act (agricultural preserve) or an Open Space Easement?	X					I
d. Affect any existing or potential agricultural uses?	X					A,K,M
4. <u>AIR QUALITY, WATER QUALITY, SONIC</u>  Will (or could) this project:						
a. Generate pollutants (hydrocarbon, thermal odor, dust or smoke particulates, radiation, etc.) that will violate existing standards of air quality on-site or in the surrounding area?	X					I,N,R
b. Involve the burning of any material, including brush, trees and construction materials?	X					I
c. Be expected to result in the generation of noise levels in excess of those currently existing in the area, after construction?	X					Ba,I
d. Involve the application, use or disposal of potentially hazardous materials, including pesticides, herbicides, other toxic substances, or radioactive material?	X					I
e. Be subject to noise levels in excess of levels determined appropriate according to the County Noise Ordinance or other standard?	X					A,Ba,Bc
f. Generate noise levels in excess of levels determined appropriate according to the County Noise Ordinance standard?			X			I

	IMPACT					SOURCE
	NO	YES				
		Not Significant	Significant Unless Mitigated	Significant	Cumulative	
g. Generate polluted or increased surface water runoff or affect groundwater resources?	X					I
h. Require installation of a septic tank/leachfield sewage disposal system or require hookup to an existing collection system which is at or over capacity?	X					S
<b>5. <u>TRANSPORTATION</u></b>  Will (or could) this project:						
a. Affect access to commercial establishments, schools, parks, etc.?	X					A,I
b. Cause noticeable increase in pedestrian traffic or a change in pedestrian patterns?	X					A,I
c. Result in noticeable changes in vehicular traffic patterns or volumes (including bicycles)?	X					I
d. Involve the use of off-road vehicles of any kind (such as trail bikes)?	X					I
e. Result in or increase traffic hazards?	X					S
f. Provide for alternative transportation amenities such as bike racks?	X					I
g. Generate traffic which will adversely affect the traffic carrying capacity of any roadway?	X					S

	IMPACT					SOURCE
	NO	YES				
		Not Significant	Significant Unless Mitigated	Significant	Cumulative	
<b>6. <u>LAND USE AND GENERAL PLANS</u></b>						
Will (or could) this project:						
a. Result in the congregating of more than 50 people on a regular basis?	X					I
b. Result in the introduction of activities not currently found within the community?	X					I
c. Employ equipment which could interfere with existing communication and/or defense systems?	X					I
d. Result in any changes in land use, either on or off the project site?	X					I
e. Serve to encourage off-site development of presently undeveloped areas or increase development intensity of already developed areas (examples include the introduction of new or expanded public utilities, new industry, commercial facilities or recreation activities)?	X					I,Q,S
f. Adversely affect the capacity of any public facilities (streets, highways, freeways, public transit, schools, parks, police, fire, hospitals), public utilities (electrical, water and gas supply lines, sewage and storm drain discharge lines, sanitary landfills) or public works serving the site?	X					I,S
g. Generate any demands that will cause a public facility or utility to reach or exceed its capacity?	X					I,S
h. Be adjacent to or within 500 feet of an existing or planned public facility?		X				A



	IMPACT					SOURCE
	NO	YES				
		Not Significant	Significant Unless Mitigated	Significant	Cumulative	
i. Create significant amounts of solid waste or litter?	X					I
j. Substantially increase fossil fuel consumption (electricity, oil, natural gas, coal, etc.)?	X					I
k. Require an amendment to or exception from adopted general plans, specific plans, or community policies or goals?	X					B
l. Involve a change of zoning?	X					C
m. Require the relocation of people or businesses?	X					I
n. Reduce the supply of low-income housing?	X					I
o. Result in possible interference with an emergency response plan or emergency evacuation plan?	X					S
p. Result in creation of or exposure to a potential health hazard?	X					S
7. <b><u>AESTHETIC, CULTURAL AND HISTORIC</u></b>  Will (or could) this project:						
a. Be adjacent to a designated Scenic Highway or within a State or County Scenic Corridor?	X					A,Bb
b. Obstruct scenic views from existing residential areas, public lands, public water body, or roads?	X					A,I
c. Involve the construction of buildings or structures in excess of three stories or 36 feet in height?	X					I

	IMPACT					SOURCE
	NO	YES				
		Not Significant	Significant Unless Mitigated	Significant	Cumulative	
d. Directly or indirectly affect historical or archaeological resources on or near the site?	X					H
e. Visually intrude into an area having natural scenic qualities?	X					A,I

**III. RESPONSIBLE AGENCIES.** Check what agency has permit authority or other approval for the project.

AGENCY	YES	NO	TYPE OF APPROVAL
U.S. Army Corps of Engineers (CE)		X	
State Water Resources Control Board		X	
Regional Water Quality Control Board		X	
State Department of Public Health		X	
San Francisco Bay Conservation and Development Commission (BCDC)		X	
U.S. Environmental Protection Agency (EPA)		X	
County Airport Land Use Commission (ALUC)		X	
CalTrans		X	
Bay Area Air Quality Management District		X	
U.S. Fish and Wildlife Service		X	
Coastal Commission	X		Appeals Jurisdiction
City		X	
Sewer/Water District:		X	
Other:			

#### IV. MITIGATION MEASURES

	<u>Yes</u>	<u>No</u>
Mitigation measures have been proposed in project application.	<u>X</u>	<u>                    </u>
Other mitigation measures are needed.	<u>X</u>	<u>                    </u>

The following measures are included in the project plans or proposals pursuant to Section 15070(b)(1) of the State CEQA Guidelines:

**Mitigation Measure 1:** Additional land clearing and/or vegetation removal shall not be allowed as part of this permit approval. Any additional or future clearing of either of the parcels shall be addressed by a separate application submitted prior to any such land clearing or vegetation removal.

**Mitigation Measure 2:** The applicant's biologist shall prepare and submit a revegetation plan that includes recommended site restoration measures by WRA Environmental Consultants. The plan shall cover a planting area of 30 feet from the edge of the riparian vegetation. The plan shall identify the types, density, general location and size of the plant species to be planted and be prepared in compliance with State water efficiency standards. The plan shall be reviewed and approved by the Community Development Director prior to its implementation. Within 60 days of this application's final approval, or at the earliest and best time to plant near or during the closest upcoming winter or growing season, as determined by the applicant's biologist, the aforementioned plan shall be implemented.

**Mitigation Measure 3:** The applicant shall submit a \$2,000.00 Certificate of Deposit (COD) to the Planning Department to ensure the implementation and maturation of the landscaping plan. The COD shall be held for a period of two (2) years after final approval by the Building Inspection Section of the associated building permit. At the end of the two-year period, the applicant shall confirm that all implemented landscaping is thriving and that any dead plantings have been replaced in like-kind. Upon verification, the COD shall be returned to the applicant.

**Mitigation Measure 4:** No trees are permitted to be removed as part of this approval. If any tree is proposed for removal, the applicant shall be required to obtain approval of a tree removal permit for the proposed removal of any tree with a diameter greater than 12 inches as measured 4.5 feet above the ground.

**Mitigation Measure 5:** The only permitted uses within the buffer zone for the riparian area on the property shall be pursuant to Policies 7.9 (*Permitted Uses in Riparian Corridors*) and 7.12 (*Permitted Uses in Buffer Zones*) of the San Mateo County Local Coastal Program (LCP). All other uses shall be prohibited.

**Mitigation Measure 6:** Noise levels produced by construction shall not exceed the 80-dBA level at any one moment. Construction activity shall be limited to the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. Construction operations shall be prohibited on Sunday and any national holiday.

**V. MANDATORY FINDINGS OF SIGNIFICANCE**

	Yes	No
1. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal, or eliminate important examples of the major periods of California history or prehistory?		X
2. Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?		X
3. Does the project have possible environmental effects which are individually limited, but cumulatively considerable?		X
4. Would the project cause substantial adverse effects on human beings, either directly or indirectly?		X

On the basis of this initial evaluation:

\_\_\_\_\_ I find the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared by the Current Planning Section.

\_\_\_\_\_ X I find that although the proposed project could have a significant effect on the environment, there WILL NOT be a significant effect in this case because of the mitigation measures in the discussion have been included as part of the proposed project. A NEGATIVE DECLARATION will be prepared.

\_\_\_\_\_ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

\_\_\_\_\_  
Stephanie Skangos

\_\_\_\_\_  
Project Planner  
(Title)

\_\_\_\_\_  
Date

## VI. SOURCE LIST

- A. Field Inspection
- B. County General Plan 1986
  - a. General Plan Chapters 1-16
  - b. Local Coastal Program (LCP) (Area Plan)
  - c. Skyline Area General Plan Amendment
  - d. Montara-Moss Beach-El Granada Community Plan
  - e. Emerald Lake Hills Community Plan
- C. County Ordinance Code
- D. Geotechnical Maps
  - 1. USGS Basic Data Contributions
    - a. #43 Landslide Susceptibility
    - b. #44 Active Faults
    - c. #45 High Water Table
  - 2. Geotechnical Hazards Synthesis Maps
- E. USGS Quadrangle Maps, San Mateo County 1970 Series (See F. and H.)
- F. San Mateo County Rare and Endangered Species Maps, or Sensitive Habitats Maps
- G. Flood Insurance Rate Map – National Flood Insurance Program
- H. County Archaeologic Resource Inventory (Prepared by S. Dietz, A.C.R.S.) Procedures for Protection of Historic and Cultural Properties – 36 CFR 800 (See R.)
- I. Project Plans or EIF
- J. Airport Land Use Committee Plans, San Mateo County Airports Plan
- K. Aerial Photography or Real Estate Atlas – REDI
  - 1. Aerial Photographs, 1941, 1953, 1956, 1960, 1963, 1970
  - 2. Aerial Photographs, 1981
  - 3. Coast Aerial Photos/Slides, San Francisco County Line to Año Nuevo Point, 1971
  - 4. Historic Photos, 1928-1937

- L. Williamson Act Maps
- M. Soil Survey, San Mateo Area, U.S. Department of Agriculture, May 1961
- N. Air Pollution Isopleth Maps – Bay Area Air Pollution Control District
- O. California Natural Areas Coordinating Council Maps (See F. and H.)
- P. Forest Resources Study (1971)
- Q. Experience with Other Projects of this Size and Nature
- R. Environmental Regulations and Standards:
  - Federal
    - Review Procedures for CDBG Programs 24 CFR Part 58
    - NEPA 24 CFR 1500-1508
    - Protection of Historic and Cultural Properties 36 CFR Part 800
    - National Register of Historic Places
    - Floodplain Management Executive Order 11988
    - Protection of Wetlands Executive Order 11990
    - Endangered and Threatened Species
    - Noise Abatement and Control 24 CFR Part 51B
    - Explosive and Flammable Operations 24 CFR 51C
    - Toxic Chemicals/Radioactive Materials HUD 79-33
    - Airport Clear Zones and APZ 24 CFR 51D
  - State
    - Ambient Air Quality Standards Article 4, Section 1092
    - Noise Insulation Standards
- S. Consultation with Departments and Agencies:
  - a. County Health Department
  - b. City Fire Department
  - c. California Department of Forestry
  - d. Department of Public Works
  - e. Disaster Preparedness Office
  - f. Other

**COUNTY OF SAN MATEO**  
Planning and Building Department

**Initial Study Pursuant to CEQA**  
**Project Narrative and Answers to Questions for the Negative Declaration**  
**File Number: PLN 2009-00358**  
**Legalization of Land Clearing**

**PROJECT DESCRIPTION**

***NOTE:** This mitigated Negative Declaration (N/D) is a revised version of the document that underwent the required 21-day circulation period (January 21 through February 10, 2010), and originally included both the project described below and the legalization of unpermitted land clearing on the same parcel as well as an adjacent parcel owned by the County Parks Department. Each of those projects was then and continues to be considered under separate Planning cases: PLN 2008-00380 (for the new residence) and PLN 2009-00358 (for the unpermitted land clearing). At their hearing of February 23, 2011, the Planning Commission requested that prior to acting on either case, the original N/D document be separated into two separate N/Ds, relative to each of the cited Planning cases. This allows the Commission to potentially certify the N/D specific to either project should they decide to approve either project without the other. County Counsel, upon review of CEQA law, concluded that this was feasible – without requiring recirculation of the two documents – because segregating the original N/D and its analysis into two N/Ds represented no substantial revision to the original N/D’s conclusion regarding environmental impacts and associated mitigation measures respective to each project. In doing so, staff concludes that each project’s respective impacts are not significantly different than as represented in the original N/D.*

The applicant is proposing the legalization of unpermitted land clearing on two parcels located on Magellan Avenue, west of Cabrillo Highway and immediately south of San Mateo County-owned park and open space land known as Mirada Surf. The parcels are under separate ownership. Parcel 1, owned by David and Hi-Jin Hodge, is 10,802 sq. ft. in size and in the shape of a “U.” Parcel 2, owned by San Mateo County Parks Department, is 3,200 sq. ft. in size and is located in the middle part of Parcel 1’s “U.” Both parcels are proposed for development under separate applications (PLN 2008-00380 and PLN 2010-00356, respectively). The area to the south of the project site is zoned residential. Some properties are developed with single-family dwellings, while others are undeveloped. No trees are proposed for removal nor is additional land clearing included as part of this proposal.

As indicated in the NOTE above, a separate N/D for the unpermitted land clearing has been prepared and accompanies that project’s permit application (PLN 2008-00380).

**ANSWERS TO QUESTIONS**

**1. LAND SUITABILITY AND GEOLOGY**

- a. **Will (or could) this project involve a unique landform or biological area, such as beaches, sand dunes, marshes, tidelands, or San Francisco Bay?**

## **ANSWERS TO QUESTIONS**

File No. PLN 2009-00358

Page 2

**Yes, Significant Unless Mitigated.** The project site is located adjacent to an existing unnamed perennial creek that is surrounded by willow riparian habitat. The willow riparian habitat encroaches onto the northeast corner of Parcel 1. There are no additional sensitive habitats on the parcel, as determined by a qualified biologist, as the site is dominated primarily by sparsely vegetated ground, including ruderal herbaceous grassland. This type of vegetative cover does not qualify as a sensitive habitat nor provide suitable habitat for most special status plant and wildlife species. A biological study conducted in 2005 for the adjacent Mirada Surf Trail project (immediately north and west of the parcel) included the project site. This report indicated that a seasonal wetland was in the vicinity of the project site. Recent biological studies and reports completed by WRA Environmental Consultants (WRA) have determined that a wetland does not exist on the project site, concluding that the area does not meet the definition of “wetland,” as defined by both the Army Corps of Engineers (ACOE) and the San Mateo County Local Coastal Program (LCP) (see Attachment E). These most recent studies have also determined that the unpermitted land clearing done on the property did not involve the removal of any riparian or sensitive habitats. The area of the parcel that was cleared was most likely dominated by blackberry bushes, which grow in both wetland and upland areas, and ruderal herbaceous grassland (see Attachment D). The following mitigation measures are recommended to resolve the unpermitted land clearing and to ensure that future impacts to the existing riparian habitat are avoided:

**Mitigation Measure 1:** Additional land clearing and/or vegetation removal shall not be allowed as part of this permit approval. Any additional or future clearing of either of the parcels shall be addressed by a separate application submitted prior to any such land clearing or vegetation removal.

**Mitigation Measure 2:** The applicant’s biologist shall prepare and submit a revegetation plan that includes recommended site restoration measures by WRA Environmental Consultants. The plan shall cover a planting area of 30 feet from the edge of the riparian vegetation. The plan shall identify the types, density, general location and size of the plant species to be planted and be prepared in compliance with State water efficiency standards. The plan shall be reviewed and approved by the Community Development Director prior to its implementation. Within 60 days of this application’s final approval, or at the earliest and best time to plant near or during the closest upcoming winter or growing season, as determined by the applicant’s biologist, the aforementioned plan shall be implemented.

**Mitigation Measure 3:** The applicant shall submit a \$2,000.00 Certificate of Deposit (COD) to the Planning Department to ensure the implementation and maturation of the landscaping plan. The COD shall be held for a period of two (2) years after final approval by the Building Inspection Section of the associated building permit. At the end of the two-year period, the applicant shall confirm that all implemented



**ANSWERS TO QUESTIONS**

File No. PLN 2009-00358

Page 3

landscaping is thriving and that any dead plantings have been replaced in like-kind. Upon verification, the COD shall be returned to the applicant.

**Mitigation Measure 4:** No trees are permitted to be removed as part of this approval. If any tree is proposed for removal, the applicant shall be required to obtain approval of a tree removal permit for the proposed removal of any tree with a diameter greater than 12 inches as measured 4.5 feet above the ground.

**Mitigation Measure 5:** The only permitted uses within the buffer zone for the riparian area on the property shall be pursuant to Policies 7.9 (*Permitted Uses in Riparian Corridors*) and 7.12 (*Permitted Uses in Buffer Zones*) of the San Mateo County Local Coastal Program (LCP). All other uses shall be prohibited.

**b. Will (or could) this project involve construction on slope of 15% or greater?**

**No Impact.** The project does not involve any construction.

**c. Will (or could) this project be located in an area of soil instability (subsidence, landslide or severe erosion)?**

**No Impact.** The project site has been designated as an area with Landslide Susceptibility I based on information gathered from the U.S. Geological Survey. Such areas have the lowest susceptibility to soil instability and a decreased potential for occurrences of a landslide.

**d. Will (or could) this project be located on, or adjacent to a known earthquake fault?**

**No Impact.** The project site is not located on or adjacent to a known earthquake fault.

**e. Will (or could) this project involve Class I or Class II Agriculture Soils and Class III Soils rated good or very good for artichokes or Brussels sprouts?**

**No Impact.** The project site is located on land that has been identified as having Class III soils; however, the parcel has been designated for residential use and is not intended for agricultural use or production. In addition, the immediate surroundings of the property are residential and County-owned park and open space land.

**f. Will (or could) this project cause erosion or siltation?**

**No Impact.** Based on determination by a qualified biologist, the unpermitted land clearing was minimal. Therefore, it is likely that any erosion was minimal as well. The project site will be restored to its pre-disturbance conditions, and no development is included in the proposal. Therefore, erosion and siltation are not an issue.

**ANSWERS TO QUESTIONS**

File No. PLN 2009-00358

Page 4

- g. **Will (or could) this project result in damage to soil capability or loss of agricultural land?**

**No Impact.** Refer to staff's response to Question 1(e) above.

- h. **Will (or could) this project be located within a flood hazard area?**

**No Impact.** The project site has been designated as Flood Zone C, as defined by FEMA, which is an area of minimal potential flooding.

- i. **Will (or could) this project be located in an area where a high water table may adversely affect land use?**

**No Impact.** There is no indication of the presence of a high water table in this area.

- j. **Will (or could) this project affect a natural drainage channel or streambed, or watercourse?**

**No Impact.** As discussed in the response to Question 1(a) above, the project site is located adjacent to an existing perennial creek that is surrounded by willow riparian habitat. Based on the findings of a qualified biologist, the unpermitted land clearing did not involve the removal of any sensitive habitats. The recommended restoration of the project site will not cause a significant affect on the existing creek and riparian habitat in the area.

**2. VEGETATION AND WILDLIFE**

- a. **Will (or could) this project affect federal or state listed rare or endangered species of plant life in the project area?**

**No Impact.** The project will not affect federal or state listed rare or endangered species of plant life because the site is not located within a sensitive habitat area, as determined by review of the California Natural Diversity Database (CNDDB). Furthermore, the biological documents submitted for the project indicate that the project area does not provide suitable habitat for such plant species and that the unpermitted land clearing did not include the removal of any sensitive habitats (see Attachments C and D).

- b. **Will (or could) this project involve cutting of heritage or significant trees as defined in the County Heritage Tree and Significant Tree Ordinance?**

**No Impact.** The unpermitted land clearing that occurred did not include the removal of any heritage or significant trees, as determined by a qualified biologist.

**ANSWERS TO QUESTIONS**

File No. PLN 2009-00358

Page 5

- c. **Will (or could) this project be adjacent to or include a habitat food source, water source, nesting place or breeding place for a federal or state listed rare or endangered wildlife species?**

**No Impact.** Based on review of the CNDDDB, the project site is not located within or adjacent to a mapped federal or state listed rare or endangered wildlife species. In addition, a qualified biologist has determined that the project area is not suitable for such habitats (see Attachment C).

- d. **Will (or could) this project significantly affect fish, wildlife, reptiles, or plant life?**

**No Impact.** Refer to staff's responses to Questions 2(a) and 2(c) above.

- e. **Will (or could) this project be located inside or within 200 feet of a marine or wildlife reserve?**

**No Impact.** The proposed project is not located within 200 feet of a marine or wildlife reserve.

- f. **Will (or could) this project infringe on any sensitive habitats?**

**Yes, Significant Unless Mitigated.** Refer to staff's response to Questions 1(a) and 2(d) above.

- g. **Will (or could) this project involve clearing land that is 5,000 sq. ft. or greater (1,000 sq. ft. within a County Scenic Corridor), that has slopes greater than 20% or that is in a sensitive habitat or buffer zone?**

**Yes, Significant Unless Mitigated.** The project site is located within a designated County Scenic Corridor. Illegal land clearing was done on the majority of the project site. This amounts to more than 1,000 sq. ft.; however, there was minimal vegetation removal, as previously discussed. A qualified biologist has conducted a survey of the property and found that the illegal land clearing did not affect any sensitive habitats. The only sensitive habitat found on the property is the willow riparian corridor at the northeast corner of Parcel 1, and the illegal land clearing did not include the removal of any willow riparian habitat (see Attachment D). Mitigation Measures 2 and 3 in the discussion to Question 1(a) above are recommended to replant native vegetation to the area that was cleared.

**3. PHYSICAL RESOURCES**

- a. **Will (or could) this project result in the removal of a natural resource for commercial purposes (including rock, sand, gravel, oil, trees, minerals or topsoil)?**

**No Impact.** Based on review of the County General Plan, there are no mapped natural resources on the subject property that would be used for commercial purposes.

- b. **Will (or could) this project involve grading in excess of 150 cubic yards?**

**No Impact.** Based on documentation submitted by the applicant and a qualified biologist, it has been determined that the unpermitted land clearing involved minimal vegetation removal.

- c. **Will (or could) this project involve lands currently protected under the Williamson Act (agricultural preserve) or an Open Space Easement?**

**No Impact.** The project site is currently not under the Williamson Act or an Open Space Easement.

- d. **Will (or could) this project affect any existing or potential agricultural uses?**

**No Impact.** Refer to staff's response to Question 1(e) above.

**4. AIR QUALITY, WATER QUALITY, SONIC**

- a. **Will (or could) this project generate pollutants (hydrocarbon, thermal odor, dust or smoke particulates, radiation, etc.) that will violate existing standards of air quality on-site or in the surrounding area?**

**No Impact.** The project will not generate pollutants that will violate existing standards of air quality on-site or in the surrounding area.

- b. **Will (or could) this project involve the burning of any material, including brush, trees and construction materials?**

**No Impact.** The project does not involve the burning of any material.

- c. **Will (or could) this project be expected to result in the generation of noise levels in excess of those currently existing in the area, after construction?**

**No Impact.** The project will not generate noise levels in excess of those currently existing in the area, as the proposal does not involve construction activities. The site will be restored to its original natural condition.

**ANSWERS TO QUESTIONS**

File No. PLN 2009-00358

Page 7

- d. **Will (or could) this project involve the application, use or disposal of potentially hazardous materials, including pesticides, herbicides, other toxic substances, or radioactive material?**

**No Impact.** The project does not involve the application, use or disposal of potentially hazardous materials.

- e. **Will (or could) this project be subject to noise levels in excess of levels determined appropriate according to the County Noise Ordinance or other standard?**

**No Impact.** The project legalizes land clearing that has already occurred on the project site. Restoration activities will be required, returning the project site to its natural conditions. As the project site is vacant, noise levels are not relevant.

- f. **Will (or could) this project generate noise levels in excess of levels determined appropriate according to the County Noise Ordinance standard?**

**Yes, Significant Unless Mitigated.** While this project will not generate noise levels in excess of appropriate levels once implemented, during restoration activities, increased noise levels may occur. However, noise sources associated with demolition, construction or grading of any real property are exempt from the County Noise Ordinance provided these activities occur during designated time frames. As such, the following mitigation measure is recommended:

**Mitigation Measure 6:** Noise levels produced by construction shall not exceed the 80-dBA level at any one moment. Construction activity shall be limited to the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. Construction operations shall be prohibited on Sunday and any national holiday.

- g. **Will (or could) this project generate polluted or increased surface water runoff or affect groundwater resources?**

**No Impact.** The project does not involve construction activities and will not generate polluted or increased surface water runoff or affect groundwater resources.

- h. **Will (or could) this project require installation of a septic tank/leachfield sewage disposal system or require hookup to an existing collection system which is at or over capacity?**

**No Impact.** The project does not require sewage services.

**5. TRANSPORTATION**

- a. Will (or could) this project affect access to commercial establishments, schools, parks, etc.?**

**No Impact.** The project site is located immediately south of County-owned park and open space land known as the Mirada Surf. The County Parks Department has recently completed the construction of a pedestrian and bike path through the Mirada Surf property. This path is part of a regional coastal trail intended to extend along the length of the San Mateo County coastline. The Mirada Surf Trail extends from Magellan Avenue to the intersection of Mirada Road and Cabrillo Highway, across from Coronado Avenue. The path access from Magellan Avenue is along an abandoned portion of Alameda Avenue that runs in front of the project site. The project does not affect access to the Mirada Surf property, as no development is proposed. There are no commercial establishments or schools in the vicinity.

- b. Will (or could) this project cause noticeable increase in pedestrian traffic or a change in pedestrian patterns?**

**No Impact.** The project site will be restored to its natural condition and development is not included as part of this proposal. Therefore, pedestrian traffic is not a factor in this proposal.

- c. Will (or could) this project result in noticeable changes in vehicular traffic patterns or volumes (including bicycles)?**

**No Impact.** As mentioned above, the proposal does not include development. Therefore, vehicular traffic is not relevant to this project.

- d. Will (or could) this project involve the use of off-road vehicles of any kind (such as trail bikes)?**

**No Impact.** The project does not involve the use of off-road vehicles.

- e. Will (or could) this project result in or increase traffic hazards?**

**No Impact.** Refer to staff's response to Question 5(c) above.

- f. Will (or could) this project provide for alternative transportation amenities such as bike racks?**

**No Impact.** Alternative transportation amenities are not required as part of this project.

- g. **Will (or could) this project generate traffic which will adversely affect the traffic carrying capacity of any roadway?**

**No Impact.** Refer to staff's response to Question 5(c) above.

**6. LAND USE AND GENERAL PLANS**

- a. **Will (or could) this project result in the congregating of more than 50 people on a regular basis?**

**No Impact.** The proposed project would not result in the congregation of more than 50 people on a regular basis.

- b. **Will (or could) this project result in the introduction of activities not currently found within the community?**

**No Impact.** The proposed project would not result in the introduction of new activities in the area, as the project site will be restored to its natural state and development is not included as part of this proposal.

- c. **Will (or could) this project employ equipment which could interfere with existing communication and/or defense systems?**

**No Impact.** The proposed project would not employ equipment that could interfere with existing communication and/or defense systems.

- d. **Will (or could) this project result in any changes in land use, either on or off the project site?**

**No Impact.** Refer to staff's response to Question 6(b) above.

- e. **Will (or could) this project serve to encourage off-site development of presently undeveloped areas or increase development intensity of already developed areas (examples include the introduction of new or expanded public utilities, new industry, commercial facilities or recreation activities)?**

**No Impact.** Refer to staff's response to Question 6(b) above.

- f. **Will (or could) this project adversely affect the capacity of any public facilities (streets, highways, freeways, public transit, schools, parks, police, fire, hospitals), public utilities (electrical, water and gas supply lines, sewage and storm drain discharge lines, sanitary landfills) or public works serving the site?**

**No Impact.** Refer to staff's response to Question 6(b) above.

**ANSWERS TO QUESTIONS**

File No. PLN 2009-00358

Page 10

- g. **Will (or could) this project generate any demands that will cause a public facility or utility to reach or exceed its capacity?**

**No Impact.** Refer to staff's response to Question 6(b) above.

- h. **Will (or could) this project be adjacent to or within 500 feet of an existing or planned public facility?**

**Yes, Not Significant.** Refer to staff's response to Question 5(a) above.

- i. **Will (or could) this project create significant amounts of solid waste or litter?**

**No Impact.** Refer to staff's response to Question 6(b) above.

- j. **Will (or could) this project substantially increase fossil fuel consumption (electricity, oil, natural gas, coal, etc.)?**

**No Impact.** Refer to staff's response to Question 6(b) above.

- k. **Will (or could) this project require an amendment to or exception from adopted general plans, specific plans, or community policies or goals?**

**No Impact.** Refer to staff's response to Question 6(b) above.

- l. **Will (or could) this project involve a change of zoning?**

**No Impact.** The proposed project does not include or require a change in zoning.

- m. **Will (or could) this project require the relocation of people or businesses?**

**No Impact.** The proposal would not require the relocation of people or businesses.

- n. **Will (or could) this project reduce the supply of low-income housing?**

**No Impact.** The proposed project does not include or replace any low-income housing.

- o. **Will (or could) this project result in possible interference with an emergency response plan or emergency evacuation plan?**

**No Impact.** The proposed project would not interfere with any emergency response or evacuation plans.

- p. **Will (or could) this project result in creation of or exposure to a potential health hazard?**



**No Impact.** The proposed project does not involve any activities that would result in the creation of or exposure to a potential health hazard.

**7. AESTHETIC, CULTURAL AND HISTORIC**

- a. **Will (or could) this project be adjacent to a designated Scenic Highway or within a State or County Scenic Corridor?**

**No Impact.** Although the project site is located within the designated Cabrillo Highway County Scenic Corridor, the proposal does not include any development. Restoration of the site to its pre-disturbance conditions will be required and will not impact any scenic views or visual qualities in the surrounding area.

- b. **Will (or could) this project obstruct scenic views from existing residential areas, public lands, public water body, or roads?**

**No Impact.** Refer to staff's response to Question 7(a) above.

- c. **Will (or could) this project involve the construction of buildings or structures in excess of three stories or 36 feet in height?**

**No Impact.** The project does not involve any development.

- d. **Will (or could) this project directly or indirectly affect historical or archaeological resources on or near the site?**

**No Impact.** There are no known historical or archaeological resources on or near the site.

- e. **Will (or could) this project visually intrude into an area having natural scenic qualities?**

**No Impact.** Refer to staff's response to Question 7(a) above.

**ATTACHMENTS**

- A. Location Map
- B. Proposed Site Plan
- C. WRA Biological Resource Assessment – February 24, 2009
- D. WRA Report: Previous Habitat Conditions of Cleared Area: Proposed Hodge Residence, Magellan Avenue, Miramar – May 20, 2009
- E. WRA Report: Wetland Delineation at Proposed Hodge Residence, Magellan Avenue, Half Moon Bay – June 16, 2009



**County of San Mateo - Planning and Building Department**

**ATTACHMENT ;**



County of San Mateo

## Planning & Building Department

455 County Center, 2nd Floor

Redwood City, California 94063

650/363-4161 Fax: 650/363-4849

Mail Drop PLN122

plngbldg@co.sanmateo.ca.us

www.co.sanmateo.ca.us/planning

### REVISED DECISION LETTER

April 22, 2011

David and Hi-Jin Hodge  
100 Coronado Avenue  
Half Moon Bay, CA 94019

Sam Herzberg  
County Parks, County of San Mateo  
455 County Center, 4<sup>th</sup> Floor  
Redwood City, CA 94062

| Dear Mr. and Mrs. Hodge, and Mr. Herzberg:

Subject: **REVISED** Decision Letter  
File Number: PLN2009-00358  
Location: Corner of Magellan and Alameda  
APNs: 048-016-010 and 048-016-020

On April 13, 2011, the San Mateo County Planning Commission made the following changes on Attachment A, under conditions of approval, number 4, shown with an (\*). See Revised Attachment A.

If you have questions regarding this matter, please contact Dave Holbrook, Senior Project Planner, at 650/363-1837.

Sincerely,

Rosario Fernandez  
Planning Commission Secretary  
Pcd0422V\_rf (REV1Hodge/Parks).doc

Attachment

County of San Mateo  
Planning and Building Department

**REVISED FINDINGS AND CONDITIONS OF APPROVAL**

Permit or Project File Number: PLN 2009-00358      Hearing Date: March 23, 2011

Prepared By: Stephanie Skangos,      Adopted By: Planning Commission  
Project Planner

**FINDINGS**

Regarding the Negative Declaration, Found:

1. That the Negative Declaration is complete, correct and adequate, and prepared in accordance with the California Environmental Quality Act and applicable State and County guidelines. The public review period for this document was January 21, 2010 to February 10, 2010.
2. That, on the basis of the Initial Study, comments received hereto, and testimony presented and considered at the public hearing, there is no substantial evidence that the project will have a significant effect on the environment. The Initial Study/Negative Declaration does not identify any significant or cumulative impacts associated with this project.
3. That the Negative Declaration reflects the independent judgment of San Mateo County. The Negative Declaration was prepared by the project planner.
4. That the mitigation measures in the Mitigated Negative Declaration and agreed to by the owner and placed as conditions on the project have been incorporated into the Mitigation Monitoring and Reporting Plan in conformance with the California Public Resources Code Section 21081.6.

Regarding the Coastal Development Permit, Found:

5. That the project, as described in the application and accompanying materials required by Section 6328.7 and as conditioned in accordance

with Section 6328.14, conforms with the plans, policies, requirements and standards of the San Mateo County LCP. Project plans and materials have been reviewed against the application requirements, staff has completed an LCP Policy Checklist, and the project has been conditioned in accordance with the Sensitive Habitats and Visual Resources Components of the LCP.

6. That the project conforms to the specific findings required by the policies of the LCP with regard to the Sensitive Habitats and Visual Resources Components. Specifically, the project conforms with the protection of sensitive habitats because no special status plants, animals, or habitats were removed. Compliance with LCP requirements for buffer zones and the minimization of vegetative cover removal will be achieved through the implementation of the restoration plan required by Condition No. 4.

## **CONDITIONS OF APPROVAL**

### Current Planning Section

1. This approval applies only to the proposal, documents and plans described in this report and submitted to and approved by the Planning Commission on March 23, 2011. Minor revisions or modifications may be approved by the Community Development Director if they are consistent with the intent of and in substantial conformance with this approval.
2. This permit shall be valid for one (1) year from the date of final approval by which time revegetation shall be initiated. Any extension of this permit shall require submittal of an application for permit extension and payment of applicable permit extension fees sixty (60) days prior to expiration.
3. Additional land clearing and/or vegetation removal shall not be allowed as part of this approval. Any additional or future clearing of either of the parcels must be addressed by a separate application submitted prior to any such land clearing or vegetation removal.
- \*4. The applicant shall submit a revegetation plan within 60 days of this application's final approval for review and approval by the Community Development Director. The revegetation plan shall be prepared by the applicant's biologist and include the recommendations indicated in Section 5.0 (Conclusions and Recommendations) of the December 2, 2010 report submitted by WRA Environmental Consultants. The plan shall identify

the existing riparian drip line and 50-foot required buffer area, and specify the types, density, general location and size of the plant species recommended for the buffer area and outside of the buffer area, in accordance with the biologist's recommendations, LCP Policy 7.13 and State water efficiency standards. The plan shall cover the entirety of both parcels (048-016-010 and 048-016-020). The plan shall identify the types, density, general location and size of the plant species to be planted and be prepared in compliance with State water efficiency standards. Within 60 days of the Community Development Director's approval, or at the earliest and best time to plant during the closest upcoming fall or growing season, as determined by the applicant's biologist (but in no case any later than this year, 2011), the aforementioned plan shall be implemented. If the revegetation plan is proposed to be implemented prior to the upcoming fall or growing season, the applicant shall submit a plan to ensure that all plantings are adequately irrigated. Any subsequent approvals of development related to this project, including PLN 2008-00380 for a new single-family residence on Parcel 1 and/or PLN2010-00356 for a new restroom facility on Parcel 2, shall BE DEEMED TO INCORPORATE AND INCLUDE this requirement for a revegetation plan of the project site, and COMPLIANCE WITH CONDITIONS OF SUBSEQUENT APPROVALS INCORPORATING THIS REQUIREMENT shall constitute compliance with this condition.

5. The applicant shall submit a \$2,000.00 Certificate of Deposit (COD) to the Planning Department to ensure the implementations and maturation of the landscaping/revegetation plan, payable upon confirmation that the plan has been implemented. The COD shall be held for a period of two (2) years after the Planning and Building Department has confirmed that the approved plan has been installed. At the end of the two-year period, the applicant shall confirm that all implemented landscaping is thriving and that any dead plantings have been replaced in like-kind. Upon verification, the COD shall be returned to the applicant.
6. No trees are permitted to be removed as part of this approval. If any tree is proposed for removal, the applicant shall be required to obtain approval of a tree removal permit for the proposed removal of any tree with a diameter greater than 12 inches as measured 4.5 feet above the ground.
7. The only permitted uses within the buffer zone for the riparian area on the properties shall be those allowed by Policies 7.9 (*Permitted Uses in Riparian Corridors*) and 7.12 (*Permitted Uses in Buffer Zones*) of the San Mateo

County Local Coastal Program (LCP), subject to CDP approval. All other uses shall be prohibited.

8. Noise levels produced by construction shall not exceed the 80-dBA level at any one moment. Construction activities shall be limited to the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. Construction operations shall be prohibited on Sunday and any national holiday.
9. The applicant shall submit the following fees to the Current Planning Section: Within four (4) working days of the final approval date of this permit, the applicant shall pay an environmental filing fee of \$2,044.00 (fee effective January 1, 2011), as required under Fish and Game Code Section 711.4(d), plus a \$50.00 recording fee. The applicant shall submit a check in the amount of \$2,094.00, made payable to San Mateo County, to the project planner to file with the Notice of Determination, as required with a certified Negative Declaration.
10. The applicant shall pay the cost of all staff time associated with this after the fact permit, which is determined to be for the time required above and beyond the normal processing time for a coastal development permit, as calculated to the satisfaction of the Community Development Director. Such cost shall be paid within 60 days of the receipt of this decision letter. The applicant shall contact Dave Holbrook, Senior Planner for the specific amount due.

Department of Public Works

11. No proposed construction work within the County right-of-way shall begin until County requirements for the issuance of an encroachment permit, including review of the plans, have been met and an encroachment permit issued.



**County of San Mateo - Planning and Building Department**

**ATTACHMENT <**



david and hi-jin hodge

March 21st 2011

**Planning Commissioners**

San Mateo County Planning & Building Department  
County Office Building  
455 County Center  
Redwood City, CA 94063

Dear Planning Commissioners,

During the last few hearings we have listened to a number of interpretations about our intentions and what we do. I'd like to take a few minutes to clarify these misunderstandings and to communicate to the commission our intentions in doing this project.

Below are the comments we've heard and our response to each of them.

**1. The Hodges are trying to take advantage of this situation to make a quick profit on an unbuildable piece of land.**

We are not trying to take advantage of anything. We want to build a lower cost home to live in. This can be achieved because this property falls just outside of the flood zone, lessening the foundation costs that are required by FEMA. This is not speculative project. It is intended to be our home and studio.

**2. They knew this piece of land was unbuildable because they could buy it so cheap.**

In April of 2008 we learned this property was for sale. The low price was attractive, so we made a conditional offer asking for 30 days to do our due diligence on the property. I emailed and met with David Holbrook, Senior Planner at the County of San Mateo, to inquire about what residential design might work on this parcel. I had created a preliminary a concept for the house showing size and location on the parcel. David replied in an email on 5/14/08 stating the following:

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

Additionally we learned the setbacks could be even closer if necessary.

LCP Policy 7.12 (Permitted Uses in Buffer Zones) states:

*"Within buffer zones, permit only the following uses: (1) uses permitted in riparian corridors. (2) residential uses on existing legal building sites, setback 20 feet from the limit of riparian vegetation, only if no feasible alternative exists, and only if no other building site on the parcel exists,*

**david and hi-jin hodge**

Based on this information we felt we had a very good chance of being able to build on this lot based on David Holbrook's positive response and the other information. We then decided to purchase the lot.

**3. They cut willows and scraped the land without a permit.**

We cut black berry brush and other brush and did some minor trimming of the willows. We never touched the root stock nor did we move the drip line. This claim is supported by the field work done by WRA consultants. Please see the most recent report dated December 2nd 2010 for reference.

**4. It looked like they were really tearing things up.**

I think the brush cutting and the work that was being done on the bride, the large piles of dirt, and all the equipment made it appear that we were doing a lot more than clearing brush.

**5. They knew there were wetlands on the property when they purchased it.**

This was the one variable we did not know for certain. However after reading the study that was done in 2005 by Biotic Resources Group it appeared there was no substantial evidence of wetlands on our property. At the time we met with David Holbrook he shared the same opinion and advised us to have a biology study done. He recommended WRA. We had the report done very early in the process and it clearly indicated there were no wetland species on our parcel. The undisturbed soil did not contain indicators of the presence of wetlands, past or present. In the latest revision of the corps of Engineers wetlands delineation methodology wetland are not present on the property. This is consistent with the local LCP. Please note both firms came to the same conclusion. The WRA report also proved there was no evidence of wetlands prior to our purchase or before the brush clearing. They have been to the lot four times in the last 28 months and each time have come to the same conclusion. Prior to and during our ownership there have never been wetlands on our property.

**6. It said in the Realtors listing disclosure that this lot is not buildable.**

It actually said that it "may not be buildable" and that any buyer should do their own due diligence and the realtor will not be liable if the lot isn't buildable.

**7. They lied about the land clearing. They knew they needed a permit for this.**

At the time we did not know we needed a permit to clear brush from our property. We did the same thing on property on Coronado Avenue and on Kelly Avenue (where we built a house to live in while we were waiting for the permit to build the home on Coronado where we live now. No one ever said a word or told us differently. We made an incorrect assumption that it was okay.

**8. They shouldn't have cut the grass on the lot when they received the fire marshal order to do so.**

By the time we cut the grass (not brush clearing) WRA had already determined there were no wetlands on our property. So we thought it was our obligation to cut the grass. We have been told in the past that if you don't comply, they hire someone one to cut the grass, and you are billed and possibly even fined. We thought we were doing the proper thing.

**9. They are developers who are not concerned with the environment, only about profit.**

First, we are not developers. We make our living as designers and filmmakers. We create homes for ourselves or for family members. All of the homes we have built we have lived in for at least a period of 4 to 5 years. We are very concerned about the environment and how the architecture fits with sensitive areas.

**10. They should restore the land to the condition it was in before they purchased it.**

Again if you read the findings from the latest report from WRA (Please see Section 5.0 Conclusions and Recommendations) you will see the land has already been returned to the state it was in before we did any brush clearing. The only mitigation measure WRA recommended was to plant 25-1 gallon Coyote Brush (*Baccharis pilularis*) in the riparian buffer area and to selectively remove some of the invasive species. We plan to develop a landscape plan that includes these recommendations.

**11. The Hodges create homes that don't fit on the coastside. They use metal roofs and we don't like them.**

Most people that have either seen or been in our homes are very positive about our design approach for this home and have praised our work. (We have signatures from 45 of our neighbors who like this home.)

Both of us have studied industrial design and architecture. I graduated from the Rhode Island School of Design in Providence, R.I. and Hi-Jin from Central St. Martins in London. We both have practiced professionally as industrial designers and now make our living as professional filmmakers and video artists. Our artistic work has been exhibited in museums around the world. In addition I'm currently an adjunct professor of design at San Francisco State University.

We have designed three homes in Half Moon Bay. Initially we created two homes, one for ourselves and another for my aging mother. We later built the current home we are living in. The first two have sold since and have added value to each of the neighborhoods they are in. Recently one of them sold again in a market where little or nothing has sold. Many people like the homes we design. We have been very consistent with our approach on all three of these homes. They share a vernacular style, simple barn shapes, modest fenestration and metal roofs that match the "barn" aesthetic of Half Moon Bay.

**12. Their design is blocking views and effect the "Scenic Corridor"**

The home we are proposing on Magellan Avenue is small in scale (16% land coverage) and is 3 feet below the height limit. We do not block anyone's view and have no impact on the scenic corridor.

I hope this helps clarify our intentions and gives the commission a clear picture of who we are, what we do, and why we would like to build our home. I would like to request that the commissioners consider the following:

- We are solid members of our community
- We sincerely apologize for our indiscretion. We did not know we needed a permit to clear brush on our land.
- We have worked diligently with the Planning Department and have delivered everything that has been asked of us for this project.
- We headed into the 30th month since we began. We feel the timeline has reached beyond what is fair and reasonable for a simple home.
- We respectfully request that you approve our project today.

Sincerely,  
David & Hi-Jin Hodge

March 21, 2011

David Hodge  
100 Coronado Avenue  
Half Moon Bay, California 94019

Planning Commissioners  
San Mateo County Planning & Building Department  
County Office Building  
455 County Center  
Redwood City, California 94063

Re: **Staff Report Addendum Conditions 4 (PLN 2009-00358) and 10 (PLN 2008-00380)  
(Revegetation Plan) Proposed Hodge Residence, Magellan Avenue, Miramar**

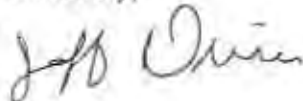
WRA reviewed Condition of Approval 4 for PLN 2009-00358 and Condition of Approval 10 for PLN 2008-00380, both of which are identical, for the Hodge project. Both conditions require the preparation and submittal of a revegetation plan.

Because irrigation is not presently available on the property, and to avoid possible construction-related disturbance of the proposed revegetated area, it is recommended that the plantings coincide with other landscaping work during the later phases of residence construction. This will allow the installation of an irrigation system which will allow the shrubs to be planted at any time of year, and likely ensure a high initial survival rate. This will also allow the existing natural vegetation to become well-established. During site visits conducted by WRA, it was noted that blackberry and coyote brush were present in the previously disturbed area. Allowing more time to identify areas where natural restoration is progressing would facilitate the identification of those areas within the riparian buffer where restoration/revegetation efforts should be concentrated.

It is recommended that these conditions be revised to allow the revegetation plan to be implemented at the time of construction.

Please let me know if you have any questions.

Sincerely,



Jeff Dreier  
Senior Wildlife Ecologist/Principal



**County of San Mateo - Planning and Building Department**

**ATTACHMENT =**





09-25-2010 (Current Conditions)



10-5-2005 (Prior to Clearing)



10-1-2008 (Just after Clearing)

## CALIFORNIA COASTAL RECORDS PROJECT

Source: Photography and website Copyright © 2002-2010 Kenneth & Gabrielle Adelman

### San Mateo County Board of Supervisors Meeting

Owner/Applicant: **HODGE**

File Numbers: **PLN 2008-00380**

Attachment: **=**