

FINAL
Initial Study/Mitigated Negative Declaration
Residential Condominiums at 1509 El Camino Real
City of Burlingame, San Mateo County, California

Prepared for:
City of Burlingame



Planning Division
Community Development Department
501 Primrose Road
Burlingame, CA 94010
650.558.7256

Contact: Ruben Hurin, Senior Planner

December 7, 2015

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SECTION 1: INTRODUCTION

Although not required by the California Environmental Quality Act (CEQA) and CEQA Guidelines, the City of Burlingame has evaluated the comments received on the Revised Initial Study/Mitigated Negative Declaration (Revised IS/MND) prepared for the Residential Condominiums at 1509 El Camino Real Project. The Responses to Comments and Errata, which are included in this document, together with the Revised IS/MND, Revised IS/MND appendices, and the Mitigation Monitoring and Reporting Program, comprise the Final IS/MND for use by the City of Burlingame in its review and consideration of the Residential Condominiums at 1509 El Camino Real Project.

This document is organized into three sections:

- **Section 1 - Introduction.**
- **Section 2 - Responses to Written Comments:** Provides a list of the agencies, organizations, and individuals who commented on the Revised IS/MND. Copies of all of the letters received regarding the Revised IS/MND and responses thereto are included in this section.
- **Section 3 - Errata:** Includes an addendum listing refinements and clarifications on the Revised IS/MND, which have been incorporated.

The Final IS/MND includes the following contents:

- Revised IS/MND (provided under separate cover)
- Revised IS/MND appendices (provided under separate cover)
- Responses to Written Comments and Errata (Sections 2 and 3 of this document)
- Mitigation Monitoring and Reporting Program (provided under separate cover)

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SECTION 2: RESPONSES TO WRITTEN COMMENTS

2.1 - List of Authors

A list of public agencies, organizations, and individuals that provided comments on the Revised IS/MND is presented below. Each comment has been assigned a code. Individual comments within each communication have been numbered so comments can be cross-referenced with responses. Following this list, the text of the communication is reprinted and followed by the corresponding response.

Author	Author Code
State Agencies	
California Public Utilities Commission	CPUC
California Department of Transportation	CALTRANS
Individuals	
Pat Giorni	GIORNI
Mark Haberecht.....	HABERECHT-1
Mark Haberecht.....	HABERECHT-2
Samatha MacPhail	MACPHAIL
Don Mitchell and Yan Ma	MITCHELL
Ann Wallach.....	AWALLACH
Paul Wallach	PWALLACH
Nina Weil	WEIL

2.2 - Responses to Comments

2.2.1 - Introduction

In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15088, the City of Burlingame, as the lead agency, evaluated the comments received on the Final IS/MND for the Residential Condominiums at 1509 El Camino Real Project, and has prepared the following responses to the comments received. This Response to Comments document becomes part of the Final IS/MND for the project in accordance with CEQA Guidelines Section 15132.

2.2.2 - Comment Letters and Responses

The comment letters reproduced in the following pages follow the same organization as used in the List of Authors.

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PUBLIC UTILITIES COMMISSION

505 VAN NESS AVE
SAN FRANCISCO, CA 94102
(415) 703-3722



October 20, 2015

Ruben Hurin
City of Burlingame
501 Primrose Rd
Burlingame, CA 94010
rhurin@burlingame.org
(650) 558-7256

RECEIVED

OCT 20 2015

CITY OF BURLINGAME
CDD-PLANNING DIV.

Re: Notice of Completion
Residential Condominiums at 1509 El Camino Real
SCH # 2015102023

Mr. Hurin:

As the state agency responsible for rail safety within California, the California Public Utilities Commission (CPUC or Commission) recommends that development projects proposed near rail corridors be planned with the safety of these corridors in mind. Working with CPUC staff early in project planning will help project proponents, agency staff, and other reviewers to identify potential project impacts and appropriate mitigation measures, and thereby improve the safety of motorists, pedestrians, railroad personnel, and railroad passengers.

The project is located near the Broadway, Burlingame (CPUC No. 105E-15.20, DOT No. 754879V) at-grade highway-rail crossing. Broadway provides access between El Camino Real and Highway 101 and experiences a very high traffic count. Caltrain operates 92 passenger trains and Union Pacific Railroad operates 4 freight trains per day at a maximum speed of 79 miles per hour over the crossing. The Broadway, Burlingame crossing is incredibly complex due to the following conditions:

- Location between two signalized intersections;
- Very high vehicle traffic;
- High train counts and speeds;
- Proximity to the Caltrain station.

The Commission is aware of the City's future plan to grade separate the rail crossing. The Commission recommends the City condition all development projects to contribute funding towards grade separating the Broadway highway-rail crossing.

Ruben Hurin, City of Burlingame
CPUC Comments on the Residential Condominiums at 1509 El Camino Real
Page 2 of 2
October 20, 2015

If you have any questions in this matter, please contact me at (415) 703-3722,
felix.ko@cpuc.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Felix Ko', with a stylized flourish at the end.

Felix Ko, P.E.
Acting Senior Utilities Engineer
Rail Crossings and Engineering Branch
Safety and Enforcement Division

C: State Clearinghouse

State Agencies

California Public Utilities Commission (CPUC)

Response to CPUC-1

The author recognizes the City's desire to install a grade separation at the current Broadway at-grade highway-rail crossing, and recommends that the City condition all development projects to contribute funding towards the future improvement.

As noted in Section 16, Transportation/Traffic of the Revised ISMND, the project would result in an overall decrease in traffic generated at the project site as a function of reducing the number of on-site units from 11 to 10, and changing the unit type from apartments to condominiums (refer to Table 9 of the Revised IS/MND for exact enumeration of this reduction). As such, the project would not result in an increased number of trips that would potentially utilize the Broadway at-grade highway-rail crossing, and would not be required to contribute toward the future improvement.

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STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN, Jr., Governor

DEPARTMENT OF TRANSPORTATION

111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-6053
FAX (510) 286-5559
TTY 711



*Serious Drought.
Help save water!*

RECEIVED

November 9, 2015

NOV - 9 2015

SM082283
SM-82-15.1
SCH#2015102023

CITY OF BURLINGAME
CDD-PLANNING DIV.

Mr. Ruben Hurin
Community Development Department
City of Burlingame
501 Primrose Lane
Burlingame, CA 94010

Dear Mr. Hurin:

**1509 EL CAMINO REAL PROJECT – REVISED MITIGATED NEGATIVE
DECLARATION**

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the 1509 El Camino Real project. The following comments are based on the Revised Mitigated Negative Declaration (RMND).

Cultural Resources

1. There is a known prehistoric site within the state right-of-way (ROW) near this project. Should project-related ground disturbing activities take place as part of this project within the state ROW and there is an inadvertent archaeological or burial discovery, in compliance with California Environmental Quality Act, Public Resource Code 5024.5, and the Caltrans Standard Environmental Reference (SER) Volume 2 (<http://www.dot.ca.gov/ser/vol2/vol2.htm>), all construction within 50 feet of the find shall cease. The Caltrans Office of Cultural Resource Studies (OCRS), District 4, shall be immediately contacted at (510) 286-5618. A staff archaeologist will evaluate the finds within one business day after contact. Archaeological resources may consist of, but are not limited to, dark, friable soils, charcoal, obsidian or chert flakes, grinding bowls, shell fragments, or deposits of bone, glass, metal, ceramics, or wood. 1
2. The Howard-Ralston Eucalyptus Tree Row (P-41-002191) is an historic property within the Caltrans ROW that will be encroached upon during project construction. Caltrans OCRS requests at least one Accolade Elm tree be planted in the Caltrans ROW in line with the tree row to enhance the resource in a location where previous trees have been removed. It appears there is space enough in the ROW 10-feet south of the proposed driveway to still permit visual allowance for those exiting the driveway. 2

"Caltrans improves mobility across California"

Mr. Ruben Hurin/City of Burlingame
November 9, 2015
Page 2

- 3. The Native American Heritage Commission (NAHC) was recently overloaded with requests relating to the implementation of Assembly Bill 52. They should be re-contacted for this project as they have now caught up. They have requested that Sacred Land Searches be requested by email; not telephone or fax. The list of interested parties that the NAHC provides should also be contacted.

3

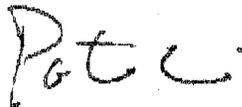
Encroachment Permit

Please be advised that work that encroaches onto the state ROW requires an encroachment permit that is issued by Caltrans. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans, clearly indicating state ROW, must be submitted to: Mr. David Salladay, Office of Permits, California DOT, District 4, P.O. Box 23660, Oakland, CA 94623-0660. Traffic-related mitigation measures will be incorporated into the construction plans during the encroachment permit process. See the following website link for more information: <http://www.dot.ca.gov/hq/traffops/developserv/permits/>

4

Please feel free to call or email Sandra Finegan at (510) 622-1644 or sandra.finegan@dot.ca.gov with any questions regarding this letter.

Sincerely,



PATRICIA MAURICE
District Branch Chief
Local Development – Intergovernmental Review

c: State Clearinghouse

California Department of Transportation (CALTRANS)

Response to CALTRANS-1

The author states that there is a known prehistoric site within the state right-of-way (ROW) near the proposed project. The author indicates that if project-related, ground-disturbing activities take place within the state ROW and there is an inadvertent discovery of archaeological resources or burial sites, all construction within 50 feet of the find should cease in accordance with CEQA, Public Resource Code 5024.5, and the Caltrans Standard Environmental Reference (SER) Volume 2. The author also indicates that the Caltrans Office of Cultural Resource Studies, District 4, should immediately be contacted if such an inadvertent discovery occurs.

Consistent with the author's statement, the Revised IS/MND recognizes two separate significant prehistoric habitat sites recorded within 500 and 950 feet of the project site, respectively. As such, the Revised IS/MND includes standard mitigation requiring construction activities to stop in the event that buried archaeological resources are identified. The standard mitigation has been updated to ensure that if inadvertent archaeological or burial discovery occurs, all construction within 50 feet of the find shall cease. It has also been revised to require that Caltrans be contacted if the find is located within the state right-of-way along El Camino Real. These changes are reflected in Section 3, Errata of this Final IS/MND. These changes strengthen an existing mitigation measure and do not constitute significant new information. Therefore, recirculation of the Revised IS/MND is not necessary.

Response to CALTRANS-2

The author indicates that the Howard-Ralston Eucalyptus Tree Row is a historic property within the Caltrans ROW along the project's frontage on El Camino Real. The author states that this ROW will be encroached upon during project construction. The author requests that at least one Accolade Elm tree be planted in the Caltrans ROW in line with the existing eucalyptus tree row to enhance the resource in a location where previous trees have been removed. The author indicates that sufficient space appears to be available for such planting within the ROW at a location ten feet south of the proposed driveway, while still permitting visual allowance for those exiting the driveway.

As a condition of approval, the City will require the applicant to plant at least one Accolade Elm tree at an appropriate location verified by the Department of Transportation.

Response to CALTRANS-3

The author indicates that the Native American Heritage Commission (NAHC) was recently overloaded with requests relating to the implementation of Assembly Bill 52. The author requests that the NAHC should be re-contacted regarding the project via email. The author requests that individuals on the list of interested parties provided by the NAHC be contacted.

The NAHC has been contacted numerous times regarding this project. The first Sacred Lands File and Native American Contacts List Request letter, dated August 1, 2012, was sent to the NAHC in relation to the previously released 2012 IS/MND. No response was received.

As part of the Revised IS/MND, a second request was submitted, dated July 21, 2015. Phone and email correspondence with the NAHC dated August 20, 2015 indicated that the July 21, 2015 request

could not be located. As such, the request was re-submitted via email on August 20, 2015. Additional follow up email correspondence on September 1, 2015 was submitted to the NAHC, indicating that a response had still not yet been received. An additional request was submitted via fax on September 17, 2015, with a follow up phone call on October 6, 2015, indicating that a response has still not yet been received. Most recently, the request was submitted again on November 17, 2015 via email, after which a response was promptly received. The response indicated that the record search of sacred land files failed to indicate the presence of Native American cultural resources in the immediate project area. The City of Burlingame sent letters to the list of Native American representatives provided by the NAHC on November 23, 2015. No response has been received to date.

Response to CALTRANS-4

The author indicates that project-related work encroaching on state ROW requires an encroachment permit that is issued by Caltrans.

The Revised IS/MND recognizes that a Caltrans encroachment permit is required for any work to occur within the adjacent state ROW, as indicated on page 6. The project proponent shall initiate permitting as necessary.

RECEIVED

OCT 21 2015

October 21, 2015

Dear Mr. Hurin,

CITY OF BURLINGAME
CDD-PLANNING DIV.

This letter is sent to address the Revised Initial Study and Mitigated Negative Declaration Residential Condominiums at 1509 El Camino Real, City of Burlingame, San Mateo County, California released October 7, 2015. It is my initial request that all mitigation measures outlined in SECTION 3: SUMMARY OF MITIGATION MEASURES, pages 123 through 135 be specifically called out and incorporated into the Conditions of Approval if this project goes forward.

1

Further, notwithstanding the above SUMMARY, the following mitigations should be added into the Conditions of Approval for the following reasons if this project goes forward:

- **MM AES-1** Prior to submittal of plans to the Building Division, the project sponsor shall ensure that building construction plans show exterior lighting and window treatments on the condominium building that are designed to minimize glare and light spillover to adjacent properties.

2

The City shall ensure that final design plans include downward directed light fixtures that are low-mounted to reduce light trespass onto adjacent properties. The final design plans shall also include glazing window treatments to minimize the intensity of daylight glare produced by the condominium building.

- ✓ DEFINE GLAZING AS A PERMANENT TREATMENT THAT IS NOT A TEMPORARY OR REMOVABLE FILM OR OTHER TREATMENT APPLIED TO WINDOW GLASS;
- ✓ NO LIGHTING SHOULD BE ADDED TO THE BOCCO COURT OR ANY OTHER RECREATIONAL FACILITY THAT MAY BE ADDED BETWEEN THE REAR (WESTERN) FENCELINE AND THE BUILDING TO INSURE THAT NOISE IS REDUCED AT SUNSET.

✓

Biological Mitigation Measures that must be added to the conditions of Approval include:

- **MM BIO-5**
 - ✓ THAT A SURETY BOND IN THE AMOUNT OF \$100,000 BE REQUIRED THAT NO PROTECTED TREE WITH THE EXCEPTION OF THE SANCTIONED REMOVAL OF ONE DEODOR CEDAR BE IMPACTED IN ANY WAY FOR THE DURATION OF CONSTRUCTION AND FOR 5 YEARS FOLLOWING PROJECT COMPLETION.

3

- **MM BIO-6**
 - ✓ THAT ANY BEE COLONIES THAT RESULT FROM A YEARLY NEIGHBORHOOD SWARM (GENERALLY ON THE SHOULDERS OF AND INCLUDING THE MONTH OF APRIL) BE PROTECTED SO LONG AS THEY ARE NOT JUDGED A THREAT IN LOCATING ON ANY STRUCTURES OR BELOW 8 FEET IN ANY TREE ON THE PROPERTY OR ALONG THE PUBLIC RIGHT OF WAY EUCALYPTUS GROVE

A sinkhole on the property that was not addressed in **MM HYD-1, 2**, page 127, nor in the **Utilities and Service Systems**, pages 113-117, must have mitigation added to the Conditions of Approval

- MM USS-1

- ✓ THAT THE CITY ENGINEER DETERMINE CAUSE OF THE SINKHOLE WHETHER BY STORM WATER RUNOFF OR SLUMPING AND/OR BREAKAGE OF THE MAIN SEWER PIPELINE;
- ✓ THAT THE CITY ENGINEER DETERMINE REPAIR COST OBLIGATIONS;
- ✓ THAT ALL REPAIR IS COMPLETED BEFORE ANY COMMENCEMENT OF CONSTRUCTION.

4

In the Summary of project changes, page 2, as well as in other places in the document it is noted that screening trees may be added to the rear fence line. All screening trees should be evergreen, such as Bay Laurel or Leland Cypress.

5

Bicycle parking is mentioned on pages 3-4, and 77. In addition to the bicycle racks to be provided, protected bicycle parking should be included inside the garage or in some other secured location.

6

Regards,

Pat Giorni
1445 Balboa
Burlingame, Ca

Individuals

Pat Giorni (GIORNI)

Response to GIORNI-1

The author requests that all mitigation measures outlined in Section 3, Summary of Mitigation Measures of the Revised IS/MND be incorporated into the Conditions of Approval of the project.

As a standard procedure, the City will incorporate the mitigation measures outlined in the Revised IS/MND and, if necessary, as revised in this Final IS/MND, into the Conditions of Approval of the project.

Response to GIORNI-2

The author requests that Mitigation Measure AES-1, regarding the reduction of light spillover and glazing window treatments, be augmented to:

- Define glazing as a permanent treatment
- Prohibit lighting in the bocce court or any other recreational area between the project site's western fence line and the building to ensure noise is reduced at sunset.

Traditional low-E glass coatings, which provide low exterior reflectance and reduced interior solar heating, typically consist of a microscopically thin transparent coating applied by the window manufacturer and would not be removable. The use of low-E glass type windows would therefore ensure glare reduction is permanent.

Lighting, for both safety and property use functions, would be provided along the project site's western façade and within the bocce court area. As indicated in the Revised IS/MND, lighting would be required to be consistent with Burlingame Municipal Code, Chapter 18.16, Electrical Code Section 410.10(f), which requires the cone of lighting to be kept entirely on the project site.

The use of the project's exterior recreational areas (including the bocce court) would be subject to the City's general noise regulations (Municipal Code, Chapter 10.40.35), which expressly prohibits any loud, unnecessary or unusual noise that disturbs the peace and quiet of any neighborhood or that causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area. As such, the restriction of lighting in the project's exterior areas to discourage nighttime use is not necessary, nor could the City reasonably require such a restriction on private property for a permitted land use.

Response to GIORNI-3

The author requests that mitigation measures be added to the conditions of approval to include the following:

- A surety bond in the amount of \$100,000 requiring that no protected tree, with the exception of the sanctioned removal of one deodar cedar, be impacted in any way for the duration of construction and for 5 years following project completion.

- The protection of bee colonies locating on any structures or below 8 feet in any tree on the property or within the eucalyptus trees along El Camino Real, so long as they are not judged a threat.

The City of Burlingame does not currently require surety bonds to ensure that the conditions of tree removal permits are followed. However, as indicated in the Revised IS/MND, Section 4, Biological Resources, the project would be required to abide by the City of Burlingame’s Municipal Code Title 11, Chapters 11.04 Street Trees and 11.06 Urban Reforestation and Tree Protection, which require a permit for removal, pruning, or damage to any street tree or protected tree, and the replacement or financial compensation in the event that protected trees are damaged or destroyed during construction. Should permit compliance not be implemented by the project applicant during or after project construction, the issue would be subject to City code enforcement actions and fines as applicable.

While the City of Burlingame recognizes the importance of bees, no species of bee is currently identified under a special-status category that would require protection under CEQA.

Response to GIORNI-4

The author requests that mitigation measures be added to the conditions of approval to include the following:

- The cause of the existing on-site erosion must be identified by the City Engineer;
- The City Engineer must determine repair cost obligations; and
- All repairs must be completed prior to commencement of project construction.

See Response to Haberecht-1-1.

Response to GIORNI-5

The author requests that all screening trees planted as part of the project be evergreen. Comment noted.

Response to GIORNI-6

The author requests that protected bicycle parking be included inside the project’s garage or in some other secured location.

Each condominium unit would be provided a ground-level exterior storage unit where bicycles could be securely stored. Refer to Revised IS/MND Exhibit 6 for the location of these storage units.

From: Mark Haberecht [<mailto:mhabs@comcast.net>]

Sent: Friday, October 16, 2015 4:20 PM

To: CD/PLG-Gardiner, Kevin; CD/PLG-Hurin, Ruben; CD/PLG-Meeker, William; PW/ENG-Murtuza, Syed; ATTY-Kane, Kathleen; PLG Comm-Nirmala Bandrapalli; PLG Comm-Jeff DeMartini; PLG Comm-Michael Gaul; PLG Comm-Peter Gum; PLG Comm-William Loftis; PLG Comm-Rich Sargent; PLG Comm-Richard Terrones

Cc: GRP-Council

Subject: 1509 El Camino Real Urgent Attention Required

To Public Works, Planning Commission, City of Burlingame Planning, City Attorney

Dear Sirs/Mesdames:

It has come to my attention from several neighbors and one resident at the property that a sink-hole has developed on the side of the property near the Mills creek bank. One of my neighbors took photos and I also examined it and took photos and while I'm not an expert in this matters, I believe there could be a public safety issue requiring immediate independent inspection. The last soils study submitted by the developer is quite dated and we may not fully understand what exactly is going on at the property after several years of drought, no creek bed maintenance, and evidence presented at prior hearings of the 1509 El Camino Real of the increasingly prevalent (global) issue of soils subsistence in drought conditions.

I intend to provide further comments on the proposed adoption of a RIS/MND for the entirety of the document, but due to potential near-term (prior to rainfall) safety and liability issues I feel the need to bring this matter to Public Works' attention immediately. Hopefully this is a minor issue.

Attached are two photos, the left was taken by my neighbor and the right was taken by me.

Please include these comments as part of the record of the proposed project at 1509 El Camino Real and its successors and assigns.

Thank you,
Mark Haberecht
1505 Balboa Ave



Opening of void at ground level





The City of Burlingame

PUBLIC WORKS DEPARTMENT
TEL: (650) 558-7230
FAX: (650) 685-9310

CITY HALL - 501 PRIMROSE ROAD
BURLINGAME, CALIFORNIA 94010-3997
FAX: (650) 696-1598

CORPORATION YARD
(650) 558-7670

October 27, 2015

Mark Haberecht
1505 Balboa Avenue
Burlingame, CA 94010

Re: 1509 El Camino Real – Private drive aisle along Mills Creek

Dear Mr. Haberecht,

Thank you for the information that was provided by email on October 16, 2015 regarding the property at 1509 El Camino Real. The location of the sink-hole that was mentioned in your email is located on a private property. Majority of the creeks west of El Camino Real in Burlingame are located on private properties, and hence responsibility of corresponding property owner for maintenance. Any improvements that require repair within the top of bank of a creek must be approved and permitted through the California Department of Fish and Wildlife. The City does not have jurisdiction over Mills Creek.

The property owner will be notified of the erosion that is taking place on the property and their responsibility to prevent further erosion of the embankment into the creek. Thank you for informing us.

Sincerely,

Martin Quan
Senior Engineer

cc: Planning Commissioners
Kathleen Kane, City Attorney
Syed Murtuza, Director of Public Works
Bill Meeker, Community Development Director
Kevin Gardiner, Planning Manager
Ruben Hurin, Senior Planner
1509 El Camino LLC – 1243 Broadway, Burlingame

Mark Haberecht (HABERECHT-1-1)

Response to HABERECHT-1-1

The author submitted a letter to the City of Burlingame Public Works Department indicating concern over existing erosion conditions at the project site near the Mills Creek bank. The author also indicated that the existing soils study for the proposed project is outdated and may not address the existing erosion. The author provided two photos of the area in question, which show a hole of approximately 2 feet by 4 feet in size located in existing pavement directly adjacent to Mills Creek and the existing fenceline.

In response to the author's comment, the City of Burlingame Public Works Department provided a letter, dated October 27, 2015 (included herein as part of the HABERECHT-1 letter). The letter indicated that the erosion issue is on private property and, therefore, the responsibility of resolving the issue falls to the property owner. The Public Works Department further indicated that the City does not have jurisdiction over Mills Creek and any repair work within a creek bank must be approved and permitted through the California Department of Fish and Wildlife (CDFW). The Public Works Department notified the property owner of the reported erosion in a letter dated December 4, 2015. In addition, all comment letters herein, including those referencing onsite erosion, have been forwarded to the property owner.

As indicated in Revised IS/MND, Section 1.4.4, the project would include work within Mills Creek to eliminate erosion and undercutting issues located at the northwest corner of the project site. This erosion is consistent with that identified by the commenter. The erosion would be abated with implementation of the in-creek work included as part of the project, which includes stabilizing the creek bank through the use of gabions or other restoration components. Furthermore, as indicated in Revised IS/MND Section 1.4.4, and Section 2.4, Biology, the project would be required to enter into a Streambed Alteration Agreement with the CDFW (as required by Mitigation Measure BIO-2) and obtain a Section 404 Clean Water Act Nationwide Permit from the United States Army Corps of Engineers (USACE) (as required by Mitigation Measure BIO-3).

Appendix C of the Revised IS/MND includes a letter dated September 4, 2012 that also addresses the identified erosion issue and concludes that the proposed pier-supported building would not impact the creek bank or retaining wall. The memo indicates that the use of a pier-supported structure of a mat slab, ground-level garage floor set back at least 20 feet from the top of the creek bank/retaining wall would ensure that no load would be imparted to deteriorating walls, which would present a minimal concern for the long-term stability of the channel because of the underlying, hard, native clay soils. Nonetheless, work is proposed within the creek to eliminate erosion and undercutting issues. Such work would be implemented during or before soil preparation for the proposed project, as a condition of approval. In addition, prior to issuance of grading or building permits the Building Division will review the proposed project and related Geotechnical Investigation. The need for additional geotechnical reporting would be determined at that time. However, as indicated by the existing Geotechnical Investigation and related letter dated September 4, 2012, the project site is suitable for the proposed development.

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November 9, 2015
Burlingame Planning Commission
cc: Burlingame City Council

NOV - 9 2015

CITY OF BURLINGAME
CDD-PLANNING DIV.

Re: Revised Initial Study and Mitigated Negative Declaration
[Proposed] Residential Condominiums at 1509 El Camino Real
City of Burlingame, San Mateo County, California

Dear Sirs/Mesdames,

Below are:

- a. My comments on the October 7, 2015 Revised Initial Study and Mitigated Negative Declaration [Proposed] Residential Condominiums at 1509 El Camino Real City of Burlingame, San Mateo County, California (the "RIS/MND" for the "proposed project" or "the project");
- b. Photo renderings of the project made by the developer/the City showing the view of the proposed project from the backyard of 1512 Balboa Avenue, Burlingame;
- c. Photos of a sinkhole developing at 1509 El Camino Real; and
- d. Photos of the traffic situation at Lincoln School/Ray Park during school drop-off hours.

I have reviewed the latest RIS/MND on the project and, unfortunately few of public and expert agency concerns brought about through verbal and written commentary subsequent to the 2011 proposal have been incorporated into this document, which is a surprising outcome to me. **The current RIS/MND has some of the same kind of wishful assumptions as the January 12, 2012 Initial Study and Mitigated Negative Declaration, that circulated in 2013.** Most of the data to support the new RIS/MND is old/ outdated, deficient and cut-and-paste from the 2013 MND and fails to satisfy the basic substantive evidence test.

Expert agency guidance from the California Department of Fish and Wildlife ("CADF&W"), as well as concerned neighbors' written comments and verbal testimony (including my own), provided a detailed blueprint for the developer to follow in amending the project proposal, and for the City and its hired consultants to follow in analyzing the revised project plans. Many of the glaring deficiencies in the January 2012 IS/MND re-appear in the new RIS/MND contains many of the glaring deficiencies that existed in the prior one. The developer – and by extension the City – has given little or no weight to the issues raised in prior Planning Commission reviews of proposals for the site, the CADF&W comments about the site (February 21, 2013 letter), the developer's own words about the site at a 2007 Planning Commission meeting on a prior project proposed for the property, and the public record as a whole, all of which I incorporate herein by reference.

The reduced building height (and slightly reduced footprint to save most of the trees) does not excuse the City from conducting a full and proper CEQA review on many issues that have little to do with the

1

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building size. Cookie-cutter, cut-and-paste approaches to environmental analysis that seem to work for so many cities will not work for this highly environmentally constrained site that contains a wildlife and creek habitat, abuts a creek, duplexes, 1 -1.5 story homes, a Commercial Plaza that is old and will be redeveloped, and is next to a school that has exploded in enrollment and a Park that is now used more because of development in the surrounding neighborhoods. Traffic and parking issues in and around the area have gotten worse (fully known by the TSPC commissioners) – but with the RIS/MND, the City has produced a document that still fails to address the real parking, safety and traffic impacts to the neighborhood and the school.

2
CONT

3

The RIS/MND fails to reflect the primary goals of CEQA and the reason why environmental documents (EIRs) are prepared. While a complex law that is tough to navigate and presents a challenge for planners and decision makers alike, there are a few key points to be made about application of the law by virtue of its statutory provisions as well as case law/precedent:

CEQA requires that a *project’s significant environmental impacts be revealed, and **reduced to the extent feasible***. The courts have held that there must be a factual showing that the mitigation measures or project alternatives would create a hardship sufficiently severe to render it impossible to continue with the project.

4

To require the preparation of an EIR, one only needs to make only make a “fair argument” that there may be a significant environmental impact, even though a contrary conclusion may be possible. (CEQA Guidelines¹ §15064(g)(1); *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988.) CEQA sets a “low threshold” for preparation of an EIR. (*No Oil Inc. v. City of Los Angeles* (1974)13 Cal.3d 68, 84.)

If the EIR identifies a significant impact of a proposed project, the project cannot be approved until all feasible “mitigation measures” or “project alternatives” which could “eliminate or substantially lessen” the identified significant impacts have been adopted.

The EIR must examine the project’s “cumulative impacts,” meaning the impacts of the project added to those of past, present, and reasonably foreseeable future projects. (Public Resource Code, §21083(b), CEQA Guidelines §§15065(c), 15130, 15355.). The RIS/MND only lists other multi-family buildings along El Camino as “cumulatively considerable” **It is known that the Adeline Market Plaza was listed prior Housing Element reports as a property that may potentially be developed and therefore development along El Camino and Adeline needs to be addressed as a whole especially given potential cumulative impacts.** An EIR should address the potential cumulative impact of building 1509 ECR and the potential effects on development of Adeline Market and its impact on traffic, population, and the human environment.

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Adoption of the RIS/MND in its current form and with proposed mitigation strategies would not pass muster under CEQA. Fair argument and reasonable person standards were well established and articulated in concerns brought up by several neighbors, the 2007 Planning Commission, the developer’s own 2007 application, the 2013 CA DF&W letter, on the environmental constraints posed by the

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¹ “CEQA Guidelines” refers to California Code of Regulations, Title 14, Division 6, Chapter 3, §§ 15000-15387.**Error! Main Document Only.**

property. While the latest iteration of the project addresses some of those concerns, further mitigation must be considered given the substantive evidence and fair argument standards for numerous environmental issues have been met, and it is well-established that a smaller project would still be feasible and profitable for the developer. Perhaps the developer made a less-than-optimal investment decision in the purchase of 1509 El Camino Real. **There is no reason to shift the cost or consequence of that decision to the neighbors, school population, Burlingame residents (users of Ray Park), or to ignore the natural (and deteriorating) state of the adjacent creek/riparian environment.**

6
CONT

De Novo Project vs De Facto Environmental Conditions

While this most recent proposal project is considered a substantial revision of the 2012 project, neither the environmental conditions of the property nor potential impacts to the human environment have not changed in any way making development on this highly environmentally contained more favorable since 2007 (when a smaller project compared to the one proposed now was deemed un-approvable). In fact, the school population of Lincoln and Ray Park activities have only increased, thereby increasing potential impacts to traffic, safety, noise, and the like.

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In addition, even though it is smaller than the project proposed in 2012, **the proposed project is still larger than the project proposed in 2007, which the then-sitting Planning Commission deemed effectively un-approvable.** Proposing something that effectively gets shot down, then proposing a larger building that generates more opposition, and returning to a building that is smaller than the last, but still larger than the original proposal, cannot credibly be viewed as any sort of “concession” by the developer. Members of the community who bear the real impacts of such projects **are looking at the totality of all proposals from 2007-onwards** (which is the reasonable way to look at this).

8

These are the most problematic areas I see with the RIS/MND:

I. The RIS/MND Fails, As Mandatory Findings of Significance Are Required.

Under the CEQA Guidelines:

(a) A lead agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where there is substantial evidence, in light of the whole record, that any of the following conditions may occur:

- (1) The project has the potential to: substantially 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 community; substantially reduce the number or restrict the range of an endangered, rare or threatened species; or eliminate important examples of the major periods of California history or prehistory.
- (2) The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.

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- (3) The project has possible environmental effects that are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.
- (4) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

(CEQA Guidelines, § 15065(a).)

The RIS/MND evades well-established issues that if appropriately documented and analyzed would require mandatory findings of significance and in turn, a full EIR. The RIS/MND does not appear to seriously incorporate written or verbal testimony from the public *or* the CADF&W. I explicitly laid these issues out in my April 26, 2015 written comments, stating:

- 1) The CEQA checklist at the very end has a section entitled Mandatory Findings of Significance. If any of the categories are met, this means an EIR must be drafted to reveal the potentially environmentally significant issues, potential mitigants, and project alternatives. Given the community has done a significant amount of research, a Focused EIR may be more appropriate.

Mandatory Findings of Significance (my response to each category italicized)

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 community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Yes, this has been addressed by the California Department of Fish and Wildlife Letter in 2013 as potentially significant environmental issues (degrade environment quality, reduce habitat, threaten to eliminate plant community).

Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

Yes, given the duplexes across Mills Creek are zoned R2, they may seek R3 zoning if 1509 El Camino gets built on the basis of achieving increased land utilization (notwithstanding the fact that creeks cannot be built upon). Also the Adeline Market Plaza and former Gas Station property have been identified in prior housing elements as a potential development areas. The owners of the Plaza in the future will likely use the height/massing/density/parking of 1509 ECR to argue for a larger more density-intensive redevelopment which will also likely have environmental effects (aesthetics, traffic, parking, environmental, etc). Finally the student population of Lincoln School has increased since 2007 (and 2012 for that matter), Ray Park activities have increased, there is

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now on-site after-school daycare (Champions, previously this was held at First Presbyterian) and in practice there would be an effective doubling of vehicles needing parking at 1509 El Camino. An EIR must take into consideration the impact on traffic/safety on the school and Ray Park which is already well-established as having problems (TSPC committee tried to hear the issue in 2014, but could not reach a quorum due to 3 members living within the 1400-1500 blocks of Balboa). Finally an EIR should require a new soils study based upon USGS Survey information (2010-2011) that was not taken into consideration in 2007 soils study (relied upon by the developer for subsequent applications), showing a high liquefaction susceptibility in a San Andreas Shaking Scenario (refer to prior comments on this, including USGS hazard shaking maps).

11
CONT

Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Yes, traffic and safety around Lincoln School of schoolchildren, creek wall failure (Wallach Creek Flooding Video 1524 Balboa Wy), need for proper creek wall reinforcement to support a greater load.

12

Subsequently developed information substantiates that a full EIR is mandatory, as:

- 1) New neighbors at property across Mills Creek performed work on the creek bed without prior City approval, pouring concrete down the bank *and into the a storm drain* in an apparent attempt to “shore up” the creek bank. However, as illustrated by photos the Wallachs submitted to the Department of Public Works, this appears to have blocked the creek flow.
- 2) A sink-hole has developed next to the creek. Several earlier commentators addressed the issue of soils subsidence (or “shrinking”) in drought conditions; this concern appears to now have materialized. An EIR should require a new soils study to understand exactly what is occurring with the continued erosion and appearance of a new sink hole.

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II. The RIS/MND continues to ignore prior (2007) Environmentally Significant Conditions raised by the 2007 Planning Commission, members of the Community, and Developer Himself (2007 Application).

While this most recent proposal project is considered a substantial revision of the 2012 project, neither environmental conditions on the property nor potential impacts to the human environment have changed in any way that would make development more favorable now than it would have been in 2007. In fact, the school population of Lincoln and Ray Park activities have only increased, thereby increasing potential impacts to traffic, safety, noise, and the like. **The 2007 proposal, deemed un-approvable at the time by the sitting Planning Commission, was smaller in size, and lower in height than this 2015 proposal.**

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- In the 2007 application, the Developer’s justification for design at the time actually acknowledged some of the environmental issues and circumstances we are raising today that were ignored in the 2012 and current (2015) project.

- The environmental circumstances haven't changed and still exist today vs. 2007.
- 2007 concerns and environmentally significant factors (per PC transcripts) were included in the 2011 staff report; they should also be included/addressed in the even more important Environmental Report.
- Transcripts from 2007 application establish prior Planning Commission environmental concerns on a smaller proposed project with respect to (direct quotes from Planning Commissioners):

1. Trees: *"Burlingame values trees - trees should remain"*

2 Aesthetics: *"If project moves forward, rear two units need to be reduced to two stories; design should respect transitions to adjacent neighborhoods."*

3 Aesthetics: *"Additional work needs to be done on massing."*

4 Aesthetics: *"Spanish architecture doesn't lend itself to a 3 story building".*

5 Environmental/Neighborhood Concerns: *"Applicant needs to address neighbors concerns."*

6 CEQA and Feasibility: *"Maximizing developer's profit is not a reason for the Commission to approve a project."*

- Most of the reasons in applying for re-zoning in 2012 and 2015 by the developer were cut-and-paste from the prior applications, **with the exception of anything relating to appropriateness of aesthetics, size/scale, and fitting with neighborhood.** From the 2007 Application as written by the developer, he actually acknowledged the environmental constraints of his own property. This should be addressed by the Environmental Document:

1 *"One single building would be overbearing in mass and bulk, as there are mostly smaller buildings within the subject property."*

2 *"Project would be in keeping with the character of smaller structures rather than one large one"*

3 *"2-Level Townhouse style with center open court is compatible design that is sensitive with surrounding properties' scale)."*

4 *"Center Court allows light and air through/along the front and rear of the units and creates an open pleasing entry to visitors."*

5 *"One driveway going down to underground garage, hereby mitigating the commercial look of the design"*

6 *"Large amounts of landscape"*

7 “Feel that trellises (at front of property) give the best residential feel for the last impact on the surroundings”

8 (Trellises) “provide a way to soften hardscape of the building and add an esthetic and pleasing element with climbing vines to the frontage”

9 “Placement of trellises to be in front of the building rather than on the same plane of structure or beyond makes for a more attractive view”.

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III. The RIS/MND Discussion on Traffic and Parking is Insufficient and Ignores all Substantive Evidence Submitted by the Public and Acknowledged by TSPC.

The RIS/MND does not provide for an adequate parking study and the impacts of parking on the adjacent streets (primarily Balboa). Using the developer’s own estimate of the number of cars on the existing property (23-25 in the 2007 testimony), adjusting for the increased number of bedrooms, there would now be a need to park 40-50 vehicles. Those vehicles will likely spill onto Balboa and Adeline.

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Exacerbating that insufficiency, half of the 28 parking spaces would be for compact vehicles. **This is unrealistic in a building with two 1-bedroom units, two 2-bedroom units, and six 3-bedroom units. The larger units will logically draw families, and logically, larger vehicles.** Although the plan nominally supplies the minimum number of parking spaces, **the number of compact spaces is excessive.** The developer’s reliance on City inclusion zoning incentives does not excuse the City from adequately analyzing the issue, and the zoning incentive has nothing to do with *mitigation* of obvious impacts. The inclusion of so many compact spaces raises an issue of whether the parking will be sufficient for this project’s needs and this issue is completely ignored by the RIS/MND.

The RIS/MND also makes no mention of the increased school population, increased traffic and safety issues, and the increased park activities. The RIS/MND relies on the number of bedrooms, rather than the nature of the proposed units (six new three-bedrooms) in assuming there would be no impacts. The assumption “that the number school-age children residing at the project site would be reduced or, conservatively, stay the same” (RIS/MND at p. 106) is frivolous.

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The RIS/MND does not acknowledge that an increased number of cars parking at 1509 El Camino Real, in order to North on El Camino Real, cannot safely make a left turn on El Camino Real, and the easiest route would be to execute a series of right turns (R->@El Camino Real; R->@Adeline; R->@Balboa; R->@Ray; L<-@El Camino Real). **In this process, the vehicles exiting 1509 El Camino would be going against the school and Burlingame enforced flow of traffic during drop-off and pick up** (where traffic only allowed to travel east on Devereux and south on Balboa), and would expose the **vehicles to 5 school crossing intersections.**

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Traffic and Parking concerns around Adeline, Balboa Ave, are widely known by members of the TSPC. In fact, in 2013, the TSPC had agreed to hear the issue from concerned neighbors on the 1400 and 1500 blocks of Balboa (as all acknowledged it was an issue) but a quorum could not be reached as 3 of the TSPC commissioners lived within 500 feet of the 1400 and 1500 Blocks of Balboa. The fact that the TSPC acknowledged there is a problem with traffic, parking and safety around Lincoln School and Ray Park, **serves as expert opinion for purposes of CEQA in determining potential significant impacts.**

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IV. Parking is a CEQA issue; the RIS/MND Does Not Acknowledge This Despite Local Case Law.

Parking as a CEQA issue has been established by case law in Burlingame itself by a San Mateo County judge in a ruling (*Friends for Responsible Development vs. Burlingame School District*).

To quote Judge Marie Weiner (Superior Court of San Mateo County): “we disagree with the broad statement made in SFUDP [Reference to another Case] that parking shortage is merely a social inconvenience and can never constitute a primary physical impact on the environment. As Taxpayers [Case] notes, cars and other vehicles are physical objects that occupy space when driven and when parked. Therefore, whenever vehicles are driven or parked, they naturally must have some impact on the physical environment. The fact that a vehicle's impact may be only temporary (e.g., only so long as the vehicle remains parked) does not preclude it from having a physical impact on the environment around it. Therefore, as a general rule, we believe CEQA considers a project’s impact on parking of vehicles to be a physical impact that could constitute a significant effect on the environment....” “...Although the Guidelines apparently do not specifically list parking as one of the potential impacts that must be addressed. Rather they provide a same list of these impacts of projects that are most common and should be addressed by lead agencies. [Citation.] The Guidelines expressly advise: Substantial evidence of potential impacts that are not listed on this form must also be considered. [Citation.] Furthermore, the guidelines include a section on transportation and traffic, which issues presumably include parking issues, even though parking is not expressly listed. [Citation.] ...” “...In regard to issues of parking and traffic resulting from a proposed project, the agency and the Court are entitled to rely upon common sense. *LucasValley*, 233 Cal.App.3d 130, 154 fn. 11....”

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“In regard to traffic and parking issues, relevant personal observations by residents in the area are evidence to be considered by the public agency. *Leonoff*, at pp. 1351-1352; *OroFino*, 225Cal.App.3d atp. 883. In order to forecast the increase in traffic resulting from opening an elementary school at the Project, the Traffic Study relied upon (i) a national survey, (ii) vehicular rates from San Diego, and (iii) vehicular rates based upon one K-8 private school in another county. (12 AR 185:6085.) No existing schools in San Mateo County were used to develop traffic forecasts for the Project—not even schools in the geographic area.”

“Deference cannot be given to findings of the public agency (that mitigation measures are effective) where those findings "are not supported by substantial evidence or defy common sense." *Gray v. County of Madera* (2008) 167 Cal. App Ath 1009, 1116.”

[End of Quotations; boldface emphasis added.]

Traffic and Parking issues exist with regard to the 1509 El Camino Project, but the RIS/MND only relies on generic traffic/trip generation statistics, no traffic study was conducted in Burlingame or the area, absence of addressing this project’s impact on Lincoln School, Ray Park Traffic/Parking, Park/ Neighborhood Parking and Traffic, and the RIS/MND suggests a decrease in trip generation despite the number of bedrooms more than doubling. The RIS/MND conclusions and lack of addressing the impacts that increasing the number of bedrooms from 12 to 24, reducing regular parking spaces in favor of compact ones (despite more families more likely to live there and hence would have larger vehicles),

traffic safety around the School, Ray Park, and adjacent street **all defies common sense, application of a reasonable person standard, the substantive evidence provided by neighbors including personal experience, the knowledge of the parking and traffic affected area of Balboa by the TSPC.**

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V. Trees.

The new RIS/MND acknowledges that the developer only plans to remove one of the seven protected trees, and that it must obtain a tree removal permit, but fails to assess the project impacts on the trees to be left in place. More specifically, there is no discussion of how excavation could affect root systems. Appendix B is unchanged from the January 23, 2013 IS/MND, and the re-inclusion of that outdated material (much of which concerns the void tree removal permit) **signals a failure to fully consider this issue adequately.** Rather, there is a citation to the Municipal Code’s fencing and reforestation requirements. **This does not appear to be a good faith effort at proposing proper mitigation.**

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VI. Biological Resources –Fish & Wildlife n Riparian Environment.

The Developer is still proposing installing a putting green and bocce court, which defies the recommendations of the CDFW letter (for natural landscaping and preserving the Riparian Environment) and will only serve to increase noise and reduce privacy to adjacent neighbors.

The current RIS/MND fails to address many critical issues raised by the 2013 CADF&W letter, as they still exist even with reducing the project by one story and making the building footprint slightly smaller.

- Per 2013 CA Fish & Wildlife (CDF&W) letter: *Construction in riparian zone would reduce overall habitat value of the stream zone, reduce overall habitat value of stream zone, decrease biological integrity and function of riparian corridor, impact long-term viability of riparian corridor and stream habitat, which in turn may impact aquatic and terrestrial species.*
- *Development can increase sedimentation and pollution into Mills Creek (CDFW).*
- *Loss of trees can increase solar radiation, reduce prey base and potentially modify the nutrients that establish food chain (CDFW).*
- *Non-native vegetation planted by new property owners could become established and potentially-out-compete riparian vegetation (CDFW).*
- *CDFW recommends stream setback to be increased to minimize impacts on stream, riparian habitat, and fish and wildlife resources that utilize those habitats.*

23

Here, the developer continues to propose to build very close to the stream bank. Whereas the September 4, 2012 Geotechnical Response (RIS/MND Appendix D) assumed the building would be at least 20 feet from the creek bank, now the developer proposes to develop “3 to 17 feet from the top-of-bank” (RIS/MND at p. 4), and “shared recreation space abutting the creek would be landscaped with trees and small plantings and would include a wood arbor, barbeque and counter, fire pit, bocce court with synthetic turf, and permeable paver walkways and patios” (*id.* at p. 21.) Despite CDF&W’s clear articulation of this issue, the RIS/MND fails to consider the impacts of construction or recreational use of the property within the riparian zone.

VI. The RIS/MND Does Not Address Whether Impacts Will Be Mitigated To the Extent Feasible, Nor Does It Consider Project Alternatives.

One must remember the main requirement of CEQA: to reduce significant impacts to the maximum extent feasible. Developer feasibility is a critical issue that needs to be analyzed fully when discussing mitigation strategies. In order to establish meaningful discussions on what is feasible in terms of development from both the community and developer’s perspective, I have prepared an economic valuation analysis of potential property development incorporating information from local multi-family builders, estimated construction costs from 1226 El Camino Real (Burlingame Permit Archives) and other multifamily properties (City of Burlingame Building Permit Database), and local real estate agents, to arrive at estimated multi-family all-in construction costs (at contractor level) of approximately \$300 per finished square foot (this includes unfinished garage space and parts of the structure, e.g. outdoor balconies). I have also accessed the MLS to ascertain recent comparable sales and asking prices for new condo construction in Burlingame (which are actually in the midst of rising substantially) on a per finished square foot basis, which is assumed to be approximately \$700 for newer construction. Our analysis also includes an alternative opportunity cost NOI (Net Operating Income) and Capitalization Rate (Cap Rate) approach used by the Institutional Investment Community for Commercial Real Estate and Multifamily Real Estate Investment Trusts (REITs).

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The following analysis establishes my belief that the property may be developed profitably even with a 50% reduction in total square footage (from the 2012 proposal, or another 25%-30% from the 2015 proposal); with profitability being defined as unlevered Return on Investment (ROI), and resulting in a final sale valuation greater than the point of theoretical “indifference” (i.e., keep renting out property as is) using the NOI approach, which values the existing property at \$3.7MM vs. the \$6.56MM value achieved at 9,300 square feet of living space). With unleveraged return on initial investment of ~33-50% (if leverage were used, the return on equity would be even greater), we believe that a significantly downsized project can still earn a very profitable return on investment.

Alternative #1 Develop and Sell Condos						
Development Economics	Square Foot Reduction (%)					
	Initial (2012) Proposal	-20%	-30%	-40%	-50%	-60%
Total Finished Living Square Footage	23,247	18,598	16,273	13,948	11,624	9,299
Fair Market Value Per Sq. Ft.	\$ 700	\$ 700	\$ 700	\$ 700	\$ 700	\$ 700
Total Fair Market Value	\$ 16,272,900	\$ 13,018,320	\$ 11,391,030	\$ 9,763,740	\$ 8,136,450	\$ 6,509,160
All-In (Living/Garage/Public Area) Construction Cost Per Sq.	\$ 300	\$ 300	\$ 300	\$ 300	\$ 300	\$ 300
Total Construction Cost	\$ 6,974,100	\$ 5,579,280	\$ 4,881,870	\$ 4,184,460	\$ 3,487,050	\$ 2,789,640
Total Land Cost	\$ 2,100,000	\$ 2,100,000	\$ 2,100,000	\$ 2,100,000	\$ 2,100,000	\$ 2,100,000
Total Unlevered Cost	\$ 9,074,100	\$ 7,679,280	\$ 6,981,870	\$ 6,284,460	\$ 5,587,050	\$ 4,889,640
Unlevered Profit	\$ 7,198,800	\$ 5,339,040	\$ 4,409,160	\$ 3,479,280	\$ 2,549,400	\$ 1,619,520
Unlevered Total Return on Investment	79%	70%	63%	55%	46%	33%

Alternative # 2 - Continue as Income Producing Property	
Fair Market Rent Per Month	\$ 1,400
# of units	11
Total Rent per Month	\$ 15,400
Per Year (x 12)	\$ 184,800
Maintenance Cost/Year (6% per annum)	\$ (11,088)
Property Taxes	\$ (23,730)
Annual Net Operating Income (NOI)	\$ 149,982
Capitalization Rate*	5.000%
Current Fair Market Value	\$ 3,696,000

* Assumes 80% LTV @ 4.25% (Prime + 1%) Required Return on Equity of 8%

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We have several developers on the Planning Commission, some of whom have experience with multi-family housing and know the profitability and costs quite well. I have spoken to two developers (who are not members of the PC) privately, from which I derived my financial analyses. When using leverage (construction loan + mortgage), the return on investment (equity) is quite favorable. In short, the building size can be further reduced and this can still be rendered a feasible project that can return in excess of not doing anything to the property. **In 2007 a smaller proposal, with two buildings (more buildings have more corners and are more expensive) and underground parking (adds about \$1MM to the total cost of project this size) was deemed feasible.**

VII. Land Use & Planning: Re-Zoning of R2 Lot Containing a Creek to R3 and Merging the Two Parcels (R2 and R3) Into One R3 Lot.

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The RIS/MND provides an insufficient reason as to why R2 parcel containing a creek needs to be merged with an R3 parcel. The only seemingly logical reason to build a larger building and to sell more valuable 2 and 3-bedroom condos. The R2 lot contains a creek and is logically unbuildable.

- Density (defined by zoning ordinance purposes) by number of units is declining. Current R3 parcel has 11 units on .35144 Acres for a Unit/Acre ratio of 31.035. Combining R2 and R3 parcel results in 10 units on .4461 acres, for a Unit/Acre ratio of 22.41. Is it logical to up-zone an R2 parcel to R3 when overall project density (defined by zoning ordinance) is declining? The number of bedrooms is increasing, but this does not seem to be addressed by Burlingame Zoning Ordinances.
- R2 to R3 zoning may induce domino effect of further developments—i.e. developer wants to build larger building, so gets rezoned (cumulative impact to Adeline Market Plaza and Duplexes across the Creek)
- The City need to more fully examine the reasons why a lot counting a creek is rated R2 versus R3 (title analysis and history of Burlingame zoning required). It would logically follow that the R2 portion is R2 because there is a creek on the parcel. There should be demonstrable evidence that the R2 zoning of the creek parcel was an error, as the developer alleges (i.e. was never recorded).

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- Burlingame’s own Housing Element report has an appendix referencing a working group which has identified Adeline Market as a potential mixed-use residential and commercial redevelopment. Any potential cumulative effects of development (which would make developing this property ‘easier’ through precedence)’ should be considered in an EIR.

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VIII. Rooftop Common Area.

The RIS/MND still refers at page 98 to a rooftop common area, which we were not in favor of, was taken out and is not contained in the plans. Again, is yet another an indication of cut-and-paste mentality by the City’s hired consultants.

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IX. Congruence of Construction Scheduling vs. Completion of Wildlife Studies.

Some of the mitigation measures and new conditions raise a question of when construction realistically can go forward relative to wildlife studies, construction moratoria for nesting, etc. This is more of a practical matter.

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X. Aesthetics.

The 1500 block of and longer stretch heading south on El Camino pas the hospital is fundamentally and introduction to a residential neighborhoods (Ray Park, Easton Addition, and Burlingame Village neighborhood) Lincoln School, Ray Park, and the “tunnel of trees”. It is a bucolic setting defined by trees and 1-2 story structures (pictures in MND itself establish this). Currently, the existing 1509 El Camino property cannot be seen from the Easton, Ray Park, and Burlingame Village neighborhoods and is properly scaled for being next to a creek, wildlife habitat, a grove of trees, and completely directly abutted by one story buildings in an R1 neighborhood. The neighbors on the Balboa side abutting the property would have significant privacy degraded due to the 2-story differential of their houses compared to this project. From the rear, the building, for lack of better terminology, looks like a box, painted bright beige (stucco), with very little articulation, and is more reminiscent of a smaller version of large multi-family buildings around downtown Burlingame, Broadway, or Millbrae. Across the street, are two-story single family homes and across Adeline is a low slung 2-2.5 story apartment building in subdued gray tones, and just south of 1509 El Camino Real is a one-story market plaza.

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- In 2007 Application, developer himself states that a 2 story design is right for the neighborhood. In the 2011 Application, this commentary was completely absent in wake of asking for a conditional use permit to build 2-3 stories higher.
- Planning Commissioners have acknowledged that property is part of 3 neighborhoods: ECR, Balboa/Adeline, and Albemarle.
- CEQA guidelines require that any negative impact on “aesthetics” is deemed a “significant environmental impact” *per se*.
- Attached photos from the 1512 Balboa side show a negative aesthetic impact. While this new proposal is better than four stories, it still significantly infringes on privacy.
- The renderings in the RIS/MND, only show the most favorable angles (despite this being pointed out the last time).

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- Size/mass of building coupled with the violation of privacy by having units look into the backyard or reduces the comfort of the neighborhood by detracting a sense of ownership and control residents have over their environment.

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XI. Proposed Conditions for Approval.

I believe the following steps need to be taken in order to render this project workable from an environmental, aesthetic, safety, and neighborhood perspective.

- 1) **The failing creek bank must be repaired.** This is simply a matter of safety for the 1509 El Camino residents as well as the surrounding neighbors. The Wallachs at 1524 Balboa have sent the City of Burlingame footage of a flood that nearly damaged their property and have provided several pictures, and raised problems with the head of Public Works, who agreed with the assessment of the failing bank wall. Now, a sinkhole has developed. (Appendix 2.) The CDF&W, as the expert agency, and the developer's own environmental consultant (in 2007) also recommended repair of the bank.
- 2) The 2013 CDF&W letter recommended that **natural landscaping and vegetation be used to reduce runoff into the creek and to help sustain the riparian habitat. A putting green and bocce court hardly qualify as natural/native landscaping.** Given this and the concerns surrounding noise, **these should be removed** and perhaps a community garden (growing vegetables/herbs) put in its place. This also raises the question of what demographic being served by this proposed condo? When one thinks of 3-bedroom units, one thinks of families/children and are putting greens and bocce courts geared toward family friendly activities?
- 3) **Screening trees should be provided** to in the rear and south side of the property to better provide privacy to neighbors and break up the massing. I have included renderings performed by the Developer/the City (Appendix 1). Also, the developer mentions that he will provide screening trees but they do not appear on the plans. The trees chosen should be tall and of relatively fast growth.
- 4) **The rear third story units need either to be set back more, or other significant changes to the massing/improving articulation is needed.** This building appears to the neighbors and the neighborhood as a 'box' and literally looks straight down into the yard/windows of one of the neighbors (renderings provided as Appendix 1). Given the insufficient parking issues, I'm in favor of reducing the setback of the third story in the rear.
- 5) **Increase the amount of effective parking relative to building size:** Too many compact spaces for too few 1 and 2 bedroom units. The 3 bedroom units will mostly require larger spaces (SUVs) because families will likely live there. Potential solutions include: reducing the number of units on the 3rd story (for greater setback from the rear), converting more units to two bedroom, converting more parking from compact to full size or combination thereof. The

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most realistic solution that would address most issues is a reduced building size on the 3rd story, but again these need to be analyzed fully.	38 CONT
6) This proposal is effectively a de novo proposal and given all neighbor concerns, this should go through Design Review to address design issues as well as receive valuable input from the Planning Commission.	39
7) The developer should also contribute something for the public safety of Lincoln School and Ray park , specifically: (a) speed limit sign on Balboa at the Way/Ave School Crossing (Your Speed is XXX); (b) flashing reflector crosswalk at the School Crossing; (c) possibly, a stop sign on Ray and Balboa for those traveling down Ray toward El Camino; (d) costs of “permitted parking” program for the City of Burlingame to mitigate impacts on residents of additional parking demand; (e) a study on reducing the speed limit on the adjacent block of Balboa Avenue to 20 mph (25 mph for residential areas is a <i>prima facie</i> law, it can be lowered when appropriate). (See Appendix 3 (school day traffic on Balboa Avenue; park use).)	40
8) I think this needs to be a high quality “Burlingame Building” in the rear just as much as the front, with articulation, offset massing, additional detail, enhanced foliage (screening trees or trellises) . If Spanish architecture is to be maintained (not ideal in my opinion), I highly recommend the use of “reclaimed” terra cotta mission barrel tiles . It has been used on some homes and really helps conceal the newness of buildings and helps attenuate the massing (there is a home on Poppy Drive which is a great example of this). Other forms of architecture including brick/stone in more earthy tones may be more appropriate to help reduce the bright beige box-like nature of the building from the rear and sides (the part that affects neighbors the most).	41
9) We need an “all clear” from the CDF&W that the building is at a suitable distance away from the creek, that the creek bank has repaired, there is native landscaping, and satisfaction of all issues raised by the CDF&W report in 2013.	42
10) Insertion of Adequate Sound Wall per neighbor requests (not addressed in RIS/MND and not apparent from plans in RIS/MND).	43
11) The Building Department should require a soils study to bore down to the point of the piers (not done in prior study), to require a sufficiently foundation, due to the proximity to the creek, as this is a high damage probability liquefaction zone (per FEMA maps, San Andreas Shaking scenario, information that was provided subsequent to the soils study done in 2007). Also, the development of a sinkhole on the property, in addition to prior comments from the public on the issue of soils subsistence in drought conditions, essentially requires that what is going on with the soil needs to be fully understood.	44
12) Adoption of Mitigation Measures Proposed by other residents (Refer to Letters of Pat Giorni, Ann and Paul Wallach, Samantha MacPhail, and Nina Weil), which includes the posting of a surety bond (\$100,000 recommended amount) for the remaining protected trees.	45

Thank you for your consideration,

/s/ Mark Haberecht

Mark Haberecht
1505 Balboa Ave,
Burlingame, CA 94010

** This correspondence is hereby incorporated in the official public record for the proposed project at 1509 El Camino Real and its successors and assigns**

Appendix I: Photos Renderings. Screening trees would improve the loss of privacy at 1512 Balboa



Appendix II: Sinkhole developing at 1509 El Camino Real



Opening of void at ground level



Appendix 3: Traffic during Lincoln pick-up and Ray Park Activities

Vehicle going against traffic flow rules



Ray Park Parking/Traffic Situation



Mark Haberecht (HABERECHT-2)

Response to HABERECHT-2-1

The author provide opening remarks and states that the Revised IS/MND contains outdated, deficient data, fails to satisfy the basic substantive evidence test, and does not consider public and agency concerns expressed regarding the project. The author states that the CDFW and neighbors of the project site provided written and verbal testimony suggesting project amendments, but that the Revised IS/MND continues to contain deficiencies identified in the 2012 IS/MND.

Comment noted. Refer to Response to HABERECHT-2-2 through HABERECHT-2-43.

Response to HABERECHT-2-2

The author states that a full and proper CEQA review should be implemented for the project, specific to site conditions, considering wildlife and the adjacent creek, as well as adjacent residential, commercial, school, and park uses.

The Revised IS/MND fully analyzes the proposed revised project consistent with the requirements of CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000-15387) as applicable. Wildlife and adjacent creek habitat was addressed in Section 2.4, Biological Resources. Adjacent residential and commercial land uses were addressed throughout the document, as necessary, and specifically in Section 2.1, Aesthetics and Section 2.12, Noise. Impacts to schools were addressed in Section 2.14, Public Services. Impacts to nearby parks were addressed in Section 2.14, Recreation. Without further indication as to why the provided analyses on these topics were insufficient, no additional response can be provided.

Response to HABERECHT-2-3

The author states that traffic and parking surrounding the project site is an issue and that the Revised IS/MND fails to address parking, safety, and traffic impacts to the neighborhood and school.

Potential traffic, parking, and safety impacts related to the proposed project are addressed in Section 2.16, Transportation/Traffic of the Revised IS/MND. The Burlingame Condominiums Circulation Assessment, dated July 8, 2015, prepared by W-trans, supports the conclusions made therein and is provided as Appendix F of the Revised IS/MND.

The project provides sufficient parking: 28 on-site parking spaces are proposed where 25 parking spaces are required, including resident, guest, and service vehicle spaces (three more parking spaces than the required minimum). As such, on-site parking has been addressed and exceeds standard requirements.

Safety was specifically addressed in Section 2.16, Question d), where information regarding the collision history along El Camino Real was investigated. Of the four reported collisions on El Camino Real between Ray Drive and Adeline Drive, none appeared to be related to turning movements into or out of the existing driveway at the project site. The study segment was found to have a collision rate lower than the statewide average for similar facilities. Site distance was also reviewed, and it was concluded that adequate visibility is available in both directions for vehicles exiting the project site. Furthermore, the proposed project would result in an overall net decrease of trips during the

AM and PM peak hours. As such, it was concluded that the project would not result in impacts related to increased roadway hazards or unsafe conditions.

Response to HABERECHT-2-4

The author cites to case law and statutes to support the proposition that CEQA requires a project's significant environmental impacts to be revealed, and reduced to the extent feasible. The author states that, to require the preparation of an EIR, one only needs to make a "fair argument" that there may be a significant environmental impact, even though a contrary conclusion may be possible. The author states that if an EIR identifies a significant impact, a project cannot be approved until all feasible mitigation measures or project alternatives that could eliminate or substantially lessen the identified significant impacts have been adopted.

The author's statements provide context for CEQA analysis and compliance, but they do not specifically comment on the analysis provided within the Revised IS/MND. All feasible mitigation has been incorporated into the Revised IS/MND, and all impacts can be mitigated to levels of less than significant. In the opinion of the lead agency, the author has not provided information that would qualify as a "fair argument" that an EIR should instead be prepared.

When applying the fair argument standard in reviewing the adequacy of an MND, courts have recognized that:

Although local residents may testify to their observations [regarding existing conditions] . . . in the absence of specific factual foundation in the record, dire predictions by non-experts regarding the consequences of a project do not constitute substantial evidence (*Bankers Hill Preserv. Group v. City of San Diego* (2006) 42 Cal.Rptr.3d 537, citing to *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1417).

Unsubstantiated opinions, concerns, and suspicions about a project, though sincere and deeply felt, do not rise to the level of substantial evidence . . . (*Bankers Hill, supra*, citing to *Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337 at 1352). Thus, project opponents must produce . . . evidence, other than their unsubstantiated opinions, that a project will produce a particular adverse effect" (*Bankers Hill, supra*, citing to *Association for Protection etc., Values v. City of Ukiah* (1991) 2 Cal.App.4th 720, 735-736).

Response to HABERECHT-2-5

The author indicates that an EIR must examine the project's cumulative impacts, but that the Revised IS/MND only lists other multi-family buildings along El Camino as cumulatively considerable. The author states that the Adeline Market Plaza was listed in the prior Housing Element as a property that may potentially be developed and therefore must be considered in the cumulative analysis.

While the Adeline Market parcel may be identified as a potential future residential development location, such development is not currently proposed and, as identified on Exhibit 4, is still zoned for commercial uses. Future development of the site for residential use is at the discretion of the

landowner, and without any current application on file with the City to do so, consideration of such development in the cumulative impact analysis of the project is speculative. Furthermore, because such redevelopment would require a change to land use and zoning designations, applicable CEQA analysis of the Adeline Market parcel would be required, wherein proposed changes would then be appropriately considered in relation to that project's potential contribution to cumulative impacts. Finally, even if the Adeline Market parcel were to be redeveloped, the proposed project would not likely result in any cumulatively considerable contributions to related cumulative impacts, because the project's impacts are all effectively reduced to a less than significant level.

Response to HABERECHT-2-6

The author states that fair argument and reasonable person standards were established and articulated in concerns regarding environmental constraints posed by the property and brought up by neighbors, the 2007 Planning Commission, the developer's 2007 application, and the 2013 CDFW letter. The author states that while the revised project and Revised IS/MND considered some of the expressed concerns, further mitigation must be considered given the substantive evidence and fair argument standards for numerous environmental issues. The author states that a smaller project would be feasible and profitable for the developer. The author states that the consequences of the proposed development should not be shifted to the neighbors, school population, Burlingame residents who use Ray Park, or the adjacent riparian environment.

The author does not specifically indicate in this comment which "fair argument or reasonable person standards" articulated by neighbors, the developer's application, or the Planning Commission were not addressed in the Revised IS/MND. Therefore, a detailed response is not possible. The author does not indicate in this comment what type of additional mitigation is warranted for the project. The author does not provide substantial evidence contrary to the Revised IS/MND analysis indicating how the project would significantly impact neighbors, school population, Ray Park, or the adjacent riparian environment.

Please also refer to the response to HABERECHT-2-4, above.

The 2013 CDFW letter's primary concerns were related to potential impacts to the riparian area along Mills Creek, removal of trees located therein, and potential impacts of light and glare on biological resources.

As stated on page 58 of the Revised IS/MND, construction of the condominium building and related improvements would avoid impacts to riparian habitat. However, the project does include work within Mills Creek to eliminate erosion and undercutting issues. Mitigation Measure BIO-2 requires the implementation of a Streambed Alteration Agreement in compliance with Section 1600 of the California Fish and Game Code, thereby mitigating potential impacts to the creek from construction activities within the riparian setback along Mills Creek. The mitigation would require riparian vegetation planting and monitoring to ensure no net loss of riparian habitat acreage. In addition, Mitigation Measure BIO-3 requires the applicant to obtain a Section 404 Clean Water Act nationwide permit from the USACE, including compliance with the National Pollution Discharge Elimination System General Permit for Discharges of Storm Water Runoff Associated with Construction Activity. For any permanent removal of jurisdictional perennial creek, the applicant would be required to

provide replacement at a 1:1 ratio or payment of in-lieu fees. The Revised IS/MND also addresses nighttime lighting and glare effects on biota on page 57, concluding that the project's compliance with Municipal Code Chapter 18.16, in addition to the implementation of Mitigation Measure AES-1, would ensure that no significant impact would occur. As such, the Revised IS/MND addresses the concerns raised by CDFW.

Response to HABERECHT-2-7

The author states that environmental conditions of the project site and potential project impacts to the human environment have not changed in such a way that the revised project would be more feasible. Comment noted.

The author states that the school population of Lincoln Elementary and Ray Park activities have increased, thereby increasing potential impacts to traffic, safety, and noise.

As indicated in the Revised IS/MND's Section 2.13, Population and Housing, the project would result in an overall decrease in on-site residents and, therefore, would not result in a substantial or even a perceptible increase to enrollment at Lincoln Elementary or use of Ray Park. Furthermore, net traffic trips generated by the project site would decrease, and, therefore, related traffic, safety, and noise impacts at the school and park would not be likely to occur as a result of the project.

Response to HABERECHT-2-8

The author states that, though the proposed project is smaller than that proposed in 2012, it is still larger than the project proposed in 2007, which the Planning Commission deemed effectively un-approvable.

This document addresses the potential environmental impacts of the currently proposed project. Previous iterations of the project are not considered herein.

Response to HABERECHT-2-9

The author states that an EIR and Mandatory Findings of Significance are required for the project, citing CEQA Guidelines Section 15065(a).

As stated in CEQA Guidelines Section 15065(b)(1), if a project proponent agrees to mitigation measures prior to public review of a document that would avoid or mitigate impacts to a level of less than significant, an EIR need not be prepared solely because the environmental effects at issue would have been significant without mitigation. As is the case in the Revised IS/MND, mitigation measures are included that the project applicant would be required to implement to effectively avoid or reduce impacts to a less than significant level. Furthermore, the Revised IS/MND's Section 2.18, Mandatory Findings of Significance clearly states that all impacts would be less than significant with the implementation of mitigation. Therefore, Mandatory Findings of Significance have been considered, and an EIR is not required.

Response to HABERECHT-2-10

In reference to Question a) of Section 18, Mandatory Findings of Significance, the author states that the CDFW's 2013 comment letter on the project indicates that the project would have the potential

to degrade environmental quality, reduce habitat, and threaten to eliminate a plant community. This statement is expressed to indicate that an EIR would be required.

As indicated in Response to HABERECHT-2-9, CEQA Guidelines Section 15065(b)(1) indicates that if a project proponent agrees to mitigation measures prior to public review of a document that would avoid or mitigate impacts to a level of less than significant, an EIR need not be prepared solely because the environmental effects at issue would have been significant without mitigation.

Such is the case with the potential impacts related to biological resources. The project applicant would be required to implement mitigation to reduce potential impacts to Mills Creek and associated habitat to less than significant. As such, an EIR is not required.

Response to HABERECHT-2-11

In reference to Question b) of Section 18, Mandatory Findings of Significance, the author claims that the project would have cumulatively considerable impacts for the following reasons:

1. Duplexes zoned R2 in the project vicinity may seek R3 zoning if the proposed project is constructed.

This conjecture is speculation and is not supported by substantial evidence. Any future development proposing zoning changes would require separate CEQA documentation, under which a cumulative impact analysis would occur as appropriate.

2. The Adeline Market Plaza has been identified in prior housing elements as a potential development area and the owners will likely use the height/massing/density/parking of the proposed project to argue for a larger, more density-intensive redevelopment resulting in associated environmental impacts.

As previously indicated in Response to HABERECHT-2-5, there is no known currently proposed redevelopment plan for the Adeline Market Site, and consideration of such development in the cumulative impact analysis for the project is speculative. Furthermore, because such redevelopment would require a change to land use and zoning designations, applicable CEQA analysis would be required, wherein proposed changes to the Adeline Market Site would then be appropriately considered in relation to its potential contribution to cumulative impacts.

3. The student population of Lincoln School has increased since 2007, Ray Park activities have increased (inclusive of an after-school daycare), and there would be an effective doubling of vehicles needing parking at the project site. An EIR must take into consideration the impact on traffic and safety on Lincoln Elementary School and Ray park.

As indicated in the Revised IS/MND's Section 2.13, Population and Housing, the project would result in an overall decrease in on-site residents and, therefore, would not result in a substantial or even perceptible increase to enrollment at Lincoln Elementary School or use of Ray Park. Therefore, the project would not contribute to a related cumulative impact. As for parking, the project provides sufficient parking—28 on-site parking spaces are proposed where 25 parking spaces are required,

including resident, guest and service vehicle spaces (three more parking spaces than the required minimum). As such, on-site parking has been addressed and exceeds standard requirements, and thereby would not have the potential to contribute to cumulative impacts in this regard.

4. An EIR should require a new soils study accounting for high liquefaction susceptibility.

Page 71 of the Revised IS/MND provides an analysis of on-site liquefaction potential and includes Mitigation Measure GEO-1, requiring the rigidity of the project's foundation floor system to be increased to ensure it could withstand the possibility of liquefaction. As such, the project would not contribute to any cumulatively significant impacts regarding liquefaction.

Response to HABERECHT-2-12

In reference to Question c) of Section 18, Mandatory Findings of Significance, the author implies that the project would cause substantial adverse effects on human beings as a result of traffic and safety issues around Lincoln Elementary School and the need for proper creek wall reinforcement.

The proposed project would result in an overall net decrease of trips during the AM and PM peak hours. As such, the project would not contribute to or result in impacts related to increased roadway hazards or unsafe conditions at Lincoln Elementary School.

Regarding creek wall reinforcement, refer to Response to HABERECHT-1-1.

Response to HABERECHT-2-13

The author claims that the following information necessitates preparation of a full EIR:

1. Concrete was poured down the bank of Mills Creek and into a storm drain, opposite of the project site, in an attempt to shore up the creek bank. However, as illustrated by photographs submitted by the Wallachs, this appears to have blocked the creek flow.
2. A sink-hole has developed next to the creek. An EIR should require a new soils study to understand exact onsite conditions related to erosion.

Photos submitted with the AWALLACH comment letter do not indicate blockage of creek flow by concrete. Nonetheless, as indicated in Response to HABERECHT-1-1, Revised IS/MND Section 1.4.4, indicates that the project would include work within Mills Creek to eliminate erosion and undercutting issues located at the northwest corner of the project site. The project would be required to enter into a Streambed Alteration Agreement with the CDFW (as required by Mitigation Measure BIO-2) and obtain a Section 404 Clean Water Act Nationwide Permit from the USACE (as required by Mitigation Measure BIO-3). Implementation of these mitigation measures would ensure that creek flow is maintained and appropriate restoration activities occur, and that replacement vegetation is provided in accordance with applicable requirements. As such, this is not considered substantial new information that would require recirculation of the Revised IS/MND or preparation of an EIR.

Refer to Response to HABERECHT-2-11 part 4 for information regarding the need for a new soils study.

Response to HABERECHT-2-14

The author repeats comment HABERECHT-2-7. Refer to Response to HABERECHT-2-7.

The author states that in 2007, the Planning Commission deemed a previously proposed project for the site, which was smaller in size and height than the currently proposed project, as un-approvable.

The author states that the 2007 project acknowledged some of the environmental issues and circumstances that are ignored in the 2012 and 2015 (current) project, but does not indicate which specific issues.

The author states that environmental circumstances have not changed and still exist today. This is contrary to other portions of the author's comments, stating that environmental conditions have changed in the creek. Without further expansion as to which environmental circumstances are of importance in this respect, no further response can be provided.

The author states that concerns and environmentally significant factors identified in the 2007 Planning Commission transcripts were included in the 2011 staff report and should also be included and addressed in an "Environmental Report." No evidence has been presented that would require the preparation of an Environmental Impact Report.

Response to HABERECHT-2-15

The author states that transcripts from the 2007 application establish prior Planning Commission concerns for a smaller proposed project with respect to trees, aesthetics, the need to address neighbors' concerns, and overall feasibility.

While the provided Planning Commissioner transcript quotes may obliquely apply to the currently proposed project, none of the statements provided indicate that the currently proposed project would result in significant impacts, as defined by CEQA, related to trees, aesthetics, neighbors or feasibility.

Response to HABERECHT-2-16

The author states that the reason for the proposed project's requested re-zone were "cut-and-paste" from prior applications, with the exception of anything relating to appropriateness of aesthetics, size/scale, and fitting with neighborhood. The author provides quotes from the 2007 development application acknowledging environmental constraints, indicating that they should be addressed in the environmental document.

The currently proposed project includes a merger of the two lots that constitute the site, along with a request for approval of rezoning of the smaller lot from R-2 to R-3. The purpose of this rezone is to provide one single zoning district and applicable regulations for the project.

Quotes from the 2007 development application were made concerning the previously proposed project and are not directly applicable to the currently proposed project. The quotes focus on visual character of the previously proposed project and its compatibility with the surrounding land uses. No suggested revision of the visual character or land use compatibility analysis in the Revised IS/MND is provided in this comment.

Response to HABERECHT-2-17

The author states that the Revised IS/MND does not provide an adequate parking study, nor does it address potential impacts of parking on adjacent streets (primarily Balboa Avenue). The author speculates that 40 to 50 parking spaces would need to be provided on-site. The author states that the proposed project's mix of unit types (two 1-bedroom units, two 2-bedroom units, and six 3-bedroom units) would draw families and—logically—larger vehicles, making the compact parking spaces provided on-site insufficient. The author states that the City's inclusionary zoning incentive (which allows incentives such as increased compact parking when residential units are proposed and maintained as affordable units) does not excuse the City from adequately analyzing parking.

Refer to Response to HABERECHT-2-3. On-site parking would exceed standard requirements. Furthermore, as indicated in the Burlingame Condominiums Circulation Assessment, included as Appendix F of the Revised IS/MND, standard required parking spaces (before inclusionary zoning incentives) indicate that the project would require 22 parking spaces. In addition, two parking spaces are required for guest and one space for service vehicles, for a total of 25 required spaces. With use of an inclusionary zoning incentive to allow for compact spaces, the proposed project is able to provide three additional parking spaces beyond the required 25. As such, the City has adequately analyzed parking required by the project, and the provision of compact parking actually increases on-site parking availability. Finally, the author's statement that the proposed unit mix would draw residents with larger vehicles is conjecture and is not supported by factual evidence.

Response to HABERECHT-2-3-18

The author states that the Revised IS/MND does not analyze impacts to school population, increased traffic and safety issues, and the increased park activities.

Revised IS/MND Section 14, Question c) specifically addresses the potential for the project to result in impacts to school services. The project would reduce the number of on-site residences by one and, therefore, would reduce on-site population by approximately two persons based on the average household size identified in the City's 2015–2023 Housing Element. Consequently, it is anticipated that the number of school-age children residing at the project site would be reduced, or conservatively, stay the same. Even if the project's unit mix resulted in an increase in student population, that increase would not be substantial enough to result in a significant impact to school services such that service levels would be decreased or new school facilities would be required.

Revised IS/MND Section 14, Question d) and Section 15, Questions a) and b) specifically address the potential for the project to result in impacts to park services. Overall, because the project would decrease the number of occupied units at the site and thereby decrease the number of residents, impacts to parks and park services would be less than significant.

Finally, net traffic trips generated by the project site would decrease; therefore, related traffic, safety, and noise impacts at the school and park would not be likely to occur as a result of the project.

Response to HABERECHT-2-19

The author states that the Revised IS/MND does not acknowledge that cars exiting the project site could not safely make a left turn on El Camino Real. The author indicates that to avoid the left turn, residents would make a series of right turns in the surrounding neighborhood.

Section 2.16, Question d) of the Revised IS/MND concludes that turning movements associated with the project's access point currently do not result in significant traffic hazards (collisions) and would not be expected to result in traffic hazards with the implementation of the project. Furthermore, if avoidance of the left turn does occur, it would already be implemented by current residents and implementation of the project would reduce net trips from the project site, thereby reducing any vehicles making a series of right turns in the surrounding neighborhood. For additional response regarding safety of the project's turning movements on El Camino Real, refer to Response to HABERECHT-2-3.

Response to HABERECHT-2-20

The author states that traffic and parking are of concern on Adeline Drive and Balboa Avenue, and in 2013, the Burlingame Traffic Safety and Parking Commission (TSPC) acknowledged such issues surrounding Lincoln Elementary School and Ray Park. The author states that the TSPC's acknowledgement of such issues serves as expert opinion for purposes of CEQA in determining potential significant impacts.

Both parking and traffic were analyzed in the Revised IS/MND's Section 2.16, Transportation/Traffic. Because the project would result in a net decrease in traffic trips generated at the project site, it was concluded that the project would not result in any traffic impacts, including those related to parking. While the TSPC may have acknowledged traffic and parking issues in the vicinity of the project site, the proposed project would not contribute to existing issues or create new issues, as it would result in a net decrease in traffic generated at the project site. As such, significant impacts would not occur.

Response to HABERECHT-2-21

The author references the ruling in *Alliance for Responsible Neighborhood Planning v. Burlingame School District* (2014), and *Gray v. County of Madera* (2008) 167 Cal. App 4th 1009, 1116, indicating that the Revised IS/MND does not acknowledge parking impacts of the project. The author states that no traffic study was conducted. The author disagrees that the project would result in a decrease in traffic trips because on-site bedrooms would double from 12 to 24. The author reiterates that the project's unit mix would draw families with larger vehicles, thus making the provision of compact parking spaces on-site insufficient.

The Burlingame Condominiums Circulation Assessment (Circulation Assessment), dated July 8, 2015, prepared by W-trans, is provided as Appendix F to the Revised IS/MND. The Circulation Assessment was prepared in accordance with the criteria established by the City of Burlingame, San Mateo City/County Association of Governments, and Caltrans. As indicated therein, the proposed project would generate fewer than 50 net-new peak-hour trips (it would in fact result in a reduction of two AM peak-hour trips and 15 PM peak-hour trips); therefore, a regional roadway analysis for El Camino Real is not required.

The existing apartment complex comprises two 2-bedroom units and nine 1-bedroom apartments, containing a total of 13 existing bedrooms. The site currently houses approximately 26 residents (an average of two residents per existing bedroom). The proposed project would result in two 1-bedroom units, two 2-bedroom units, and six 3-bedroom units, containing a total of 24 proposed bedrooms. The net increase in bedrooms would be 11.

Regardless of the increase in on-site bedrooms, it is standard industry practice to determine residential trip generation by residential type, not the number of bedrooms, as bedrooms are not directly indicative of trip generation (e.g., bedrooms may be unoccupied, used for purposes other than sleeping quarters, or house residents who do not drive or whose transportation needs are combined with others in the household). As indicated in the Circulation Assessment, the anticipated trip generation for the proposed project was estimated using the fitted curve equation for “Residential Condominium/Townhouse” (ITE LU 230) published by the Institute of Transportation Engineers (ITE) in Trip Generation, 8th Edition, 2008. Trips associated with the 11 apartment units that currently exist on the site were estimated using the fitted curve equation for an “Apartment” (ITS LU 220). As such, the trip generation assessment prepared for the project appropriately estimates future trips generated by the project using standard and industry-accepted methods.

The project provides sufficient parking: 28 on-site parking spaces are proposed where 25 parking spaces are required, including resident, guest, and service vehicle spaces (three more parking spaces than the required minimum). As such, on-site parking has been addressed and exceeds standard requirements set by the Burlingame Municipal Code. Furthermore, on-site residential units and trip generation would be reduced as part of the project, thereby eliminating the project’s potential to contribute to or create parking deficit issues. Finally, based on the City’s person-per-household multiplier of 2.3, the proposed project would result in 23 persons. Conservatively assuming that each person is a driving adult with a car parked on-site simultaneously, five additional parking spaces would still be available.

Concerning compact parking spaces, refer to Response to HABERECHT-2-16.

Response to HABERECHT-2-22

The author states that the Revised IS/MND fails to assess project impacts to trees to be maintained on-site. The author cites concern regarding impacts of excavation on root systems.

As indicated in the Revised IS/MND, tree protection measures would be implemented prior to construction in accordance with Municipal Code 11.06.050, which requires protected trees to be protected by a fence during construction, and prohibits storage of chemicals or other construction materials within the dripline of protected trees. A certified arborist’s report showing how the trees will be protected during construction, to be reviewed and approved by the Parks Division, will be required prior to issuance of a building permit. All required tree protection measures will be required to be installed and inspected by the Parks Division prior to the start of any construction. Furthermore, landscaping plans for the project site include specific language requiring the protection of trees to remain on-site. These required protection measures would minimize potential construction impacts to protected trees that are to be maintained on-site. In the event that

protected trees are damaged or destroyed by construction, Municipal Code 11.06.050 requires that they be replaced or the City be reimbursed.

The site includes 12 trees, of which seven are protected. One of the seven protected trees is proposed to be removed. The closest tree to the proposed building is a 16-inch-diameter deodar cedar tree, located approximately 5 feet 11 inches from the proposed building. While roots of this tree may extend out to the building's proposed footprint, such roots are likely located sufficiently beneath grade to avoid impact. It is conceivable that the proposed building's piling foundation could interfere with roots at depth; however, it is unlikely that disturbance of a small percentage of the tree's root system could result in tree fatality. Again, in the event that protected trees are damaged or destroyed by construction, Municipal Code 11.06.050 requires that they be replaced or the City be reimbursed.

Response to HABERECHT-2-23

The author states that the project's putting green and bocce court "defies the recommendations of the CDFW letter" and that the Revised IS/MND fails to consider the impacts of these uses within the adjacent riparian corridor. The author states that the Revised IS/MND fails to address issues raised by the 2013 CDFW letter, including the following:

- The potential for construction in the riparian zone to reduce habitat value, decrease biological integrity and long-term viability of riparian corridor;
- Increased sedimentation and pollution into Mills Creek;
- Loss of riparian trees resulting in increased solar radiation, reduced prey base, and modified nutrients;
- The potential for non-native vegetation to out-compete riparian vegetation; and
- Recommended increased stream setback to minimize impacts on stream, riparian habitat, and fish and wildlife resources that utilize those habitats.

The 2013 CDFW letter was taken into consideration when completing the Revised IS/MND. As indicated in Section 2.4, Biological Resources, the biological assessment included identifying the wildlife habitat present; identifying common plant and wildlife species observed; determining the potential presence of any special habitat features, such as waters of the U.S. or State, including wetlands; and identifying any linkages within the project site to important adjacent wildlife habitats.

Habitat types were evaluated for their potential to support special-status species, and the general habitat within and adjacent to Mills Creek was also evaluated. Question 2.4 b) specifically addresses the project's potential to have an adverse effect on riparian habitat. The building footprint and associated construction disturbance area, including the putting green and bocce court, is designed to remain at least 3 to 17 feet from the top-of-bank and would not affect any riparian habitat or alter existing conditions of the creek. This setback is consistent with existing areas of non-riparian habitat on the project site. The proposed putting green and bocce court would be located in areas that are currently covered with asphalt and do not provide riparian habitat. However, the project would also include work within Mills Creek to eliminate erosion and undercutting issues located at

the northwest corner of the project site. Work within Mills Creek would be subject to a CDFW Lake and Streambed Alteration Agreement, and a USACE Section 404 Clean Water Act Nationwide Permit. These requirements are included in Mitigation Measures BIO-1 and BIO-2. Implementation of these mitigation measures would ensure that work within the creek would not result in significant riparian habitat degradation, decreased biological integrity, impairment of long-term viability of the riparian corridor, or net loss of riparian trees.

Increased sedimentation potential would be addressed by the implementation of stormwater best management practices pursuant to Mitigation Measures HYD-1 and HYD-2, which would mitigate the potential of surface runoff to impact the riparian habitat (see Revised IS/MND Section 2.9, Hydrology and Water Quality).

As indicated by the project's landscaping plan, proposed on-site vegetation adjacent to the riparian corridor (but within the existing area of asphalt) would consist of rosemary, domestic bamboo, lemon beauty, juniper, kangaroo paw, laurel tree, and dwarf magnolia. None of these plants are considered invasive and all are drought-resistant. Furthermore, these species are small in scale and would not be likely to outshade or outcompete existing established vegetation within Mills Creek. Root zones would remain separated from the creek by the existing retaining wall.

Response to HABERECHT-2-24

The author states that the Revised IS/MND does not address if impacts will be mitigated to the extent feasible and does not consider project alternatives. The author prepared an economic valuation analysis of potential property development and resale value in support of a reduced project alternative.

CEQA does not require that mitigation measures completely eliminate or reduce potential impacts to the maximum feasible level, only to a less than significant level. Furthermore, mitigation measures must be roughly proportional to the impacts of the project. The Revised IS/MND provides a mitigation measure in each instance where the project was found to have a potentially significant impact. The provided mitigation measures would reduce such impacts to a less than significant level as indicated and as required by CEQA. Because the project would be consistent with applicable General Plan and zoning designations, the City does not have the authority under CEQA to require a smaller project as mitigation. The consideration of alternatives is not required by CEQA in the preparation of a Mitigated Negative Declaration, as has been prepared for this project. The purpose of an alternatives analysis is to avoid or substantially lessen any of the significant effects of the project (CEQA Guidelines Section 15126.6(a)). The proposed project's potentially significant effects have all been reduced to less than significant, negating the need for an EIR and accompanying alternatives analysis.

Purely economic considerations are not within the purview of CEQA, and, therefore, no response is provided to the author's economic valuation analysis.

Response to HABERECHT-2-25

The author states that the Revised IS/MND provides an insufficient reason as to why the R2 parcel needs to be merged with the R3 parcel on-site. The author speculates that the goal of the rezoning application is to allow the construction of a larger building.

As stated under Response to HABERECHT-16, above, the purpose of this rezone is to provide one single zoning district and a unified set of applicable regulations for the project. Inconsistencies may occur when a single project is located on two separate parcels for which each is governed by a different zoning regulation. All impacts potentially related to the rezoning and proposed development have been analyzed as required in the Revised ISMND.

Response to HABERECHT-2-26

The author states that the currently R3 parcel has 11 units on it, resulting in a density or ratio of approximately 31 units per acre, whereas the proposed project on the combined parcels would result in a density ratio of approximately 22 units per acre. The author questions if it is logical to up-zone the R2 parcel to R3 when overall site density would decline.

Property owners within the City are entitled to avail themselves of the review and approval process to request a change in the zoning of their property, provided that all regulatory analysis and documentation, including but not limited to CEQA analysis, is appropriately performed. This action is subject to the discretionary approval of the City, which will determine whether the requested action is appropriate and whether it would represent logical and orderly land use planning.

Response to HABERECHT-2-27

The author states that the rezoning may induce other, adjacent parcels to rezone.

This conjecture is speculation and is not substantiated with evidence. Any future development proposing zoning changes would require separate CEQA documentation, under which cumulative impact analysis would occur as appropriate.

Response to HABERECHT-2-28

The author states that the City should conduct a title analysis to determine why a lot containing a creek is zoned R2, indicating that there should be demonstrable evidence that the R2 zoning of the creek parcel was an error.

Please refer to Response to HABERECHT-26, above. The City's approval of the current zoning designations has not been subject to legal challenge and is presumed valid. In any event, the City's zoning practices are not within the scope of the Revised IS/MND, which is limited solely to analysis of potential impacts caused by the proposed project.

Response to HABERECHT-2-29

The author reiterates that the city of Burlingame Housing Element identifies Adeline Market as a potential mixed-use residential and commercial development, and that any potential cumulative effects of development should be considered in an EIR.

Refer to Response to HABERECHT-2-5.

Response to HABERECHT-2-30

The author indicates that the Revised IS/MND still refers to a rooftop common area.

The project no longer contains a rooftop common area. The reference to such feature in the Revised IS/MND was erroneous and has been removed as shown in Section 3, Errata of this Final IS/MND.

Response to HABERECHT-2-31

The author states that that construction scheduling may conflict with mitigation schedules for wildlife studies and construction moratoria for nesting.

Construction is proposed to begin in summer 2016. Mitigation Measure BIO-1 requires that a bat survey be conducted between March 1 and July 31 within a year of the proposed construction start date and prior to ground disturbance. Such surveys would not conflict with the start of construction. If bats are identified on-site, construction activities may be restricted to occur after July 31 and before March 1. Construction would still be able to start in late summer of 2016.

Mitigation Measure BIO-4 requires that a nesting bird survey be conducted no more than 14 days prior to any demolition, construction, or vegetation disturbance during the breeding season of February 1 through August 31. Such surveys would not conflict with the start of construction. If nesting birds are identified on-site, avoidance is at the discretion of the CDFW and may involve perimeter or temporal avoidance. Once nestlings have fledged, construction could reasonably resume.

Response to HABERECHT-2-32

The author summarized the project's surroundings. The author states that the project would significantly degrade the privacy of adjacent dwellings on Balboa Avenue.

Views as seen from private property, as well as the level of privacy on private property, are not considered environmental resources under CEQA. The obstruction of individual landowners' views from private property (or views into private property) is not considered a significant environmental impact under CEQA. This is because the purpose of CEQA is to evaluate the impacts of a project on the environment in general, not the impacts of a project on particular individuals (see *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477; *Bowman v. City of Berkeley* (2004) 122 Cal. App. 4th 572).

Response to HABERECHT-2-33

The author states that the developer previously indicated that a two-story design is "right for the neighborhood." The author states that the CEQA Guidelines require that any negative impact on aesthetics be deemed a significant environmental impact. The author provided photos of the project site as seen from 1512 Balboa Avenue, citing the negative aesthetic impact. The author states that the visual simulations in the Revised IS/MND only show the most favorable angles. Finally, the author indicates that the project violates privacy of adjacent residences.

Previously proposed iterations of the project are not applicable to the environmental review of the currently proposed project.

With respect to aesthetic impacts, CEQA Guidelines Appendix G includes four checklist questions to guide potential impacts to aesthetics. Each checklist question asks if *substantial* change or impact would occur. Visual character change does not automatically indicate *substantial* aesthetic impact. The threshold for a *substantial* aesthetic impact is subjective, as what one person may find significantly aesthetically adverse may not be the same for others.

Here, for checklist Question c) of Appendix G, the typical threshold for substantially degrading the existing visual character or quality of the surroundings is assessed by considering the existing on-site setting, the surrounding setting, development regulations, and the potential for the proposed project to significantly degrade the overall visual character or be inconsistent with development regulations. As recognized in the Revised IS/MND, the proposed building would be taller and would result in a different massing and setback in comparison to the existing building on-site, but such height and massing is consistent with development regulation of the R3 zone.

The proposed redevelopment would be in keeping with the more urban context along El Camino Real, and is consistent with the building height, bulk, mass, and scale allowed by the R-3 zone district. Furthermore, according to the City's General Plan, the frontage of El Camino Real is intended to provide a transition between higher intensity uses and adjoining lower-intensity uses on parallel streets. Many of the buildings south of the project site are multi-family buildings, with a bulk and scale similar to the project. The project would be consistent with the General Plan-identified transition of land use both from El Camino Real to the west and from Adeline Drive and the adjoining commercial lot to the north. As such, while the project represents a change in existing visual character and aesthetics, that change is not substantially adverse because it is consistent with zoning, existing land-use policies contained within the City's adopted General Plan including identified land use transition goals, and other similar development along El Camino Real.

More detailed landscaping plans provided for the project indicate that three magnolia "little gems" and two crepe trees would be planted along the project's rear façade along with a mixture of kangaroo paw, juniper, and lemon beauty shrubs. The species of juniper shrubs have the potential to grow up to 20 feet tall. While it is recognized that these trees and shrubs would not provide complete visual screening for the entirety of the rear of the property, they would soften the visual massing of the proposed buildings. Views from the adjacent residences to the rear of the property would change from that of a two-story, older apartment building to a new, three story condominium building, bifurcated by intermittent trees and shrubs. This change in visual character as seen from private property would not be considered a significant impact under CEQA and therefore does not require mitigation. Refer also to Response to HABERECHT-2-32, above, regarding private views.

Public Resources Code Section 21099(d) (added as a result of SB 743), states that aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area are not to be considered significant environmental impacts. It reserves the lead agency's right to consider aesthetic impacts under a local design review ordinance "or other discretionary powers." The project site is located within the Burlingame El Camino Real Priority Development Area with transit priority. As such, aesthetic impacts are not to be considered significant environmental impacts.

Concerning the author's comment regarding the provided visual simulations and private views, views from private property are not protected or considered an environmental resource under CEQA. As such, views provided in the visual simulation are those as seen from public areas such as Ray Park (from which the project is barely perceptible beyond existing vegetation), the Balboa Avenue right-of-way, the Albermarle Way right-of-way, and the El Camino Real right-of-way, and were not intended to show only the most favorable angles as the commenter suggests.

Response to HABERECHT-2-34

The author suggests that repairing the failing creek bank be included as a condition of project approval. As noted in the Revised IS/MND, the project now includes in-creek repairs to abate existing erosion issues.

Response to HABERECHT-2-35

The author suggests that the bocce court and putting green be removed and replaced with a community garden. Suggestion noted.

The author suggests that natural landscaping and vegetation be used to reduce runoff into the creek and to help sustain the riparian habitat. As indicated on page 84 of the Revised IS/MND, only stormwater from rooftop downspouts and atrium drains located in permeable paver areas would direct stormwater to the creek. Runoff to the creek would not increase as a result of the project. Implementation of C.3 and C.6 provisions of the Municipal Regional Stormwater Permit would include measures to reduce runoff and sediment/pollutant load. Furthermore, Mitigation Measures HYD-1 and HYD-2 require stormwater best management practices to be implemented, and compliance with the San Mateo Countywide Water Pollution Prevention Program (inclusive of C.3 and C.6 provisions). As such, runoff into the creek would not be substantially impacted. Riparian habitat would be restored as required by the project's Lake and Streambed Alteration Agreement and Section 404 Clean Water Act Nationwide permit following erosion-related repairs.

The author questions the applicability of a putting green and bocce court for the demographics of 3-bedroom condominiums. Such project merits are beyond the purview of this CEQA analysis.

Response to HABERECHT-2-36

The author suggests that screening trees should be provided at the rear and south side of the property to improve loss of privacy as a condition of approval.

This comment has been noted and will be included within the administrative record for the project. Views as seen from private properties are not considered environmental resources under CEQA; please refer to Response to HABERECHT-2-32, above. However, the City retains final decision-making and discretionary approval over the proposed project, and will impose any conditions of approval deemed appropriate.

Response to HABERECHT-2-37

The author suggests that the project's third story should be set back to avoid impacts to privacy as a condition of approval.

Please refer to Response to HABERECHT-36, above. The proposed project's height and site coverage are consistent with allowable development regulations of the R3 zone.

Response to HABERECHT-2-38

The author suggests that the project's number of third-story units should be reduced or that more standard sized parking stalls should be provided to provide effective on-site parking. Refer to Responses to HABERECHT-2-16 and HABERECHT-2-36, above.

Response to HABERECHT-2-39

The author suggests that, as a condition of approval, the project should go through the City's Design Review process.

Zoning amendments were adopted for the R-3 Zoning District, Design Review and Off-Street Parking on September 19, 2011 and became effective on October 19, 2011. However, since this application was filed in June 2011 and prior to adoption of the zoning amendments, it is not subject to the City's Design Review Process.

Response to HABERECHT-2-40

The author suggests that as a condition of approval, the developer should contribute to the safety of Lincoln Elementary School and Ray Park and offers various measures to accomplish this, including the installation of a speed limit sign, crosswalk, stop sign, or completion of various studies.

Because the project would reduce traffic trips emanating from the project site, there is no impact to safety or traffic surrounding Lincoln Elementary School or Ray Park, and, therefore, no nexus to require related mitigation or conditions of approval. Please refer to Response to HABERECHT-2-36, above, related to the City's authority to impose conditions of approval.

Response to HABERECHT-2-41

The author suggests, that additional building articulation and enhanced foliage be added as a condition of approval, particularly to the rear of the building, and that alternative forms of architectural styling be considered. Comment noted. Please refer to Response to HABERECHT-2-36, above, related to the City's authority to impose conditions of approval.

Response to HABERECHT-2-42

The author suggests that CDFW should provide confirmation that all issues raised in its 2013 comment letter have been addressed, as a condition of approval for the project.

CDFW was provided a review copy of the Revised IS/MND and did not submit further comments identifying any outstanding issues or concerns. Concerning the comments made in the 2013 CDFW letter, refer to Response to HABERECHT-2-22.

Response to HABERECHT-2-43

The author suggests that a sound wall should be provided as a condition of approval. Refer to Response to WEIL-3. Mitigation requiring a noise wall along the project site's rear boundary is not necessary or warranted.

Response to HABERECHT-2-44

The author suggests that a soils study be completed to address potential impacts related to creek erosion and liquefaction, as a condition of approval. Refer to Response to HABERECHT-1-1 and Response to HABERECHT-2-11, part 4.

Response to HABERECHT-2-45

The author suggests that mitigation measures proposed by other commenters should be required as conditions of approval, including a surety bond for the remaining protected trees. Refer to all responses in this Final IS/MND pertaining to other individuals commenting on the project. Refer to Response to GIORNI-3 regarding a surety bond for remaining protected trees.

CD/PLG-Hurin, Ruben

From: sammacphail@yahoo.com
Sent: Wednesday, October 28, 2015 10:07 AM
To: CD/PLG-Hurin, Ruben; Samantha MacPhail
Subject: Proposed project for 1509 El Camino Real

RECEIVED

OCT 28 2015

CITY OF BURLINGAME
CDD-PLANNING DIV.

I am writing in response to the latest evaluation of the planned project for 1509 El Camino Real. I am in agreement with the public concern which has been expressed in regard to this project. This building will be built on a piece of ground that has some vulnerabilities that may pose some severe problems in future. There is the problem of Mills Creek, which borders the property. In some other municipalities, creeks are under the management of the civic government, but in Burlingame, this is not the case. At this juncture, the creek is in very poor condition, with problems resulting from lack of coordinated stewardship, problems which have been brought to the city's attention in past comments made re this project. New at this time is the recent collapse of a portion of the creek wall. It will be interesting to see what this winter's weather, predicted to be potentially severe, may bring to this environment. I think greater scrutiny would be a wise move on the part of the city.

Our house has experienced flooding in the past, and also inundations in the basement of effluent due to a broken and never repaired lateral sewer on the north boundary of the house. This line intersects with the main line running between the two properties. Over the many years we have lived here, we have complained to the city without remedy. It was with the remediation that Joe Cotchett arranged that this was finally addressed, only a few years ago. I have lived in this house since 1969, when my youngest daughter started kindergarten across the street. The ambiance of this neighborhood attracted our family to this home. My question, then, is, can the city afford this kind of care for its infrastructure? The environment is under duress all over the world, and I believe that we must do our best to take as good care of it as possible.

My husband and I have expressed our concerns about the impact a large building at this site would pose for our privacy, as we are directly behind this lot. We are gratified to know that the developers have acknowledged some of these concerns, and have made some modifications to mitigate some of the impact of the building. We still want to reiterate our thoughts about the potential for such a large project to disrupt the environment, both in regard to our privacy and to the well-being of the wildlife that currently inhabits this space.

Attention needs to be paid to maximizing the design such that noise and light are kept to the minimum and privacy is maintained for the neighboring family homes which currently occupy this environment, which is shared by the Lincoln School and Ray Park.

Thank you very much for your attention to our concerns. Samantha MacPhail 1516 Balboa Ave Burlingame

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Samatha MacPhail (MACPHAIL)

Response to MACPHAIL-1

The author states concern regarding the condition of Mills Creek adjacent to the project site, particularly the existing erosion issue.

Refer to Response to HABERECHT-1-1.

Response to MACPHAIL-2

The author indicated concern regarding wastewater lines located in the alley at the rear of the project site and along the northwestern side of the author's residence. The author indicated that her residence has previously experienced flooding as a result of issues with the wastewater lines, but noted that remediation has occurred.

As indicated in the Revised IS/MND, Section 2.17, Utilities and Service Systems, the downstream sewer main was replaced in 2006/2007 with an 8-inch pipeline. This 8-inch pipeline is adequately sized to handle the existing uses in the area and the proposed project. The replacement of 11 apartment units with 10 condominium units would not be expected to require additional sewage transmission capacity. As such, no expanded or new or expanded wastewater transmission or facilities would be required.

Response to MACPHAIL-3

The author states concern regarding the project's impacts to privacy at the author's residence. The author also stated concern for wildlife in the project vicinity.

Views as seen from private property, as well as the level of privacy on private property, are not considered environmental resources under CEQA. Please refer to Response to HABERACHT-32. Concerning privacy on private property, refer to Response to HABERECHT-2-32.

Potential impacts to biological resources at the project site, including wildlife, are addressed in the Revised IS/MND in Section 2.4, Biological Resources. As indicated therein, mitigation measures would be implemented as necessary to ensure that the project's potential impacts to special status species are reduced to a less than significant level.

Response to MACPHAIL-4

The author indicated that the project's design should be such that noise and light emanating from the project site are kept to a minimum and privacy is maintained for neighboring family homes.

Refer to Response to GIORNI-2 regarding the project's required consistency with Municipal Code noise and lighting policies. Refer to Responses to MACPHAIL-3 and HABERACHT-32 regarding privacy on private property.

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Don Mitchell & Yan Ma

1512 Balboa Avenue
Burlingame, CA 94010
donaldsmitchell@yahoo.com

RECEIVED

NOV - 9 2015

CITY OF BURLINGAME
CDD-PLANNING DIV.

November 7, 2015

To: Burlingame Planning Commission

Re: Revised Initial Mitigated Negative Declaration 1509 El Camino Real

Dear Commissioners,

We are writing this letter to express concerns with the Revised Initial Mitigated Negative Declaration for the development of 1509 El Camino Real, Burlingame. Please note the following areas of concern.

Page 21, Section 1.4.1 and Page 29 c - The increased height incentive should be denied. It will have a strong negative visual effect on the neighborhood and surrounding homes and the current landscaping would not suffice to block the view. The back (southwest) of the property runs along a set of single-family homes and the increased height is out of character for its immediate surroundings, including the single story commercial building adjacent to the property.

1

Page 28 #1 d), Page 30 d), and Page 57 - We would like to see a requirement to insure that lighting from the building does not affect the neighboring properties. Currently no light from the property spills over into our property. In addition, we would like to see a requirement that any daytime glare from windows or external fixtures is minimized. Page 57, when discussing nighttime lighting says the new lighting would be similar to the existing lighting. The new building will be much taller and thus provide more opportunities for lighting to affect neighboring single family homes.

2

Page 98 Noise - We disagree with the assessment that less noise would be generated because of the reduction in units. Overall this is a much larger building with HVAC on the roof and multiple stories for sound to come from. Section d (page 98) states the nearest residential use is 54 feet from the site. However, the single family homes and backyards directly behind the property are much closer than that and this proposed development will negatively affect the use of the backyards for those properties.

3

For aesthetics, the exhibit 7 landscaping plan does not show sufficient landscaping to protect the privacy and view of the single family homes behind the property. In particular, no trees are shown along the southern edge of the property to screen the properties that view the new building from a south western angle. It's incorrect to assume that screening trees are not needed along the southern edge or southwest corner since a commercial building exists to the south. The commercial building is one story in height, does not operate at night, and the proposed building will be viewable by neighbors to the south and west. Ideally the backflow preventer that is shown in Exhibit 7 would be moved or situated in a spot that would allow for screening trees in that location.

4

Sincerely,

Donald Mitchell & Yan Ma

1512 Balboa Avenue

Burlingame, CA 94010

Don Mitchell and Yan Ma (MITCHELL)

Response to MITCHELL-1

The author states that the increased height incentive should be denied, indicating that the project's building height would result in a negative visual effect on the surrounding vicinity and be out of character compared with surrounding buildings. The author states that proposed landscaping would block views of the project.

As indicated in the Revised IS/MND, it is recognized that the proposed building would be taller and result in a massing and setback different from those of the existing buildings on-site. However, proposed redevelopment would be in keeping with the more urban context along El Camino Real, and is consistent with the building height, bulk, mass, and scale allowed by the R-3 zone district. Furthermore, other three-story buildings with similar height, bulk, and mass are located directly south of the project site, starting at the intersection of El Camino Real and Adeline Drive. As such, under CEQA, the project would not result in significant changes to the visual character of the site or its surroundings.

Concerning proposed on-site landscaping that would provide screening, refer to Response to WEIL-2.

Response to MITCHELL-2

The author requests that the project be required to ensure that project-related lighting does not affect neighboring properties and that daytime glare is minimized. The author states that the proposed building would be taller and thus would provide more opportunities for lighting to affect neighboring single-family homes.

For a discussion regarding lighting and glare, refer to Response to GIORNI-2.

As noted in the Revised IS/MND, the Burlingame Municipal Code prohibits exterior lighting outlets or fixtures to be mounted more than 9 feet above adjacent grade or landing. This effectively minimizes the potential for the increase in building height to result in significant light impacts to neighboring properties.

Response to MITCHELL-3

The author disagrees with the assessment that less noise would be generated due to the reduction of on-site units, citing the overall increase in building size and rooftop-mounted HVAC units. The author also states that while the document indicates that the nearest residential uses are 54 feet from the project site, single-family homes are much closer and the proposed project will negatively affect the use of associated backyards.

The Revised IS/MND indicates that the project would result in a net decrease of one unit on the site, which would not generate a perceptible difference in ambient noise from current conditions. The proposed project's enclosed parking garage may actually result in a reduction in on-site parking area noise levels. This is a result of effectively enclosing noise from on-site parking activities (such as doors slamming, people conversing), which occur in open air under current site conditions. As such, there is potential for noise reduction to occur on-site.

Similar to any land use in the City of Burlingame, the project would be subject to the City's general noise regulations (Municipal Code, Chapter 10.40.35), which expressly prohibit any loud, unnecessary or unusual noise which disturbs the peace and quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.

The greatest source of noise from the proposed project's operation would be rooftop HVAC units. The representative HVAC unit noise level was 55.9 dBA L_{eq} at a distance of approximately 25 feet from the source. The closest off-site receptor would be located approximately 50 feet from the nearest proposed rooftop HVAC units, providing a minimum reduction of 6 dBA due to distance attenuation. The project's proposed HVAC systems would be shielded by a parapet, further reducing noise levels by approximately 6 dBA. Therefore, noise levels from operation of the proposed HVAC systems as measured at the nearest receptor would be below 43.9 dBA L_{eq} , which is below the existing measured ambient noise level of 44.3 dBA L_{eq} at this location.

Response to MITCHELL-4

The author states that the project does not include sufficient landscaping to protect the privacy and views of the single-family homes to the rear of the project site. The author also indicates that screening vegetation should be implemented along the southeastern boundary of the project site, along the adjacent commercial building, as views of the three-story building will be visible above the commercial building. The author suggests relocating the on-site black flow preventer and fire riser so that additional screening vegetation could be planted in that location.

Views as seen from private property, as well as the level of privacy on private property, are not considered environmental resources under CEQA; please refer to Response to HABERECHT-2-32. With regard to proposed on-site landscaping that would provide screening along the rear of the project, refer to Response to WEIL-2.

The project building would be visible from the southeast, above the adjacent commercial building. However, vegetation, in the form of 'skyrocket' juniper trees is proposed along this boundary. Skyrocket juniper trees are fast growing and reach heights of 15 to 20 feet. Note that all but one of the protected trees located along the southeastern boundary of the project site would also be retained.

The feasibility of relocating the on-site black flow preventer and fire riser is being reviewed by the City.

RECEIVED

October 15, 2015
Burlingame Planning Commission
Ladies and Gentlemen:

OCT 19 2015

CITY OF BURLINGAME
CDD-PLANNING DIV.

Re: Revised Initial Mitigated Negative Declaration
1509 El Camino Real, Burlingame

The mitigations described in the subject document are insufficient, for the following reasons:

Mills Creek Retaining Wall

Section 1.4.4 refers to the failing Mills Creek retaining wall on this property. However, there is no specificity to the manner in which, or at what juncture, repairs will be made. Direction from Planning on this issue is important because at least one ten foot section of the retaining wall has no support or footing, and material from above and behind the wall has been flowing into the creek. The situation has been made direr due to the fact that a large void has opened in the ground directly above and behind the failing section of the retaining wall. The surface has been collapsing. I have attached images of the retaining wall and of the surface sink hole adjacent to the bank.

Further sections in the RIMND (pp. 96-97) evaluate the potential for vibration within 25 feet of heavy equipment movement during demolition and construction. This is especially important to note since according to plans, some work will occur within three feet of top of bank.

Mitigation: As a Condition of Approval, that all work to repair or replace the retaining wall and the adjacent top of bank shall be completed before start of any grading, demolition or construction.

I would add that in 2007-2008 the San Mateo Countywide Water Pollution Prevention Program (flowstobay.org) conducted an inspection of bayside creeks in San Mateo County. Structure and environmental issues were evaluated. The grade they assigned to Burlingame creeks averaged between 77 and 92 points out of a possible 160 points. If this were an academic grade, Burlingame creeks would fail. Creeks in other towns fared much better. Is it not time for us to respect and protect these natural resources? Ensuring the integrity of this short section of Mills Creek would be a good place to start.

Sewer

1. Manhole #C4-21033, located in the alley behind 1509 El Camino Real, is notorious for causing sewage back up problems for the neighborhood. It is of serious concern that the potential for 500 gallons of the garage holding tank sludge and rainwater, as well as the added effluence from numerous additional fixtures inside the new building, will wreak further havoc.

Mitigation: As a Condition of Approval, that the City Engineer evaluate the capacity of Manhole #C4-21033 and its outflow, and any requirements for added capacity be added to plans.

2. Sewer laterals serving Balboa and Cortez Avenues and Adeline Drive are located in the easement and alley behind 1509 ECR and are serviced by Manhole #C4-21033. There is concern about damage to these laterals during construction activities, or during any replacement or repair of the 1509 ECR lateral.

Mitigation: As a Condition of Approval that a surety bond of \$20,000. be posted for the duration of construction and six months thereafter to pay for repairs to any construction-caused damage. I would suggest that video of such laterals be conducted prior to and upon completion of all construction activity and be made part of the public record.

Light and Noise

1. Several outdoor socializing/recreation areas are identified on the plans. These have the potential to add further nighttime noise and light to the neighborhood. Many bedrooms are within thirty feet of 1509 ECR.

Mitigation: As a Condition of Approval, and as an after dark noise and light abatement measure, that no extra illumination be provided to the areas of the bocce court, barbeque area or any other area designated for socializing or recreation.

2. The developer has indicated that he intends to retain interest in several units in the property. He has heard neighborhood concerns about the potential for added noise and light.

Mitigation: As a Condition of Approval, that a permanent 24-hour emergency hotline be provided by the developer to neighbors within 30 feet of his property.

I would welcome Commission comment on these issues. Thank you.

Ann Wallach, 1524 Balboa Way, Burlingame

Att: 2





Opening of void at ground
level

Ann Wallach (AWALLACH)

Response to AWALLACH-1

The author referred to the on-site erosion issue adjacent to and within Mills Creek and requests that, as a condition of approval, all work to repair or replace the retaining wall and the adjacent top of bank shall be completed prior to the start of any grading, demolition, or construction. The author also implies that requiring such work to be implemented prior to construction would avoid any potential vibration impacts during construction. The author provided two pictures of the referenced retaining wall and on-site erosion issue.

Refer to Response to HABERECHT-1-1.

Response to AWALLACH-2

The author indicates that manhole #C4-21033, located in the alley behind the project site, has a history of causing sewage back-up problems. The author requests that, as a condition of approval, the City Engineer evaluate the capacity of the sewage line and its outflow, and any requirements for added capacity be added to the project plan.

As indicated in the Revised IS/MND, Section 2.17, Utilities and Service Systems, the downstream sewer main was replaced in 2006/2007 with an 8-inch pipeline. This 8-inch pipeline is adequately sized to handle the existing uses in the area and the proposed project. The replacement of 11 apartment units with 10 condominium units would not be expected to require additional sewage transmission capacity. As such, no expanded or new or expanded wastewater transmission or facilities would be required.

Refer to Response to MACPHAIL-2.

Response to AWALLACH-3

The author indicates that sewer laterals serving Balboa and Cortez Avenues and Adeline Drive are located in the easement and alley behind the project site. The author requests, as a condition of approval, that a surety bond of \$20,000 be posted for the duration of construction and six months thereafter to pay for repairs and any construction-caused damage. The author also requests that video of the laterals be taken prior to and upon completion of construction activity and be made part of the public record.

Construction within the alleyway would be limited to removal of existing utility connections and connection of the proposed project's electrical, sanitary sewer, and water lines. No grading or heavy equipment use would occur within the alleyway, and the proposed building would be set back 15 feet, 5 inches from property line. Furthermore, standard best management practices and procedures would be implemented by the project contractor to protect and avoid existing underground utility lines to the extent feasible. As such, damage to the existing sewer laterals would not be likely. In the unlikely event that damage occurs, the project applicant and/or the project contractor would be responsible for repairs.

Response to AWALLACH-4

The author states that the project's outdoor recreation areas have the potential to add nighttime noise and light to the neighborhood. The author requests, as a condition of approval, that no extra

lighting be provided at the proposed bocce court, barbeque area, or any other on-site recreational area.

Refer to Response to GIORNI-2.

Response to AWALLACH-5

The author requests that a permanent, 24-hour emergency hotline be provided by the developer to neighbors within 30 feet of the project site as a condition of approval. The author implies that said hotline would allow neighbors to report noise and lighting issues.

Comment noted. Any potential lighting nuisances could be reported to the City of Burlingame's Code Compliance Department. Noise nuisances could be reported to the City of Burlingame Police Department.

RECEIVED

OCTOBER 30, 2015

OCT 30 2015

Burlingame Planning Commission

CITY OF BURLINGAME
CDD-PLANNING DIV.

Ladies and Gentlemen:

Re: Proposed Project 1509 El Camino Real
Revised Initial Mitigated Negative Declaration

1. My neighbors and I are concerned about the potential for additional after dark light and noise spilling onto our properties from the proposed new development at 1509 El Camino Real.

Aside from ambient traffic and airport noise, the surrounding neighborhood has come to expect the kind of nighttime peace and quiet enjoyed by other residential areas in the city. However, the plans for 1509 ECR development follow the current practice of providing outdoor areas for residents of multi-unit properties to socialize. I ask that the Commission require, as a *condition of approval*, that any new lighting generated by these plans be limited to the minimum required for the nighttime safety of 1509 ECR residents. In other words, that any new socializing areas receive no illumination beyond what would provide for safe passage through the area. This would include the barbeque area, bocce court, putting green and most especially the rooftop area. This would ensure the continued nighttime dark, peace and quiet that neighbors rightfully expect, as well as ensure that the nocturnal habits of local wildlife would not be altered.

Given the current climate for providing for residents' socializing needs, an indoor socializing area would have been an attractive addition to these plans.

2. I also ask that the location of all existing sewer laterals in the easement behind 1509 ECR be located, and that measures such as temporary fencing, be taken prior to demolition and construction to ensure their integrity.

I would appreciate Commission comments.

Thank you.

Paul Wallach

1

2

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Paul Wallach (PWALLACH)

Response to PWALLACH-1

The author states concern regarding the project’s potential for light and noise impacts on surrounding residential properties, citing the outdoor social/recreational areas proposed on the project site. The author requests that exterior lighting in the proposed barbeque area, bocce court, putting green, and rooftop area be limited to the minimum required for nighttime safety of the project’s residents, as a condition of approval.

No recreational area or lighting is proposed on the rooftop of the proposed residential building. The reference to the rooftop common area has been eliminated in Section 3, Errata of this Final IS/MND. Refer to Response to GIORNI-2 regarding on-site exterior lighting and noise.

Response to PWALLACH-2

The author requests that all existing wastewater laterals in the alley behind the project be located, and that measures such as temporary fencing be implemented prior to demolition and construction to ensure their integrity.

Refer to Response to AWALLACH-2.

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Nina Weil
1520 Balboa Avenue
Burlingame, CA 94010
650-255-2761; nina@ninaweil.com

October 17, 2015

RECEIVED

TO: Burlingame Planning Commission

OCT 21 2015

RE: Revised Initial Mitigated Negative Declaration
1509 El Camino Real, Burlingame

CITY OF BURLINGAME
CDD-PLANNING DIV.

I appreciate the changes the developers have made responding to concerns of neighbors expressed at study meeting January 28, 2013 and meetings attended by developers and neighbors.

1

I am writing this letter to address continued concerns I have regarding the Revised Initial Mitigated Negative Declaration.

Please note the following areas that I request further consideration prior to approval of plans:

Aesthetics- Page 30: "as seen in the visuals, the mature landscaping along Mills Creek and along the rear of the building, effectively shield the mass of the structure from surrounding residential neighborhoods." I differ with this conclusion, and respectfully disagree with the accuracy of the visuals provided.

PGE frequently trims the black Acacia trees in the alley at the rear of the property which eliminates privacy and screening. My neighbors at 1512 Balboa Avenue have very limited screening with current proposed landscape plans.

2

The developer has stated numerous times that he is willing to provide screening with trees across the rear of the property.

Table 1: Summary of Projects, Foot note 2 states: "Screening trees have also been proposed for the rear property line". However Landscape Plan – Exhibit 7 shows only four trees across the entire rear property.

Mitigation: As a Condition of Approval the addition of sufficient fast growing, evergreen trees such as Bay Laurel or Leland Cypress on the landscape plans to provide screening across the entire rear of the property for full screening and to mitigate the disparity in heights.

12. Noise- Page 30: a) Exposure of persons to a generation of noise in excess of standards established in general plan or noise ordinance.

Noise Measurements were taken in 2012. The measurements on the roof of 1226 El Camino Real were taken with the microphone facing west and taken in the early afternoon. The reading on site was also taken in the early afternoon.

3

I suggest a reading taken with microphones placed on the west side of El Camino on the roof of a 3rd floor building in the vicinity of the site location, with microphones placed facing East at either 7:30am or 5:30pm would be a much more accurate reading, as it would capture HVAC units, as well as train noise, traffic noise from the El Camino and highway 101 and potentially be in excess of allowable noise levels.

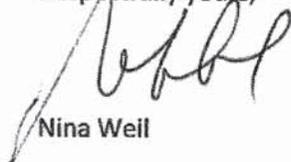
Mitigation: As a Condition of Approval that a Sound Wall be installed along the Back of the Property to mitigate excess noise (which if studied at peak traffic hours would very possibly exceed maximum allowable). And that the Sound Wall be installed prior to demolition and construction.

Lighting: Please note that I concur with comments submitted by Pat Giorni and Ann Wallach regarding lighting, rear window treatment and noise.

I am also somewhat confused that the plans note Moore Vistica Architects, 2015. I do not believe this to be accurate.

Thank you for your consideration,

Respecttfully yours,



Nina Weil

3
CONT

4

Nina Weil (WEIL)

Response to WEIL-1

The author indicates appreciation of changes made to the proposed project in light of neighborhood concerns.

Comment noted.

Response to WEIL-2

The author indicates that PG&E frequently trims the black acacia trees in the alley at rear of the project site which eliminates privacy and screening. The author states that the proposed project's landscape plans offer very limited visual screening despite the project developer offering to provide screening with trees across the rear of the property. The author further states that Exhibit 7 of the Revised IS/MND shows only four trees across the entire rear of the property. The author requests that as a condition of approval, evergreen trees be provided across the entire rear of the property for screening and to mitigate the disparity in heights.

PG&E likely trims the black acacia trees for safety reasons. The City and the project applicant do not have the ability to restrict PG&E's tree trimming within a PG&E easement area. Planting of additional trees that may eventually grow into the overhead utility lines would also be subject to PG&E trimming activities.

More detailed landscaping plans provided for the project indicate that three magnolia "little gems" and two crepe trees would be planted along the project's rear façade along with a mixture of kangaroo paw, juniper, and lemon beauty shrubs. The species of juniper shrubs have the potential to grow up to 20 feet tall. While it is recognized that these trees and shrubs would not provide complete visual screening for the entirety of the rear of the property, they would soften the visual massing of the proposed buildings. Views from the adjacent residences to the rear of the property would change from that of a two-story, older apartment building to a new, three-story condominium building, bifurcated by intermittent trees and shrubs. This change in visual character as seen from private property would not be considered a significant impact under CEQA and therefore does not require mitigation.

Response to WEIL-3

The author implies that the noise measurement taken at 1226 El Camino Real is not appropriately representative of the project. The author suggests that sample noise measurements be taken from the west side of El Camino Real on the roof of a 3rd floor building in the vicinity of the project site, with the microphone placed facing east at either 7:30 a.m. or 5:30 p.m. to provide a more accurate noise measurement reading. The author states that the suggested noise measurement location and time would be more accurate as it would capture HVAC units, as well as train noise, traffic noise from El Camino Real and Highway 101, and potentially result in readings in excess of normally acceptable noise levels for new residential land use development. The author requests that a sound wall be installed along the rear of the property to mitigate excess noise from construction and operation of the project as a condition of approval.

The purpose of the measurement at 1226 El Camino Real was not to assess existing ambient noise but to assist in modeling future noise associated with the proposed, rooftop-mounted HVAC units. As indicated in the Revised IS/MND, Section 2.12, Noise and illustrated in Appendix D, four noise measurements were taken at the project site to characterize existing noise conditions inclusive of regular ambient noises, such as the existing on-site residential noise and noise from El Camino Real.

Existing average noise measurements on-site ranged from a low of 44.3 dBA L_{eq} at the southernmost corner of the project site (nearest the author's residence) to a high of 68.6 dBA L_{eq} at the property's frontage on El Camino Real. As stated in the Revised IS/MND, the proposed project's reduction of on-site units from 11 to 10 would not generate a perceptible difference in ambient noise from current conditions. The proposed project's enclosed parking garage may actually result in a reduction in on-site parking area noise levels, as related noise would occur in an enclosed area instead of the current open-air conditions.

As indicated in Response to MITCHELL-3, noise levels from operation of the proposed HVAC systems as measured at the nearest receptor would be below 43.9 dBA L_{eq} , which is below the existing measured ambient noise level of 44.3 dBA L_{eq} at this location. Furthermore, noise resulting from El Camino Real, Highway 101, and nearby train operations are not a result of the project. The proposed condominium building would act as a noise buffer for the residences behind the project site, shielding them from traffic noise of El Camino Real and other noise sources located to the east. The current on-site buildings already function as such a shield as shown by the noise measurements taken on-site. Operational noise that could occur on-site would be consistent with residential uses, and therefore would not be likely to exceed residential noise standards. As such, mitigation requiring a noise wall along the project site's rear boundary is not necessary or warranted.

Response to Weil-4

The author indicates concurrence with comments submitted by Pat Giorni and Ann Wallach regarding lighting, window treatment, and noise.

Comment noted. Refer to responses to GIORNI and AWALLACH comment letters.

The author suggests that the source of site plans and elevation layouts as Moore Vistica Architects is incorrect.

Revisions to the source of site plans have been made in Section 3, Errata of this Final EIR.

SECTION 3: ERRATA

The following are revisions to the Revised IS/MND for the Residential Condominiums at 1509 El Camino Real Project.

These revisions are minor modifications and clarifications to the document, and do not change the significance of any of the environmental issue conclusions within the Revised IS/MND. The revisions are listed by page or exhibit number. All additions to the text are underlined (underlined) and all deletions from the text are stricken (~~stricken~~).

3.1 - Changes in Response to Specific Comments

Exhibit 5a, Page 13; Exhibit 5b, Page 15; and Exhibit 5c, Page 17

The source identified on each of these exhibits has been changed as follows:

Source: ~~Moore Vistica Architects, 2015~~ Santos & Urrutia Structural Engineers, 2015

Exhibit 6, Page 19

The source identified on this exhibit has been changed as follows:

Source: ~~Moore Vistica Architects, 2015~~ Precision Engineering and Construction, Inc., 2015

Exhibit 7, Page 23

The source identified on this exhibit has been changed as follows:

Source: ~~Moore Vistica Architects, 2015~~ Landscape Reflections, 2015

Section 2.5, Cultural Resources, Question a)

Page 66

Mitigation Measure CUL-1 has been revised to restrict ground-disturbing operations within 50 feet of any discovered archeological resources. It has also been revised to require that Caltrans be contacted if the find is located within the State right-of-way along El Camino Real.

MM CUL-1

In the event that buried archaeological resources are discovered during construction, ground-disturbing operations shall stop within 50 ~~100~~ feet of the find and a qualified archaeologist shall be consulted to determine whether the resource requires further evaluation. In addition, if the find is located within the State right-of-way along El Camino Real, the Caltrans Office of Cultural Resources Studies, District 4, shall be contacted. The Applicant shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. The archaeologist shall make recommendations concerning appropriate measures that will be implemented to protect the resources, including, but not limited to, excavation and evaluation of the finds in accordance with Section

15064.5 of the CEQA Guidelines. Archaeological resources could consist of, but are not limited to, stone, wood, or shell artifacts, structural remains, privies, or historic dumpsites. Any previously undiscovered resources found during construction within the project area should be recorded on appropriate Department of Parks and Recreation (DPR) 523 forms and evaluated for significance in terms of CEQA criteria.

Section 2.12, Noise, Question c)

Page 98

The sentence included an erroneous reference to a rooftop common area. The project does not include a rooftop common area.

Regarding noise generated by the proposed rooftop ~~common area~~ and HVAC equipment, noise measurements were taken at a rooftop ~~common area~~ located at 1226 El Camino Real, which is a similar condominium development.