

1213 HARBOR HILLS DRIVE
FINAL MITIGATED NEGATIVE DECLARATION
RESPONSE TO COMMENTS

JULY 11, 2011

INTRODUCTION:

An Initial Study was prepared for the **1213 Harbor Hills Drive** project because the California Environmental Quality Act (CEQA) requires that an environmental assessment of the proposed project be provided. The environmental analysis determined that the proposed project could potentially have significant adverse impacts related to *biological resources, geophysical conditions and hazards*; however, mitigation measures described in the Initial Study and agreed to by the applicant would reduce potential impacts to less than significant levels. In addition, recommended mitigation measures were identified to further reduce less than significant impacts associated with *aesthetics, air quality and geophysical conditions* issues.

A Draft Mitigated Negative Declaration (MND) was prepared for the proposed project, and a public review period was held from June 3 to June 23, 2011. Comment letters were received from the following agencies and members of the public during the comment period:

1. Santa Barbara County Air Pollution Control District (APCD)
2. Jarrett Gorin, AICP, Vanguard Planning LLC

Responses to the comments received from the public regarding the Draft MND are provided below, and the comment letters received are attached.

The purpose of this document is to respond to specific comments received pertaining to environmental issues in the Draft MND. Comments received not related to the environmental issues outlined in the Draft MND, such as social or fiscal impacts of the project, are outside the scope and not addressed in this document. However, all comments will be forwarded to the Staff Hearing Officer for consideration.

Letter No. 1
Santa Barbara County Air Pollution Control District (APCD)
June 14, 2011

This comment letter addresses four issues in the Air Quality Section of the initial Study.

- 1) Page 10, there is a missing comma.

Correction made.

- 2) Page 11, provided clarification on APCD's role relative to asbestos notifications.

See corrections to page 11 - reference to asbestos has been removed from the subject sentence.

- 3) Page 11, related to global climate change discussion of carbon dioxide and carbon dioxide equivalent.

Comment noted. Please see corrected text on page 11.

- 4) Page 13-14, indirect CO2 emissions were not calculated.

Please see additional text on page 14 to address indirect CO2 emissions.

APCD also recommended conditions for the project, many of which were already included as recommended mitigation measures or are required by State or local law.

Letter No. 2
Jarrett Gorin, AICP
June 22, 2011

This comment letter addressed two issues related to the content of the MND.

- 1) Air Quality

- a. Commentor agrees with comments #1-3 from APCD.

See responses to APCD comments 1-3 identified above.

- b. Commentor disagrees with APCD comment #4 that an analysis of indirect CO2 emissions associated with electricity use is necessary, and suggests specific

language to be added to the Initial Study discussion to address indirect CO2 emissions.

Additional language has been added to the initial study (Section 2, page 14) to address indirect CO2 emissions.

- 2) Geophysical Conditions – Commentor requests that revisions be made to mitigation measure GEO-1 to improve its specificity.

Staff concurs that improving the specificity of the mitigation measure is a good idea and has made the requested changes. These changes are consistent with the discussion already contained in Section 5.d-e on page 21.



Santa Barbara County
Air Pollution Control District

Our Vision  Clean Air

June 14, 2011

Allison DeBusk
City of Santa Barbara
Planning Division
P.O. Box 1990
Santa Barbara, CA 93102-1990

RECEIVED
JUN 16 2011
CITY OF SANTA BARBARA
PLANNING DIVISION

**Re: APCD Comments on Mitigated Negative Declaration for 1213 Harbor Hills Drive,
MST2009-00385**

Dear Ms. DeBusk:

The Air Pollution Control District (APCD) has reviewed the Mitigated Negative Declaration (MND) for the referenced case, which consists of the voluntary merger of six lots to create a 1.089-acre lot and the construction of a new single family residence (SFR) on the new lot. The new SFR would be 4,217 square feet with a 672 square foot attached garage. Site development also includes a new driveway, retaining walls, patios, barbeque and fire pit, landscaping and a spa. Grading associated with this project consists of 594 cubic yards of cut and 171 cubic yards of fill for a total of 765 cubic yards. The subject property, a 1.089-acre parcel zoned E-1 (One Family Residential) and identified in the Assessor Parcel Map Book as APN's 035-480-037, 039, 040, and 041, is located at 1213 Harbor Hills Drive in the City of Santa Barbara.

Air Pollution Control District staff offers the following comments on the MND:

1. **Section 2, Air Quality, Page 10:** The first sentence under the subheading "Air Quality-Discussion" should be revised to include a comma after 'vehicle exhaust' and should now read as "*...emissions from vehicle exhaust, stationary sources (i.e. gas stations, boilers, diesel generators, dry cleaners, oil and gas processing facilities, etc), and minor stationary sources...*".
2. **Section 2, Air Quality, Page 11:** The second full paragraph on this page states the "SBCAPCD has also issued several notifications and requirements regarding asbestos exposure during demolition activities...". SBCAPCD does not issue notifications, we require an applicant to complete and submit an asbestos notification form for each regulated structure to be demolished or renovated presented or mailed to the APCD with a minimum of 10 working days advance notice prior to disturbing asbestos in a renovation or starting work on a demolition. Please revise the text accordingly.
3. **Section 2, Air Quality, Page 11:** The third full paragraph on this page contains the sentence, "*While other greenhouse gases have higher global warming potential, carbon dioxide is emitted in such vastly higher quantities that it accounts for 85 percent of the global warming potential of all greenhouse gases emitted by the United States*". This sentence is incorrect; carbon dioxide accounts for 85 percent of all greenhouse gas emissions in terms of carbon dioxide equivalent (CO₂e), not the global warming potential. Please revise this sentence to correctly convey the role of carbon dioxide.

Terence E. Dressler • Air Pollution Control Officer

260 North San Antonio Road, Suite A • Santa Barbara, CA 93110 • www.sbcapcd.org • 805.961.8800 • 805.961.8801 (fax)

4. **Section 2, Air Quality, Page 13-14:** The CO₂ emissions shown and calculated in the document are only the direct emissions associated with the proposed project (i.e. vehicle and area emissions). APCD's guidance document, entitled *Scope and Content of Air Quality Sections in Environmental Documents* (updated June, 2010) available online at www.sbcapcd.org/apcd/landuse.htm, recommends and provides a methodology for calculating indirect CO₂ emissions associated with electricity use.

Air Pollution Control District staff offers the following suggested conditions:

1. Standard dust mitigations (**Attachment A**) are recommended for all construction and/or grading activities. The name and telephone number of an on-site contact person must be provided to the APCD prior to issuance of land use clearance.
2. APCD Rule 345, *Control of Fugitive Dust from Construction and Demolition Activities*, became effective on July 21, 2010 and establishes new limits on the generation of visible fugitive dust emissions at demolition and construction sites. The rule includes measures for minimizing fugitive dust from on-site activities and from trucks moving on- and off-site. The text of the rule can be viewed on the APCD website at www.sbcapcd.org/rules/download/rule345.pdf.
3. Fine particulate emissions from diesel equipment exhaust are classified as carcinogenic by the State of California. Therefore, during project grading, construction, and hauling, construction contracts must specify that contractors shall adhere to the requirements listed in **Attachment B** to reduce emissions of ozone precursors and fine particulate emissions from diesel exhaust.
4. All portable diesel-fired construction engines rated at 50 brake-horsepower or greater must have either statewide Portable Equipment Registration Program (PERP) certificates or APCD permits prior to operation. Construction engines with PERP certificates are exempt from APCD permit, provided they will be on-site for less than 12 months.
5. At a minimum, prior to occupancy any feasible greenhouse gas reduction measures from the following sector-based list should be applied to the project:
 - Energy use (energy efficiency, low carbon fuels, renewable energy)
 - Transportation (reduce vehicle miles traveled, compact and transit-oriented development, pedestrian- and bicycle-friendly communities)
 - Water conservation (improved practices and equipment, landscaping)
 - Waste reduction (material re-use/recycling, composting, waste diversion, waste minimization)
 - Architectural features (green building practices, cool roofs)
6. Asphalt paving activities shall comply with APCD Rule 329, *Cutback and Emulsified Asphalt Paving Materials*.

If you or the project applicant have any questions regarding these comments, please feel free to contact me at (805) 961-8890 or via email at cvw@sbcapcd.org.

June 14, 2011

Page 3

Sincerely,



Carly Wilburton,
Air Quality Specialist
Technology and Environmental Assessment Division

Attachments: Fugitive Dust Control Measures
Diesel Particulate and NO_x Emission Measures

cc: Jarrett Gorin
TEA Chron File



ATTACHMENT A
FUGITIVE DUST CONTROL MEASURES

These measures are required for all projects involving earthmoving activities regardless of the project size or duration. Proper implementation of these measures is assumed to fully mitigate fugitive dust emissions.

- During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this should include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency should be required whenever the wind speed exceeds 15 mph. Reclaimed water should be used whenever possible. However, reclaimed water should not be used in or around crops for human consumption.
- Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less.
- If importation, exportation and stockpiling of fill material is involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting fill material to and from the site shall be tarped from the point of origin.
- Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads.
- After clearing, grading, earth moving or excavation is completed, treat the disturbed area by watering, or revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
- The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance for map recordation and land use clearance for finish grading of the structure.

Plan Requirements: All requirements shall be shown on grading and building plans and as a note on a separate information sheet to be recorded with map. **Timing:** Requirements shall be shown on plans or maps prior to land use clearance or map recordation. Condition shall be adhered to throughout all grading and construction periods.

MONITORING: Lead Agency shall ensure measures are on project plans and maps to be recorded. Lead Agency staff shall ensure compliance onsite. APCD inspectors will respond to nuisance complaints.



ATTACHMENT B
DIESEL PARTICULATE AND NO_x EMISSION MEASURES

Particulate emissions from diesel exhaust are classified as carcinogenic by the state of California. The following is an updated list of regulatory requirements and control strategies that should be implemented to the maximum extent feasible.

The following measures are required by state law:

- All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit.
- Fleet owners of mobile construction equipment are subject to the California Air Resource Board (CARB) Regulation for In-use Off-road Diesel Vehicles (Title 13 California Code of Regulations, Chapter 9, § 2449), the purpose of which is to reduce diesel particulate matter (PM) and criteria pollutant emissions from in-use (existing) off-road diesel-fueled vehicles. For more information, please refer to the CARB website at www.arb.ca.gov/msprog/ordiesel/ordiesel.htm.
- All commercial diesel vehicles are subject to Title 13, § 2485 of the California Code of Regulations, limiting engine idling time. Idling of heavy-duty diesel construction equipment and trucks during loading and unloading shall be limited to five minutes; electric auxiliary power units should be used whenever possible.

The following measures are recommended:

- Diesel construction equipment meeting the California Air Resources Board (CARB) Tier 1 emission standards for off-road heavy-duty diesel engines shall be used. Equipment meeting CARB Tier 2 or higher emission standards should be used to the maximum extent feasible.
- Diesel powered equipment should be replaced by electric equipment whenever feasible.
- If feasible, diesel construction equipment shall be equipped with selective catalytic reduction systems, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California.
- Catalytic converters shall be installed on gasoline-powered equipment, if feasible.
- All construction equipment shall be maintained in tune per the manufacturer's specifications.
- The engine size of construction equipment shall be the minimum practical size.
- The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time.
- Construction worker trips should be minimized by requiring carpooling and by providing for lunch onsite.

Plan Requirements: Measures shall be shown on grading and building plans. **Timing:** Measures shall be adhered to throughout grading, hauling and construction activities.

MONITORING: Lead Agency staff shall perform periodic site inspections to ensure compliance with approved plans. APCD inspectors shall respond to nuisance complaints.

Vanguard Planning LLC

June 22, 2011

Allison De Busk
City of Santa Barbara
Community Development Department
630 Garden Street
Santa Barbara, CA 93101

Delivered Via E-mail And By Hand

RECEIVED
JUN 23 2011

Page 1 of 4

CITY OF SANTA BARBARA
PLANNING DIVISION

RE: **Draft Mitigated Negative Declaration For 1213 Harbor Hills Drive (MST 2009-00385)**

Dear Allison:

The purpose of this letter is to provide comments on the above referenced environmental document (the "DMND") for my clients' proposed single family residence at 1213 Harbor Hills Drive (the "Project").

Overall, the DMND is an excellent CEQA document. It includes detailed and thorough descriptions of all baseline conditions and an in-depth analysis of potential project impacts that fully supports Staff's determination that the Project would not result in any significant residual environmental impacts (i.e. Class I CEQA Impacts) with incorporation and implementation of the mitigation measures that are identified in the DMND. As you know, we executed a document confirming that we would incorporate these mitigation measures on May 31, 2011. Additionally, we appreciate the detailed information provided in the "Plans and Policy Discussion" section (beginning on page 4).

Our comments on the DMND are limited to two sections: Air Quality (Section 2) and Geophysical Conditions (Section 5). I have itemized our comments below for your review:

Air Quality (Section 2)

"Discussion" Section

I received a copy of a comment letter from the Air Pollution Control District (APCD) dated June 14, 2011. This letter identifies a number of minor revisions suggested for the baseline discussion section that begins on page 10. We agree that all of the APCD's suggested revisions to the baseline discussion section are appropriate, and we ask that this section be revised to incorporate them.

"Existing Conditions and Project Impacts" Section

The APCD appears to suggest that an analysis of the *"indirect CO₂ emissions associated with electricity use"* from the Project is necessary. We disagree. An extensive, quantitative analysis is not needed to conclusively determine that *"indirect CO₂ emissions associated with electricity use"* generated by development and long-term operation of one (1) single family residence represent a less than significant impact under CEQA, and that no mitigation is required in association with this impact. However, we believe that the DMND impact analysis should include the following statement:

Development and long-term operation of the proposed single family residence on the project site would result in the generation of indirect CO₂ impacts as a result of electricity use. However, one (1) single family residence does not consume enough electricity to have the potential to indirectly generate CO₂ in any quantity large enough to have the potential to generate a significant environmental impact. Indirect impacts associated with CO₂ produced in association with electricity consumption are considered less than significant.

Addition of the language above, or similar language, would further enhance the already excellent analysis that is presented in the "Existing Conditions and Project Impacts" section.

“Recommended Mitigation” Section

We have no objection to the mitigation measures discussed in the APCD’s June 14th letter being added as recommended mitigation measures.

Geophysical Conditions (Section 5)

“Recommended Mitigation” Section

Prior to release of the DMND for public review, I indicated that mitigation measure “GEO-1 Grading” could be improved if the measures to address any adverse bedding planes were more clearly articulated. I have discussed this proposed mitigation measure with our geologist, and we are requesting the following revisions to improve the specificity of the proposed mitigation for adverse bedding planes encountered during grading activities:

GEO-1 Grading. Any cut slopes created during grading activities shall be observed by an engineering geologist to determine if adverse bedding planes exist onsite. If adverse bedding planes are observed during grading operations, remedial actions, including, but not limited to increasing the thickness and/or footing depth of retaining walls or decreasing the inclination of cut or temporarily overexcavated slopes (e.g. from a run:rise of 2:1 to 3:1), shall be recommended at that time.

While the mitigation measure is legally adequate as-written, the requested revisions more clearly describe two feasible and widely-accepted engineering solutions to address adverse bedding planes. We believe disclosure of these highly specific and feasible examples of solutions that can be implemented upon recommendation by a geologist during grading activities would improve the effectiveness of this proposed mitigation measure. Furthermore, the proposed revisions do not substantively alter the purpose and intent of this mitigation measure.

In addition to the comments discussed above, it has unfortunately become necessary for us to address another issue that has come to our attention. As you know, I met with Mark Lloyd and Steve Watson on June 14, 2011. These individuals (the “Adjacent Developers”) have an ownership interest, and unspecified future development plans for a property that is directly adjacent to the Project site. The purpose of the June 14th meeting was to discuss concerns that the Adjacent Developers had regarding the design of the proposed private access drive, and the outlet for the proposed storm drainage system. The Adjacent Developers had submitted a request for an environmental hearing for the DMND on June 13th, presumably as a means to compel my client to take whatever action the Adjacent Developers were requesting. During the June 14th meeting, the Adjacent Developers identified solutions to address both of the concerns they had raised. We agreed that these solutions were acceptable, and committed to incorporate the revisions, which are:

- A minor increase in driveway width and elimination of the retaining wall at the termination of the driveway; and,
- Extension of our drainage outfall approximately twenty feet to the South (edge of the existing Gaylord Drive easement)

These revisions are discussed in detail in an E-mail that I sent to Staff during the June 14th meeting. This E-mail was also cc’d to the Adjacent Developers (both Mr. Lloyd and Mr. Watson), as well as to my client. My client subsequently responded to all parties via E-mail, providing written confirmation of our intent to incorporate these changes, on the evening of June 14th. On June 17th, Mr. Lloyd submitted a letter to the City formally withdrawing the request for an environmental hearing on behalf of the Adjacent Developers. Our project team is now in the process of revising the plans to depict the revisions that we agreed to with the Adjacent Developers.

This morning, I was contacted by Mr. Watson, who spoke of various additional concerns he had about the Project. These included Mr. Watson's apparent objection to our revised drainage design: a design proposed by the Adjacent Developers that has now been incorporated into our project. I agreed to meet with Mr. Watson on his property this afternoon in an attempt to understand what the Adjacent Developers' objection was to the their own drainage design. During an hour and a half long meeting, Mr. Watson repeatedly stated various objections to the drainage design that he and his partner had asked us to incorporate a week earlier. To the best of my understanding, all of the objections raised by Mr. Watson appear to relate to a downstream property that the Adjacent Developers do not own. That was confusing. In addition, Mr. Watson asked that my client make binding agreements to perform a number of actions that Mr. Watson was unable to articulate, and indicated that the Adjacent Developers intend to use the CEQA process, and discretionary approval process, to delay the Project as a means to compel my clients to take actions desired by the Adjacent Developers.

In light of Mr. Watson's statements, it appears necessary for us to discuss CEQA Guidelines Section 15003 in order to ensure that this fundamental policy is clearly presented as part of the administrative record for the Project. The introductory paragraph for Section 15003 states the following:

"In addition to the policies declared by the Legislature concerning environmental protection and administration of CEQA in Sections 21000, 21001, 21002, and 21002.1 of the Public Resources Code, the courts of this state have declared the following policies to be implicit in CEQA:"

Subsection "(j)" of Section 15003 states the following:

"CEQA requires that decisions be informed and balanced. It must not be subverted into an instrument for the oppression and delay of social, economic, or recreational development or advancement. (Laurel Heights Improvement Assoc. v. Regents of U.C.(1993) 6 Cal.4th 1112 and Citizens of Goleta Valley v. Board of Supervisors(1990) 52 Cal.3d 553)" (emphasis added)

Unfortunately, based on Mr. Watson's statements, it appears that the Adjacent Developers intend to use the CEQA review process for precisely this purpose unless my clients make various concessions that Mr. Watson has, to this point, failed to quantify. Furthermore, if the Adjacent Developers follow through with Mr. Watson's threats, the instant case will represent a particularly transparent example of the type of subversion and abuse that the State and its courts have consistently reaffirmed must not occur.

The administrative record should reflect that the property owned by the Adjacent Developers comprises physical and environmental conditions that are identical to, and in some instances, more challenging than those present on the Project site. For example, the purportedly developable portions of the Adjacent Developer's property are located on slopes that are identical to, or steeper than, the slopes present within the proposed development footprint of the Project. The Adjacent Developers' property would also direct its runoff to the same existing drainage course to which the Project's drainage flows. Because the Adjacent Developers' property is immediately adjacent to the Project site, it is not surprising that many other environmental conditions, such as slopes, cultural resources, access, drainage etc. are literally identical to those present on the Project site.

The Adjacent Developers have not provided us with conceptual plans for their project. Therefore, we can make no representation or assessment about the development potential of their property. We assume that if the Adjacent Developers can design a project that complies with applicable City policies and regulations, they would obtain City approvals for such a project. However, it is beyond dispute that any "significant environmental impacts" that the Adjacent Developers allege would be generated by my clients' Project would also be generated by any future project proposed for the Adjacent Developers property, which comprises nearly identical environmental conditions. Therefore, any arguments related to the Adjacent Developers' purported "concerns about environmental impacts" should be viewed within this context. This would also be the case for any assertions of "policy inconsistency" by the Adjacent

Developers, as all policies that are applicable to the Project would also apply to any future development proposed by the Adjacent Developers.

When I shared the information presented in the preceding paragraph with Mr. Watson, he indicated that the Adjacent Developers would "enlist 3rd Parties" to implement the Adjacent Developers CEQA subversion strategy. This ignores the fact that it is the content of any arguments against approval of the Project, based upon purported significant CEQA impacts, that is potentially damaging to Adjacent Developers' aspirations to develop their property. Whether these arguments are presented by the Adjacent Developers during the CEQA review process or by "3rd parties" is unimportant. We are fully prepared to address these issues at the upcoming hearing.

If you have any questions regarding our comments on the DMND, or any other information presented in this letter, please give me a call at (805) 966-3966.

We look forward to the upcoming Staff Hearing Officer review for the Project.

Sincerely,

VANGUARD PLANNING LLC



Jarrett Gorin, AICP
Principal