

# Midcoast Community Council

*An elected Advisory Council to the San Mateo County Board of Supervisors  
representing Montara, Moss Beach, El Granada, Princeton, and Miramar*  
P.O. Box 248, Moss Beach, CA 94038-0248 - [www.MidcoastCommunityCouncil.org](http://www.MidcoastCommunityCouncil.org)

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Date: January 11, 2017  
To: Camille Leung, Project Planner  
Cc: Supervisor Don Horsley  
From: Midcoast Community Council/ Lisa Ketcham, Chair  
Subject: **Major Modification to Big Wave Project May 2015 Approval --  
PLN2013-00451**

Documentation for the planning application referral consists of Applicants' letter and attachments containing proposed revised wording of Conditions of Approval #73 and Trans-1, and the 15-year Development Agreement. MCC created a markup version of the proposed changes in order to understand the details (attached).

## **Condition 73. Timing of Construction and Protection of Undeveloped Lands** – MCC is opposed to the proposed modifications of Condition 73.

The Applicants seek to reverse a key condition of project approval that requires start of construction of the first Wellness Center building before any Business Park buildings are issued a building permit. They urgently want a building permit issued April 2017 for a large brewery. They make informal assurance that the first Wellness Center building will be constructed in 2017/2018, but at the same time apply to revise the condition of approval from construction within five years to building permit application within six years (May 2021).

Business Park construction sequence requirements are proposed to be removed in favor of a market-based order, to the detriment of protection of undeveloped lands. The purpose of the approved construction sequence, from north to south, and east to west, is to protect agricultural land and open space views during the 15-year Development Agreement, and in case not all the approved buildings get built. This issue is compounded because the development will be above grade on imported fill laid over the prime agricultural soil. Attempting to preserve the undeveloped land is infeasible if new construction leapfrogs over the site.

Regarding the large brewery proposed out of construction sequence on Lot 4, undesirable odors next to residential uses seems a more likely rationale for the location than truck access which is necessary for all the buildings. What is the capacity of this brewery and how would it affect water/sewer use? The tasting room would add a visitor-serving use in an industrial zone which was not included in the traffic studies.

Most project phasing deadlines are proposed to be pushed out by a varying number of years. A key theme is the lack of any progress on simple near-term conditions of approval that benefit the environment and the community:

- Restoration of wetland habitat that was destroyed by pre-development agriculture should have been well underway by end of year one. The tenant farmer has the equipment and labor to carry out the restoration work, but instead this land continues in active farming. Condition 21 and 75 spell out additional wetland deadlines that have not been met related to boundary marking and coordinating with County Parks on a restoration implementation plan.
- Construction of Class 1 trail on Airport Street is proposed to have deadline moved from two years (May 2017) to five years. Reference to the safety widening or K-rail at the Airport St. drainage is deleted with no explanation. These items are also covered in Conditions 66 and 67.
- Implementation of shuttle service for Wellness Center residents is deleted with no explanation.
- On a related note, Big Wave permit processing fees of \$55,504 remain unpaid since 2015.

### **Mitigation Measure Trans-1 Intersection Level of Service and Capacity**

MCC could support modification of Trans-1 that gives control of design and timing of the intersection improvement to the County and Caltrans and limits Big Wave's involvement to paying their fair share, such as their proposed wording:

"If a signal or one-lane roundabout is the approved mitigation, the full cost shall be paid for by the property owner(s), at no cost to the County. If a two-lane roundabout is the approved mitigation, the property owner(s) shall pay an amount equivalent to the cost of a signal or a one-lane roundabout (whichever is greater up to the full mitigation cost.)" Specific reference to Office Park Building on Lot 4 should not be included.

**15-Year Development Agreement, May 19, 2015 -- MCC is opposed to all the requested amendments to the Development Agreement.**

### **Wellness Center -- questions**

- Regarding proposed change of Construction Type 1 (steel/concrete) to Type 5, is fire protection water storage tank included in the first phase of the Wellness Center? Is there consideration for extra fire protection due to hazardous bulk propane facility located within explosion distance of the Wellness Center?
- What effect will Condition 52 have on the involvement of MidPen Housing in construction of the Wellness Center? (52: The Wellness Center shall give preference to disabled adults residing in the San Mateo County Coastal

Zone at the time of application for residence at the Wellness Center, over those who do not reside in the San Mateo County Coastal Zone in the consideration of residential applications.)

- Regarding the proposed minor subdivision of Lot 7 (Wellness Center) into two parcels, who will own the front parcel and who will own the back one?

Thank you for the opportunity to comment on the early referral.

**Markup version of changes requested by Big Wave LLC, 12/22/16  
to May 2015 Approved Project Conditions, Trans-1 and #73  
and 15-year Development Agreement with County**

Deletions: text strikeout

Additions: text underlined

Site plan on last page shows Bldg/Lot numbers.

**Mitigation Measure Trans -1 Intersection Level of Service and Capacity**

The project's potentially significant impact to AM and PM delays at the intersection of Highway 1 and Cypress Avenue would be mitigated to a less-than-significant level with the installation of a traffic signal or roundabout as described below:

**Signal Warrant Analysis**

With the project, the peak hour signal warrant would be met at the intersection of Highway 1 at Cypress Avenue. With signalization, this intersection would operate at LOS C under both the AM and the PM peak hours. Under signalized conditions, the existing roadway geometry would be adequate to handle the anticipated traffic demand.

**Roundabout**

The roundabout analysis at the intersection of Highway 1 and Cypress Avenue shows that a one-lane roundabout would operate with acceptable delay and LOS during the AM and PM peak hour under all project conditions on weekdays. During the midday peak hour on Saturday, there would be a need for a by-pass lane for the southbound right-turn traffic in order for the intersection to operate at an acceptable level of service C under existing plus project conditions.

Prior to the issuance of a building permit for any Office Park building or establishment of business use(s) at the Wellness Center (excluding Wellness Center-operated businesses), the property owner(s) shall obtain approval(s) for implementation of one of the two mitigation measures described above from the Community Development Director and Caltrans, and obtain any other necessary permits (e.g., encroachment permit). Prior to applying to Caltrans, the property owner(s) shall submit plans to the Planning and Building Department, for the review and approval of the Community Development Director, showing the design and construction details for the required intersection improvements.

These plans shall include details for a pedestrian crossing, and any other design features called for by the Comprehensive Transportation Management Plan currently being developed by the County, if said plan has been adopted by the County prior to the submittal of the plans for the intersection improvements. In the event that the intersection improvement plans are submitted after the County or another entity has installed pedestrian crossing improvements at this location,

the plans shall maintain or replace the pedestrian crossing in a manner that provides equal or better pedestrian safety features.

Construction of one of the approved mitigation measures is required prior to the occupancy of any Office Park Building or business space at the Wellness Center (excluding Wellness Center-operated businesses) unless the property owner(s) submits evidence that ~~Caltrans~~ a Professional Traffic Engineer has determined that the stoplight or roundabout should not be installed until the signal warrants are met. If this is the case, the property owner(s) shall submit a traffic report to the Department of Public Works ~~after the occupancy of the first 30,000 sq. ft. of business space and after the occupancy of every additional 40,000 sq. ft. of business space, until full build-out or until the mitigation measure has been constructed. Any mitigation shall be paid for by the property owner(s), at no cost to the County.~~

and the Community Development Director prior to the occupancy of Office Park Building on Lot 4 and annually thereafter until signal warrants at the intersection have been met. Once signal warrants have been met, no new construction or new occupancy of Office Park space shall occur until the signal or roundabout mitigation measure has been constructed. The report shall be signed and stamped by a professional Transportation Engineer licensed in the State of California. If a signal or one-lane roundabout is the approved mitigation, the full cost shall be paid for by the property owner(s), at no cost to the County. If a two-lane roundabout is the approved mitigation, the property owner(s) shall pay an amount equivalent to the cost of a signal or a one-lane roundabout (whichever is greater up to the full mitigation cost.)

In the instance that a signal or roundabout is denied by Caltrans, occupancy of the Office Park and Wellness Center shall be limited to operations that generate no more than 104 vehicles in the AM and 50 vehicles in the PM, for the life of the project or until comparable mitigation is approved and installed.<sup>1</sup> The property owners shall monitor project traffic in a manner that ensures compliance with this requirement, with data provided to the County upon the County's request.

\*From the August 2014 traffic report prepared by Hexagon Transportation Consultants, Inc., the traffic volume on Cypress Avenue is 84 vehicles during the AM peak hour and 69 vehicles during the PM peak hour. Based on Signal Warrant Part B, the volume on Cypress Avenue needs to reach 188 vehicles during the AM peak hour or 119 vehicles during the PM peak hour in order to meet the Signal Warrant Part B.

**Condition 73. Timing of Construction and Protection of Undeveloped Lands.**

The project will be constructed in accordance with the following timeline and other Planning conditions:

**Within ~~one~~ three years** of the final approval of the Coastal Development Permit for the project, the property owners shall:

- a. Initiate implementation of the approved wetland restoration plan by establishing the nursery and seed stock of the plants that will be used for restoration; obtaining a grading and conducting the rough grading required to carry out the restoration plan and conducting said grading; planting areas disturbed by rough grading with the plant species called for by the restoration plan; and installing a barrier outside of the buffer zone following the completion of rough grading to prevent disturbance of the restoration area.
- b. Fence the cultural site area located on the Wellness Center Property, in accordance with a plan and design for such a fence that shall be submitted for the review and approval of the Community Development Director and shall minimize the visual impact of the fence by limiting its height and extent to the minimum necessary to avoid impacts to the cultural site, and by using materials that minimize view blockage and provide a natural appearance.

~~**Within two years** of the final approval of the Coastal Development Permit for the project, the property owners shall:~~

- ~~c. Construct the Class 1 trail adjacent to Airport Street in accordance with a construction plan submitted for the review and approval of the County's Parks, Public Works, and Planning and Building Departments, as well as all other off-street improvements required by the Department of Public Works for recordation of the final map of the subdivision.~~

**Within ~~three~~ five years** of the final approval of the Coastal Development Permit for the project, the property owners shall:

- a. Complete the planting and irrigation required to implement the approved wetland restoration plan and initiate the 10-year monitoring program contained in the approved restoration plan.
- ~~b. Install the K-rail on the west side section of Airport Street that crosses the drainage separating the north and south parcels, unless the existing bridge is widened to accommodate a Class 1 trail across this drainage.~~

**Within ~~five~~ six years** of the final approval of the Coastal Development Permit for the project, the property owners shall:

a. ~~Construct Building 3 of the Wellness Center (25 bedrooms)~~ Apply for a construction permit for the first phase of the Wellness Center, the access and infrastructure improvements required to provide ingress and egress to the Wellness Center, the Wellness Center courtyards, and the 42 parking spaces that will serve the Wellness Center, which shall be located immediately adjacent to Building 3 and signed and reserved for Wellness Center residents, staff, and visitors.

b. Install at least 8 coastal access parking spaces on the south parcel, which shall be signed and reserved for use by the general public for the purpose of coastal access.

c. Install the portion of the approved landscaping plans that is adjacent to Airport Street over both parcels, and that is located within the footprint of the improvements described above.

d. Install the additional flexible sound barrier(s) if required by the County per Condition No. 4 a.b (Mitigation Measure NOISE-1).

e. ~~[moved under 12 years, below]~~

f. ~~Developer shall implement shuttle services to assist with the transportation needs of Wellness Center residents.~~

With the exception of the Office Park Building on ~~Lot 2~~ Lot 4 and associated parking, construction of the Office Park Buildings and associated parking areas shall not commence until the above project features have been installed to the satisfaction of the Community Development Director and the Director of Public Works. Once this occurs, Office Buildings may be constructed ~~in the following sequence: Office Park Building on Lot 2 (if not already built), Office Park Building on Lot 3, with the construction of any Office Park Building on Lot 6, Lot 4, and Lot 5 (in that order) to be permitted after the construction of all Wellness Center buildings.~~ as market conditions dictate. Any undeveloped land on Lot 1 shall be farmed until such time as site preparation for permitted construction commences. The plans for the construction of Office Buildings shall include the installation of the minimum amount of parking required to serve the building proposed for construction and its associated use, which shall be located immediately adjacent to the building(s) to be constructed, as well as the Coastal Access parking to be installed on the south parcel, the number of spaces of which shall be equivalent to 20% of the number of Office Park parking spaces proposed for construction. Notwithstanding the foregoing, Developer may construct multiple buildings, and associated Business Park and Coastal Access parking, simultaneously. No fill shall occur on the property outside of immediate areas proposed under a building permit for construction (i.e., building, access, and parking), to allow for agricultural use over areas that will be developed in a later phase.

**Within 12 years** of the final approval of the Coastal Development Permit for the project, the property owners shall:

~~Construct Wellness Center Buildings 1 and 2 (excluding the basketball court) shall be constructed within 12 years of the final approval of the Coastal Development Permit for the project, and prior to the construction of Office Park Buildings on Lots 4, 5, and 6. If constructed at different times, Wellness Center Building 2 shall be constructed prior to Wellness Center Building 1.~~

[This paragraph was previously under e: within five years]

Construct business uses on Lot 7 or the approved Office Park Building on ~~Lot 2~~ Lot 4 of the north parcel, to the extent necessary to support Wellness Center operations. Building permit shall include construction of County-required parking spaces; County-required coastal access public parking spaces (a minimum of 20% of private parking spaces) to be provided on the south parcel; associated parking lot landscaping; accessways/driveways; adjoining courtyards; water, wastewater, and drainage and stormwater treatment systems; and comply with all the conditions of approval and requirements of the Development Agreement. As described above, only as much parking as is required by the County for development approved under building permit(s) shall be constructed at one time. If required by the County, the additional flexible sound barrier(s), per Condition No. 4 a.b. (Mitigation Measure NOISE- 1) will be installed during Wellness Center Construction. ~~In no event will any construction for business uses take place prior to construction of the Wellness Center, Building 3.~~

Construction of all remaining aspects of the project shall be completed within **15 years** of the final approval of the Coastal Development Permit for the project. If fewer than the approved number of buildings have been built on the North Parcel at the end of the 15 year development term, rights to develop undeveloped land within the approved development footprint (parking and building footprints) on the North Parcel under the approved permits shall expire.

**Development Agreement, May 19, 2015**  
**Excerpts proposed for change:**

**5.3 Timing of Construction and Protection of Undeveloped Lands.** ~~The project will be constructed in accordance with the following timeline and other Planning conditions: [duplicate listing of all original items in Condition 73]~~

The project will be constructed in accordance with Project Condition of Approval No. 73, as approved by the Board of Supervisors on May 19, 2015 and any other subsequent modifications, as authorized by the Community Development Director or Planning Commission.

**5.3.8 Obligations during the term of the Development Agreement:** Within the term of this Agreement, Developer will complete the following components of the Project:

5.3.8.1. *Requirement for Recordation of Final Map:* Prior to the recordation of the subdivision map for the north parcel, Developer shall convey to the County sureties for all onsite and offsite improvements, including, but not limited to, the sureties for the installation of traffic control-related improvements. The Developer understands and agrees that neither the County nor the Department of Transportation (CalTrans) shall have any responsibility to fund any traffic improvements required pursuant to the Conditions of Approval for this project.

5.3.8.2. *Order of Construction of Project Buildings:* ~~Construction of the Office Park Buildings and associated parking areas shall not commence until private and public parking, Class 1 trail, k rail, landscaping and sound barrier (if required) features described in Section 5.3 of this Agreement have been installed to the satisfaction of the Community Development Director and the Director of Public Works. Once this occurs, Office Buildings shall be constructed in the following sequence: Office Park Building on Lot 2, Office Park Building on Lot 3, Office Park Building on Lot 6, Office Park Building on Lot 4, and Office Park Building on Lot 5. The plans for the construction of Office Buildings shall include the installation of the minimum amount of parking required to serve the building proposed for construction and its associated use, which shall be located immediately adjacent to the building(s) to be constructed, as well as the Coastal Access parking to be installed on the south parcel, the number of spaces of which shall be equivalent to 20% of the number of Office Park parking spaces proposed for construction. Notwithstanding the foregoing, Developer may construct multiple buildings, and associated Business Park and Coastal Access parking, simultaneously.~~

5.3.8.3. *Construction of Business Uses on the North Parcel:*

~~5.3.8.3.1. The County will not issue any building permits for any stand-alone business buildings until a building permit for a Wellness Center building has been issued and construction has commenced.~~

5.3.8.3.2. Each building permit application shall include provisions for County-required private parking, County-required coastal access public parking spaces to be provided on the south parcel (a minimum of 20% of private parking spaces), County-required accessways/driveways, complete associated parking lot landscaping, construct all adjoining courtyards and associated landscaping, and water, wastewater, drainage and stormwater treatment systems and shall comply with all the conditions of approval for the Project plans and the requirements of this Development Agreement. Once construction is initiated, each building is estimated to be constructed in approximately twelve months and Developer shall be required to make reasonable progress towards completion of construction once it has been initiated, it being understood and agreed that the Developer will complete construction of all Office Park buildings within the term of this Agreement and in compliance with the mitigation measure detailed in the Conditions of Approval dated May 27, 2015. The Director of Community Development shall determine, in his reasonable judgment, whether reasonable progress has been made towards completion of such construction.

5.3.8.4. *Allocation of Parking for Business Uses:* Per Condition of Approval No. 7, Big Wave LLC shall cause the formation and require the continued existence of an association of all property owners on the north parcel for the management of parking spaces on Lot 1. Upon relinquishing ownership of Lot 1, Big Wave LLC shall form an association of all property owners on the north parcel, and shall transfer ownership of Lot 1 to that entity. No more than 420 parking spaces licenses shall be issued to owners of business uses on the north parcel. No more than 462 total parking spaces shall be provided at the north parcel. Parking licenses for business uses shall be issued based on County parking regulations and according to the schedule provided in Table 4 of the staff report dated January 7, 2015. All tenants or business owners of business space at the north parcel shall obtain a building permit for a “change in use” prior to any construction/tenant improvement and occupancy. The County will verify that applicants for building permits have adequate parking space licenses for the proposed use prior to issuing any building permits and uses that are not supported by adequate parking will not be permitted.

5.3.8.5. *Beach User Parking (Phased with Building Permits):* A total of 92 spaces of coastal access public parking will be provided on the south parcel. If less than the full amount of business use parking is built than otherwise authorized (420 parking spaces), Developer may proportionally reduce the amount of coastal access public parking that they build, such that public parking

spaces built consist of no less than a minimum of 20% of all private parking provided for the project. Required coastal access public parking spaces shall be reserved and clearly marked for such uses, subject to review and approval by the Community Development Director, prior to the occupancy or change in occupancy of any Wellness Center building. Marking and spaces shall be maintained by the Developer for the life of the project. Parking fees shall not be collected for coastal access public parking spaces.

5.3.8.6. *Affordable Housing at the Wellness Center:* The property owner(s) shall maintain the rental rates for all bedrooms of the Wellness Center as affordable, such that the bedrooms are affordable to those of Extremely Low Income, Very Low Income, and Low Income, with the exception that residents may use up to 100% of their Social Security income for housing costs, which allows for residents who have no other income other than Social Security payments to use up to the full amount of their payment toward rental costs at the Wellness Center.

5.3.8.7. *Wellness Center Parking:* The Wellness Center shall be issued 42 irrevocable parking licenses.

5.3.8.8 *Other Benefits to County:* a) The applicant shall work with San Mateo County and others to address safety concerns regarding the neighboring propane tank property; b) The applicant shall work with the County to improve the function of the Prospect Way/Capistrano Road intersection; c) The applicant shall work with the County to direct bike and foot traffic to Marine Blvd. and improve vehicular access along Cypress Avenue as required by project conditions.

Notwithstanding the foregoing, Developer may perform multiple phases simultaneously.