



COMMITTEE FOR  
GREEN FOOTHILLS

December 3, 2004

Santa Clara County Board of Supervisors  
County Government Center  
70 W. Hedding  
San Jose, CA 95110

Rob Eastwood  
County of Santa Clara Planning Office  
County Government Center  
70 W. Hedding  
San Jose, CA 95110

**Re: Requirement to revise and recirculate the Mitigated Negative Declaration, File No. 8647-50-70-03B-03G (Bansal Residence)**

Dear Supervisors and Mr. Eastwood;

The Committee for Green Foothills submitted the attached comments on September 7, 2004 regarding the Mitigated Negative Declaration ("MND"), File No. 8647-50-70-03B-03G ("Bansal Project"). The comments showed the County cannot legally approve the Bansal Project, in large part because the MND inadequately analyzed the environmental impacts from the project's size and visibility. The County approved the project, but the decision is currently under appeal. CGF has since learned that the MND grossly underestimate the actual size and visibility of the project. Because the size and visibility of the project were found to be significant impacts absent mitigation, the MND must now be revised and recirculated to consider the project as it is actually designed. We request that County staff or the County Supervisors initiate the revision and recirculation of the Initial Study for this project to determine whether an Environmental Impact Report is needed.

The MND that CGF had to rely upon in submitting its comments described the project as consisting of a 17,000 square foot residence that was 160 feet long. Despite environmental objections to the residence, County staff approved the project application, while attaching conditions to that approval. The project applicant then appealed the conditions, and a hearing originally scheduled for November 23, 2004, has been rescheduled to December 13, 2004.

The County Staff Report for the previously-scheduled November 23 hearing shows that the MND significantly underestimated the size of the project, and now describes it as 25,000 square feet in area and 185 feet in length. No explanation is given for this discrepancy, and the staff report given to the Supervisors for the appeal does not point out that the MND based its evaluation on gross underestimates of the project's size. Had the project not been appealed, this information would likely have remained undisclosed.

While the County could legally choose to deny this project outright at the December 13 appeal hearing, it has no basis to allow the project to go forward, regardless of whether the applicant chooses to pursue or drop the appeal. It is well established in CEQA that a Negative Declaration may not be approved on the basis of materially deficient information. See *Christward Ministry v Superior Court*, 184 Cal App. 3d. 180, 197 (1986). On the decisive issue of

visual impacts, the MND underestimated the mansion's size by 8,000 feet, or nearly half of the 17,000 feet stated in the MND. The error is compounded by the underestimate of the building's length by 25 feet, from 160 feet to 185 feet. The underestimated size – 8,000 square feet, 25 feet in length, and unmentioned changes in other dimensions to accommodate 8,000 square feet – is sufficient by itself to be considered a “monster home.”

The County should simply reject this project entirely on appeal. If the County chooses to do anything else, it should direct that the MND be revised on the basis of accurate information. It should also direct staff to research whether the project would constitute the largest “single family residence” constructed on county jurisdiction in the last year, or even longer. Approving this project would set an extremely inappropriate precedent, setting the stage for more and even larger homes.

As our September 7 letter states, the County does not have an express size limit on single family residence, but that does not mean that buildings of infinite size can be considered single family residences. This building, at ten times the size of what many families live in comfortably, does not fit a common-sense understanding of what County Supervisors intended to be a single-family residence. For that reason, the project should be rejected. As our September 7<sup>th</sup> letter also states, the County needs to eliminate ambiguity about the upper limit for a single family residence size by creating an express limitation.

We urge the County to reject this project or to revise the MND, and to make the other reforms requested in the September 7 letter. Please contact us if you have any questions.

Sincerely,

*<signed>*

Brian A. Schmidt  
Legislative Advocate, Santa Clara County