

## Amy Ow

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**From:** Dan Cucchi <DCucchi@aklandlaw.com>  
**Sent:** Thursday, June 17, 2021 4:43 PM  
**To:** Camille Leung; Amy Ow  
**Cc:** Steve Monowitz; Dave Pine; Carole Groom; Don Horsley; Warren Slocum; David Canepa; Robin Orlansky  
**Subject:** Comment on Highlands Project CEQA Addendum  
**Attachments:** 2021-06-17 Ltr to SMC re Highlands Grading Permit Amends CEQA Addendum w Attach.pdf  
**Importance:** High

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Ms. Leung,

Out of an abundance of caution since I have not received confirmation that my prior comment letter was included, I am pasting the text of this comment below in addition to the attachment.

Thank you for your understanding.

**Daniel S. Cucchi**  
Senior Associate



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June 17, 2021

### **Via Electronic Mail**

Ms. Camille Leung  
Project Planner  
San Mateo County Planning and Building Dept.

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**Re: Objections to Proposed Planning Director’s Approval of an Amendment to the Grading Permit and Comments on the Proposed CEQA Addendum for the Chamberlain Highlands Project\_**

Dear Ms. Leung:

This office represents concerned neighbors in the Highlands area, who are concerned about the Planning and Building Department proposal to authorize changes to the grading plan for the Chamberlain Highlands Project (“Project”) as “Minor Modifications” despite the express requirements in the San Mateo County Grading Ordinance (the “SMC-GO”) requiring a public hearing prior to approval by either the Zoning Hearing Officer or the County Board of Supervisors (“Board”).

This follow up letter is to provide comments on the adequacy of the CEQA Addendum proposed in support of these decisions, including the attached “Review of Highland Estates Environmental Documentation.” (**Attachment 1.**) For the reasons stated below, we respectfully request that the proposed CEQA Addendum be withdrawn, that the described inadequacies be addressed, and a proper CEQA document, most likely a Supplemental EIR, be prepared due to the new and substantially more severe impacts resulting from the proposed Project changes.

**I. The CEQA Addendum Fails to Address the Project’s Potential To Create Energy And Vibration Impacts, Nor Does It Explain The Potential Public Health Impacts From Increased Diesel Particulate Matter Emissions Resulting From a Dramatic Increase in Truck Trips, Both in Number and Duration.**

Despite the inclusion of such topics in the CEQA Guidelines, Appendix G, the proposed CEQA Addendum appears to have simply left out discussions of these topics areas from the document. Specifically, Section VI of the CEQA Checklist requires agencies to consider certain energy-related concerns, while Section XIII of the CEQA Checklist requires agencies to consider certain vibration-related concerns, including those caused by heavy trucks hauling loads of soil, when determining a project’s compliance with CEQA. Here, neither energy or vibration analyses were completed and the document is, thus, inadequate and should be revised and recirculated for additional review.

In addition, the recent California Supreme Court opinion in *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, held that an adequate air quality analysis requires a thorough and meaningful explanation of the potential public health effects associated with criteria air pollutant emissions. The CEQA Addendum provides no such discussion or explanation and should be amended and recirculated to address this deficiency.

**II. The CEQA Addendum Must Impose New Feasible Air Quality-Related Mitigation Measures To Replace the Mitigation Measures From the Original EIR That Were Removed.**

Public Resources Code section 15162, subsection (a)(3)(D), describes the circumstances upon which a project is no longer entitled to deference to its finality and a Subsequent EIR is then required. Specifically, it states that a Subsequent EIR is required when:

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

**(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.**

Here, the Project applicant's request to substantially increase the amount of proposed grading on Lots 5-8, as well as the feasibility of using Tier 4 construction equipment to complete that work in 2021, represent new information, none of which were known or could have been known in 2010. Thus, if the Project applicant declines to impose this Tier 4 mitigation or a similarly effective mitigation measure then the preparation of a Subsequent EIR would be required because: (1) construction-related air pollutant emissions were identified as a significant impact of the Project, and (2) a mitigation measure requiring the use of a Tier 4 construction equipment fleet would substantially reduce air pollutant emissions as compared to the older mitigation measure requiring only Tier 1 and Tier 2 equipment.

### **III. The CEQA Addendum Fails To Analyze Greenhouse Gas Emissions Using Current Standards Now Used To Address Potential Environmental Impacts Under CEQA or Support Its Conclusions With Substantial Evidence.**

Unlike the CEQA Addendum's air quality analysis section which used current thresholds when evaluating Project changes, the greenhouse gas emissions ("GHGs") impact section failed to use the modern standards used to make such determinations. (See **Attachment 1**, p. 3.) The CEQA Addendum should be revised to apply a threshold based on the current Senate Bill 32 GHG reduction mandates in order to determine whether there are any potential new or more severe impacts caused by the Project.

The CEQA Addendum also relies on conclusory statements of consistency without providing the necessary substantial evidence required. Specifically, The CEQA Addendum fails to demonstrate how the Project is consistent with the 2013 Energy Efficiency Climate Action Plan or describe which relevant reduction measures are included as Project features or imposed as mitigation. The CEQA Addendum similarly makes conclusory statements regarding consistency with "applicable plans, policies, and regulations" but does not actually explain which reduction strategies apply, or how the County will ensure they are met. Finally, there is no discussion regarding how the Project complies with the County's Green Building Program, which includes construction-related GHG emissions reduction standards which would be applicable to the construction-related activities analyzed by the CEQA Addendum.

### **IV. The CEQA Addendum Fails To Consider Increased Time of Exposure To Construction Noise and Cites Inapplicable Data to Make Its *No New Noise Impact* Conclusions.**

The CEQA Addendum is inadequate in regards to analyzing potential noise impacts of the Project because it makes two noise impact analytical errors that must be addressed.

First, though the discussion admits the Project will increase daily truck trips by nearly three-fold and will increase the duration of this impact by 2-to-3 times from what was anticipated from the original Project, the analysis simply relies on the “doubling of average daily traffic volumes” to conclude there is no new impact. But the daily traffic volumes metric concerns only impacts on a single day and does not consider any noise impacts that could result from the significant expansion in the *duration* of the increased construction-related traffic resulting from the Project.

Second, the CEQA Addendum improperly attempts to compare a three-fold increase in daily construction-related truck traffic to the projected operational traffic, which is irrelevant because because Lots 5-8 have not even been built. The construction-related noise impacts from these haul trucks would only occur prior to the operational stage of the Project. A more apt comparison would be to compare the originally proposed construction-related truck traffic to the newly proposed construction-related truck traffic which would represent more than “a doubling of average daily traffic volume” along impacted roads. In addition, the analysis does not appear to consider the fact that these are heavy dump trucks, many loaded with soil from the Project’s cuts and fills, which are significantly louder than typical passenger vehicles passing on area roadways.

These flaws in the noise section of the CEQA Addendum need to be addressed, and a new CEQA document, likely a Supplemental EIR given the “doubling” of construction-related truck traffic, must be prepared and released for public review and comment.

**V. Conclusion.**

The CEQA Addendum is inadequate as a CEQA document and must be revised to address the issues discussed above regarding air quality, energy, noise and vibration, and greenhouse gases. In addition, it appears that truck traffic-related noise would be considered a new potentially significant impact requiring a supplemental EIR, but can only be fully determined once existing daily traffic data for the length of the haul routes abutting sensitive receptors is gathered and disclosed for public review. We respectfully request that the County withdraw this CEQA Addendum, address these inadequacies, and recirculate a new CEQA document for public review.

If you have any questions, you may reach me at (916) 456-9595.

Very truly yours,



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Enclosure  
DSC