



June 17, 2021

Via Electronic Mail

Ms. Camille Leung
Project Planner
San Mateo County Planning and Building Dept.
County of San Mateo
455 County Center, Second Floor
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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 For the reasons stated below, we respectfully request that the proposed CEQA Addendum be withdrawn, that the described inadequacies be addressed, and a proper CEQA document, most likely a Supplemental EIR, be prepared due to the new and substantially more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.

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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,



Daniel S. Cucchi
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Enclosure
DSC

Review of Highland Estates Environmental Documentation

To: Dan Cucchi
From: Matthew Gerken, Wendy Copeland, and Suzanne McFerran
Date: June 16, 2021
Subject: Review of Highland Estates Environmental Documentation

OVERALL

We have reviewed in detail the Highland Estates EIR Addendum, plus the latest geotechnical report attached to the Addendum, and the underlying Recirculated DEIR and the Final EIR. While the Addendum and its supporting documents are generally well prepared, the following describes certain areas where we may have approached the analysis differently.

ENERGY IMPACTS

Energy is embodied in other analyses (air quality and greenhouse gas emissions, namely), but the EIR Addendum does not appear to have a separate energy impact analysis. While the EIR addendum provides some updates pursuant to changes in the Appendix G checklist, energy has also become a part of this checklist now, but the EIR Addendum does not appear to have a discussion on this topic.

TIER 4 EQUIPMENT FOR CONSTRUCTION EQUIPMENT

Tier 4 construction equipment was phased in between 2008 and 2015 with stricter standards for NOx (ozone precursor), non-methane hydrocarbons, fine particulate emissions (PM), and carbon monoxide. Tier 1 and 2 were included as mitigation, but as the EIR Addendum notes, this is no longer needed, and these mitigation measures have been deleted. From page 4-9 of the EIR Addendum: "Because the construction years proposed for the project, as modified for completion, have been updated to 2021 and 2022 when most equipment expected to be available would meet EPA's Tier 3 and Tier 4 standards, implementing Tier 1 and Tier 2 mitigation for off-road equipment, as specified in the mitigation measure, results in higher mitigated emissions than unmitigated emissions."

The updated CARB off-road emissions inventory reflects the more recent average fleet mix for off-road equipment, which is primarily Tier 3 and 4. Therefore, requiring Tier 4 (or simply cleaner than the standard fleet mix - for flexibility in the future to also use cleaner fuel, electric, etc.) for the entirety of the construction equipment fleet could be an effective mitigation measure to reduce emissions from construction equipment. As noted on page 4-1 of the EIR Addendum, construction-related air pollutant emissions were identified as a significant impact of the project. Considering occupied surrounding residential units, it may be worth considering whether the use of cleaner construction equipment could represent feasible mitigation. For projects with significant construction-related air quality impacts, we

sometimes impose mitigation requiring use of Tier 4 or the latest available construction equipment, sometimes focused on higher horsepower rated equipment.

CONSTRUCTION PHASING CHANGES

It may be worth considering whether the extended construction schedule, and resulting construction noise impacts occurring over a longer period could represent an increase in severity in an impact compared to what was previously characterized. From page 3-3 of the EIR Addendum: “The need for a greater amount of cut and fill on Lots 5 through 8 has extended the time during which construction activities will occur on Lots 5 through 8. As a result, the construction schedule assumption in the EIR for the duration of construction activities, i.e., an approximately 3- to-5-week period, has increased to accommodate the amount of site grading and other construction to an approximately 10-week period.” And on page 4-12: “Thus, the additional construction truck trips necessary to haul cut soils would increase the duration of exposure to construction-related truck noise by up to 7 weeks.”

As noted in the EIR addendum, “Although noticeable, the increased construction truck traffic related to the off haul of cut soils from Lots 5 through 8 (approximately 26 one-way trips per day on average) would not constitute a doubling of average daily traffic volumes along any of the subject roadways, which is typically considered a threshold to determine if noise increases are perceptible to humans. Thus, the increased duration for off hauling and the resultant noise would not constitute a substantial increase in the severity of Impact NOI-1...” The cited rule of thumb is appropriate related to the increase in noise levels, but in this type of situation, we would typically also evaluate whether increasing the time of exposure to construction noise is an increase in severity in the construction noise impact.

On page 4-11, the EIR Addendum compares the number of truck trips under the revised earthwork program to the number assumed for the approved project. However, on page 4-12, the EIR Addendum compares the construction truck traffic to operational trips associated with 11 occupied single-family homes. The EIR Addendum does not appear to present the existing daily traffic in this section – only the anticipated operational daily traffic volumes of 108 trips per day, which would not exist when the additional construction trips would occur. In evaluating construction-related transportation noise, we compare a project’s construction-related trips to the trips occurring on affected roadways at the time of construction (and not to the forecast operational traffic).

VIBRATION-RELATED IMPACTS

It may be worthwhile to consider whether there could be vibration-related effects associated with movements of heavily loaded trucks. Page 4-11 notes that the original EIR construction noise analysis was qualitative, and that vibration levels associated with construction were also not quantified. Page 4.4-45 of the recirculated draft EIR notes that there would be no vibration impact. It does not appear as though the vibration impact associated with hauling was presented in the EIR Addendum. For projects that involve loading of heavy trucks operating close to existing vibration-sensitive structures or uses, we typically include an evaluation of vibration-related effects, normally with some quantitative element, and usually comparing the results to thresholds developed by agencies with relevant specialized expertise such as the Federal Transit Administration or the California Department of Transportation.

GREENHOUSE GAS EMISSIONS

The EIR Addendum discusses greenhouse gas emissions, finding that this would be a significant impact associated with the project, focused on an AB 32-derived threshold. The EIR Addendum does not provide an updated discussion related to the updated State legislative framework for this topic. And while the EIR Addendum updates the analysis relative to new criteria air pollutant emissions thresholds, it does not update the GHG emissions discussion relative to a new threshold that would be consistent with the State's more stringent reduction mandate in SB 32. In evaluating greenhouse gas emissions impacts, we typically evaluate whether a project's emissions is consistent with the most up-to-date State legislative framework for greenhouse gas emissions reduction.

The EIR Addendum notes that the project would comply with the 2013 Energy Efficiency Climate Action Plan, but does not explain how the project relates to the County's reduction target or which GHG reduction strategies would apply to the project. Some agencies use a climate action plan checklist to report consistency. In cases where we are relying on a climate action plan to support our greenhouse gas emissions impact conclusions, we include a consistency analysis and disclose how reduction measures are included as project features or will be imposed through mitigation, permit conditions, or some other enforceable mechanism.

The final sentences (page 4-5 of the EIR Addendum) explain that, while construction-related GHG emissions would increase, the project as presently proposed would continue to comply with applicable plans, policies, and regulations for GHG reduction. Our understanding is that the County has a requirement that residential projects greater than 3,000 square feet comply with the County's Green Building Program, which includes both construction and operational standards to reduction GHG emissions. It might be helpful to explain whether the County is imposing this requirement. And since the EIR Addendum notes that the project will comply with the 2013 Energy Efficiency Climate Action Plan, it may be helpful to identify which reduction strategies would apply, and what the mechanism is to track compliance. As noted above, where we are relying on consistency with a climate action plan to support conclusions, we provide detail on which reduction strategies are included in a project and how.

PUBLIC HEALTH EFFECTS

The EIR Addendum evaluates criteria air pollutant mass emissions impacts, but does not explain the public health effects associated with concentrations of criteria air pollutant emissions. We typically include a discussion that explains the public health effects of criteria air pollutant emissions concentrations, and then, where applicable, we explain how mass emissions-based thresholds are developed in a way that is protective of the public health with a margin of safety, and typically in a way that those not involved in the preparation of the analysis can comprehend.

The analysis appropriately describes that criteria air pollutant emissions are only slightly increased over the prior assumptions. However, it may be helpful to evaluate the relative contribution of diesel particulate matter, which is the primary pollutant of concern related to increased haul truck and construction equipment use, and is of primary concern relative to public health effects. With the public health focus on diesel particulate matter by the California Air Resources Board and other relevant agencies, for projects that would result in diesel particulate matter emissions, we would typically include a focus on this topic in our analysis and reporting.