

## Amy Ow

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**From:** Camille Leung  
**Sent:** Monday, December 09, 2019 10:16 AM  
**To:** Amy Ow  
**Subject:** FW: Highlands - Winter Grading Exception Application lots 9-10

**From:** Dave Michaels [mailto:dm94402@gmail.com]  
**Sent:** Friday, November 08, 2019 12:02 PM  
**To:** Dave Pine <dpine@smcgov.org>; Steve Monowitz <smonowitz@smcgov.org>; David Burruto <DBurruto@smcgov.org>; Randy Torrijos <rtorrijos@smcgov.org>; Liesje Nicolas <HighlandsCAPresident@gmail.com>; David Canepa <dcanepa@smcgov.org>  
**Cc:** Sam Naifeh <samnaifeh@sbcglobal.net>; Rick Priola <hcapres@gmail.com>; Camille Leung <cleung@smcgov.org>; Pamela Merkadeau <pamela@merkadeau.com>; sungsim park <sungsim.park@gmail.com>; Christine Tam <tomfinke2010@gmail.com>; Chris Misner <chrismisner@yahoo.com>; truhuywat@att.net; Deke & Corrin Brown <d.cbrown@comcast.net>; robert.wineland@gmail.com; Jane Knapel <jknapel@sbcglobal.net>; Thomas Frankel <frankelt@pacbell.net>; Dylan Ashbrook <dylanashbrook@gmail.com>; Bradley Richter <Bradley.richter@gmail.com>; betty123chan@yahoo.com; Christopher Karic <ckaric@sellarlaw.com>; Eric Renner <eric.renner@comcast.net>; familyhuwyler@gmail.com; fetsow9@hotmail.com; Gary Trott <gary\_trott@comcast.net>; Joyce Pennell <jpennell@gmail.com>; Mark Luechtefeld <mluechtefeld@gmail.com>; Nancy Woods <njwoods@sbcglobal.net>; Dan Cheung <dan@cheungusa.com>; winstonjthomas@gmail.com  
**Subject:** Re: Highlands - Winter Grading Exception Application lots 9-10

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Dear Planning Office, Supervisors, and Staff,

Thank you for uploading some of the missing documentation yesterday, following my request below on Tuesday, to the Project Website at

<https://planning.smcgov.org/highlands-estates-subdivision-records>

Some documents that are still missing have been identified, which I request below. These include the applicant's responses to requests for technical info on winter grading, and (at least) two biological survey reports regarding dusky footed woodrat relocation on lot 9 that are still missing.

When uploading documents with attachments, can you please be sure to include all attachments and index attachment(s) clearly so we know to which emails they belong?

At this point I have the following questions:

1. Can you please provide the biological reports for biological surveys done on lot 9 on or around 11/4, including all revisions and attachments? These are referenced numerous times but do not appear on the project record website.

[https://planning.smcgov.org/sites/planning.smcgov.org/files/Nov%204,%202019%20RE%20%20Highland%20Estates%20Woodrat%20survey%20results%20\(1\).pdf](https://planning.smcgov.org/sites/planning.smcgov.org/files/Nov%204,%202019%20RE%20%20Highland%20Estates%20Woodrat%20survey%20results%20(1).pdf)

2. Can you please provide the biological reports for biological surveys and dusky footed woodrat relocation performed on lot 9 on or around October 2nd, including revisions and attachments (and relocation on any other lots in 2019, if any)?

This woodrat relocation on lot 9 on 10/2 is referenced in several emails, but no biological reports or memos outlining the relocation appear on the project record website.

<https://planning.smcgov.org/sites/planning.smcgov.org/files/Oct%20%203,%202019%20RE%20Woodrat%20relocation%20Lot%209.pdf>

3. Can you please provide email(s) and attachment(s), sent by the applicant on 10/11, referenced in the email to applicant on Wednesday, October 16, 2019 1:05 PM "Hi Noel, Bob, and Scott F., Thank you for your response of October 11, 2019 to the County's email of October 10, 2019..."

<https://planning.smcgov.org/sites/planning.smcgov.org/files/Oct%2016,%202019%20RE%20Highlands.pdf>

4. Can you please provide response(s) to the email sent to the applicant on Friday, October 18, 2019 9:31 AM "Hi Noel, I read through your responses and they do not provide the requested information..."

<https://planning.smcgov.org/sites/planning.smcgov.org/files/Oct%2018,%202019%20RE%20Highlands.pdf>

5. Can you please provide any/all emails and attachments from Friday 10/18?

6. Can you please provide a response to my request from Tuesday below: "We respectfully request reasonable time to verify the applicant's answers with our grading consultants, once the applicant's completed responses to the requirements are provided to us and posted to the Project Record website."

7. Can you please provide a response to my clarification question from Tuesday below: "If our understanding has been erroneous, and staff is not expected to upload the Project Record in the same manner of disclosure as a Public Records Act request, can you please let us know, so that we can reset our expectations, and organize our efforts as your constituents accordingly?"

The neighborhood will continue its review of the information as it's provided. Thank you in advance for the opportunity to review, prior to any winter grading exception issuance, the relevant documents in their entirety. Once we are able to do that, we will provide our input for the Director and Building Official in a timely way so that it can be appropriately considered in their decision regarding a winter grading exception.

Thanks and have a good holiday weekend.

Very truly yours,

-Dave

On Tue, Nov 5, 2019 at 12:01 PM Dave Michaels <[dm94402@gmail.com](mailto:dm94402@gmail.com)> wrote:

Dave/Steve:

Thank you so much for coming out to the Rec center last night to address neighbor concerns. It was a very fruitful exchange, and I learned a lot. I will keep this email focused on the Winter grading exception application for lots 9 and 10 on the Highlands Project and address other questions separately.

I was surprised to hear that a Winter grading exception approval is "imminent" for lots 9 and 10. This is because the Project Record website at

<https://planning.smcgov.org/highlands-estates-subdivision-records>

is still missing information necessary for appropriate neighborhood involvement in the discussion of any exception to the County Zone Regulations or Conditions of Approval, especially this issue where emotions, concern and risk are high. (There is missing information on the Project Record website regarding mitigation measures as well as the criteria for a Winter grading exception application, but again I will focus this email on the latter and address the others separately.)

In reading the Project Record website, and the County code, I have been looking for a) the County's detailed list of criteria that must be met by any applicant to successfully justify any Winter grading exception application and b) the County's detailed list of criteria that must be met by this applicant to successfully justify this Winter grading exception application at this site (in this case lots 9 and 10). In other words, two lists, a and b, are a reasonable expectation for transparency and conservative due diligence.

Instead, I found one email from Camille asking the applicant why they think they should be granted a Winter grading exception, to which they essentially replied "because you have led us to believe all along it was a given". Next, there are emails from Camille in early October saying that Steve needs a lot more detail, which I really appreciated, and then an email list to the applicant on 10/10 with those requests. This was one month ago, and we have been checking the website. However, the applicant's response(s) had still not been posted to the County's Project Record website, as of the time of the meeting last night. If this is the case, how can a Winter grading exception approval be "imminent" for lots 9 and 10?

The Project Record website at:

<https://planning.smcgov.org/highlands-estates-subdivision-records>

was offered to us by Dave, as I understood it, as a way for citizens to access the entire public record without the need to place bi-weekly Public Records Act Requests, and that it would include the same exact information that we would be entitled to, and that would otherwise be provided, in a Public Records Act Request. However, the website appears to have turned into an "optional" and "curated" repository for "some" project documents. I, for one, would rather take up a collection with my fellow neighbors to pay the nominal fee to do those bi-weekly Public Records Act Requests, where we would be rightfully entitled to the entire public record, than continue as we have been with this Project Record website. If our understanding has been erroneous, and staff is not expected to upload the Project Record in the same manner of disclosure as a Public Records Act request, can you please let us know, so that we can reset our expectations, and organize our efforts as your constituents accordingly?

We respectfully request the applicant's responses to Camille's 10/10 email and clarification as to whether those are the only requirements / criteria the County has placed on a Winter grading exception application for lots 9 and 10, or if there are others. We respectfully request reasonable

time to verify the applicant's answers with our grading consultants, once the applicant's completed responses to the requirements are provided to us and posted to the Project Record website. (Also, there is a one-page fax from FedEx Kinkos titled "Grading Schedule" with a hand-drawn table of some vague grading periods (i.e. "30 days" and "60 days") on the Project Record website from early October - is this still serving as the formal grading schedule, or is there something more specific on record?)

I understand the applicants may be frustrated about the "delays". From where I sit as a community member, it appears that these "delays" are a) due to their requests for changes and exceptions b) their required timeline for bio measures that have been in place for a decade and c) created by the lag time and incompleteness of the County's Project Record website, which prevents or delays the appropriate and necessary community review of exceptions and changes to the project.

Thank you, and I look forward to hearing from you and resolving these together cooperatively,

-Dave M.