

Amy Ow

From: Dave Michaels <dm94402@gmail.com>
Sent: Monday, May 17, 2021 11:36 PM
To: Camille Leung
Subject: Highlands: EIR Supplement, proposed grading increase and Minor Modification comment

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Ms. Leung: I am writing to oppose both the recent attempt to increase grading on lots 5-8 on the Highland Estates project and the erroneous characterization of same as a minor modification not subject to public scrutiny or a public hearing. I further oppose the limited and arbitrary time frame of "14 days" afforded to citizens to review the data associated with this proposal. I request 45-60 days to conduct sufficient review (to begin after all related documents have been uploaded to the project-record website and the community notified of such) and a transparent hearing and decision process.

Staff has attempted to make incremental increases in grading on lots 5-8 over time (and other changes to the approved parameters of the project) which has perpetuated the continued mischaracterization of these kinds of changes as "minor". Even one change in grading was worthy of formal additional environmental review with sufficient comment period. Several of these changes over time - even more so.

Staff has systematically removed, obscured or minimized public comment periods, appeal windows, and Planning Commission review — all of which the community is entitled to. Staff has also delayed or obscured announcements of changes, decisions, permits and other steps in public formats such as the accela website and project-record website. Neighbors have reported feeling frustrated, exhausted, betrayed and disenfranchised by the project-record website and notification methods: obfuscation of dates of upload and sequence of upload; links and URLs related to the project record website changing or mis-directing; an EIR document page referenced in your recent notice not linking to the document; undated building or civil plans; late and missing documents; missing correspondence and attachments; unindexed boxes; and oddly-timed data dumps.

A comment period of 14 days does not befit the exponential grading increase or the 300 page EIR supplement. How will layperson neighbors even know where to hire an expert to review this 300 page document? This (insufficient) 14 day comment period looks performative — neighbors are reporting staff is already quoting grading timelines, as if staff has already decided nothing of merit will come from a comment period to warrant any kind of second look at this apparently already-decided grading increase.

Both the attempted increase itself and the characterization of it as "minor" appear in direct contradiction to the language in the approval and CEQA. Staff likes to cite "the supervisors' original intent" — safe to say their intent was the amount of grading they approved in 2010, and the protections afforded by conditions 1 and 5 and CEQA. We were promised limited grading on the hillside. And yet here we are, multiple grading increases later, without the safeguards that we were promised by the project approval (namely Planning Commission having eyes on the changes, with formal comment periods and public hearings).

I also request additional EIR review to cover all other categories in the EIR that now need to be brought up to date and considered in the context of the project as it is today and how the totality of that differs from the certified EIR: including vistas, trees, wildlife, building floor area, building height, grading, slope stability, load capability for Ticonderoga, architectural appropriateness of the homes, current air quality issues in light of drought and fires, and current housing shortage. The EIR only considered the project in light of specific grading amounts, specific tree removals, specific building heights and building floor areas, and limited visual impact illustrated in the photorealistic renderings created by

the environmental scientists.

Staff certified an EIR that, in hindsight, grossly visually misrepresented the appearance of homes 9-11 in the AES section. Once lots 9-11 were partially built and neighbors pointed out the obvious visual difference between the AES section of the certified EIR and the actual homes built (and hence the inadequacy of the EIR), Staff's response was to advise that neighbors not rely on the AES section and not expect story poles to verify the visuals of future construction. Staff likewise advised neighbors that since lot 11 was already built, there's no use complaining due to money already spent by the builder.

Staff further stated that the "actual" sea level heights of the homes had been embedded in building plans that were available at the planning desk in 2010 (even though clearly these sea level heights were not provided to the environmental firm who authored the EIR), and therefore neighbors should not have relied on the AES section but instead relied on the calculations in those building plans on which to base our understanding of visual impacts described in the AES section of the EIR.

I read this response from Staff as essentially saying the following: neighbors should have ignored the EIR (which was written in pictures and laypersons language) and should instead have gone to the planning desk, hired a plan reader to join them, then go back and re-create plans overlayed on photos as the EIR did, to see if they matched. To my ears this sounds like "don't trust the documents that the county gives you; they might be incomplete or misleading — do your own digging for hard-to-find documents and your own detailed analysis". Now staff is alleging that the AES is accurate and neighbors should trust that it will be adhered to on lots 5-8, and we are presented with a new 300 page document and a "courtesy" 14 days to review it. We will need to do our own detailed analysis.

Staff has been notified that a fully protected raptor bird species is present on and around the project site, yet no mitigation was created for its protection in the FEIR because it was not observed in 2009. Yet rather than use this current EIR supplement to update and correct both the AES and wildlife sections, staff expects us to continue to defer to a document that has been acknowledged to be inaccurate, incomplete and outdated. And rather than find out if a mitigation would be necessary and appropriate for a fully protected species, that would differ from a mitigation for other bird species, staff ordered an EIR supplement to meet its own needs, limited only to grading and not the needs of the community or habitat.

The county has a gem in its midst in Joseph Eichler's development and surrounding open space, and instead of highlighting this asset and collaborating and attempting a win/win whenever the builder requests changes, the county has instead bent over backwards for the builder's requests, ignored the protections afforded by conditions 1 and 5 and CEQA and eroded trust from the community. How much easier it would have been to pursue modern flat roofed homes or even better: modern flat roofed multi dwelling unit homes. We're in a housing crisis at the same time Eichler's contributions are being recognized worldwide. Instead of more housing the approximate size of the lovely Ticonderoga townhomes, which could have housed teachers and civil servants, and which would have doubled the number of homes built on the same footprint, bloated homes are being built in a dated style that has gone out of fashion and is a complete mismatch to their timeless surroundings. That's what I call a lose/lose.

So I am requesting enough time to review this request for Minor Modification and EIR supplement (at least 45 days). I am also expressing my opposition to the additional grading, to the limited time provided for review, and to its characterization as a minor modification.

Very truly yours,
Dave Michaels