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To: [Camille Leung](#); [Steve Monowitz](#); [Amy Ow](#); [Liesje Nicolas](#)
Subject: CEQA Comment: the Highlands Addendum may not qualify as an Addendum
Date: Friday, July 2, 2021 3:26:17 PM

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Dear Staff,

Re: May 2021 Highland Estates EIR Addendum ("CEQA Document")

On 5/3/21 the public was emailed a notice of a new CEQA document related to Highland Estates Subdivision Project State Clearinghouse #2007052068 ("Project"). I believe the CEQA document is mis-categorized as an Addendum. CEQA requires an explanation (and requires that substantial supporting evidence exist for the explanation) as to why a subsequent EIR was not prepared. There is no explanation in the CEQA document other than a few sentences regarding a purported sequence of events. These sentences don't meet a commonly accepted standard of "explanation" and don't point to support by "substantial evidence". I believe the the purported explanation describes an illogical and implausible conclusion (see below).

Here's a copy of the CEQA portion:

From 2021 California Environmental Quality Act (CEQA) Statute and Guidelines 15164. ADDENDUM TO AN EIR OR NEGATIVE DECLARATION

- (a) The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.
- (b) An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.
- (c) An addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration.
- (d) The decision making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project.
- (e) A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency's findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.**

The CEQA document says:

"...the proposed changes to the approved project's earthwork program for Lots 5 through 8 are not substantial" (This is not a true statement. The **disclosed earthwork in the CEQA document is double** of that of the EIR and the referenced 2019 BKF memo admits that not all of the earthwork and truck trips are disclosed due to a obscure interpretation of the grading ordinance language and the assumption in 2019 of 5-11 being concurrent and fill for 9-11 taken from 5-8)

...these changed circumstances and associated proposed changes do not require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. (This is not a true statement. **Original grading was only deemed less than significant with mitigation. Mitigation GEO-2b wasn't even performed on lots 5-10, only on lot 11. Moreover in calculating future impacts on 5-8 in Caleemod, the County used building footprint numbers in its own favor that do comply with Caleemod's parameters for residential buildings. The Caleemod calculations for impacts are therefore moot. The proposed grading quantity on 5-8, the full extent of which doesn't appear to be fully disclosed, has not yet been mitigated.**

...In 2015, pursuant to Mitigation Measure GEO-2b, the Cornerstone Earth Group performed an updated design-level geotechnical investigation for Lots 5 through 11 (This is not a true statement. **Per the CEQA document, an updated design-level geotechnical investigation was only performed on lot 11, and even then only one boring was done on that lot. The rest of the lots 5-10 had updated above-ground reconnaissance only. This does not meet the standard of the accepted definition of geotechnical investigation, or the language of the EIR and the Board Approval (which was conditioned on this mitigation). The Geotechnical report in the EIR makes clear that all parties understood at that time that lot-specific updated future investigation would occur on all lots as mitigation GEO-2b: from EIR appendix 4.3 "We recommend that the lot-specific geotechnical investigations include testing of representative samples of serpentinite ..."**

...This change is a result of implementation of Mitigation Measure GEO-2b in the approved project's Mitigation Monitoring and Reporting Program (This is neither a true nor logical statement. **Again, GEO-2b, a geologic investigation, was not done on lots 5-10; instead an above-ground reconnaissance coupled with a re-telling of the prior investigations and evaluations were performed on those lots. The majority of the past investigations and evaluations do not even appear in the public record (only their exhibits do) which itself compromises the CEQA Document. Even if updated geologic investigations had been done on lots 5-8, there's no explanation given as to the actual mechanism by which the investigation could result in a grading increase absent new information)**

...None of the other attributes of the approved project, including project footprint, locations of the home sites, and staging, are proposed to change. (This claim fails to mention the project changes already made to those attributes (home site, staging, project footprint) by the Lead Agency as Minor Modifications without any environmental review to assess new or increased impacts or revisiting of the Board Approval that was based on the related mitigations. Based on the timeline provided in the CEQA document, the grading change request that forms the basis of the CEQA Document was in process behind the scenes during the same time frame that the changes to the above attributes were being approved as minor modification. So while the subject of this CEQA document is grading, and the other attributes described above are not being discussed as part of this action (even if they should be), those changes did occur but were excluded from environmental review. Therefore the claim by the CEQA Document that the absence of changes to these attributes provides an explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 fails to meet a standard "supported by substantial evidence"

...The specific changes to the earthwork program, and the associated increase in construction truck trips and the construction schedule for development of Lots 5 through 8, are directly related to findings from the required design-level geotechnical investigation prepared by Cornerstone Earth Group. (This is not true. Cornerstone did not perform the "required design-level geotechnical investigation on lots 5-8 (only on lot 11). And again, even if they had, it would not still not explain how such an investigation would "directly" result an increase in grading and truck trips absent new information that wasn't known in 2010.

...The specific changes are further informed by the September 11, 2018 "Highland Estates – Lots 5 through 8 Improvement Plans" prepared by BKF Engineers, Inc. and subsequent clarifying information from communications between the project applicant's geotechnical and engineering consultants and the County of San Mateo Planning and Building Department. (This does not follow logic and again fails to meet the standard of "supported by substantial evidence". Cornerstone describes the investigation ("Report") that forms the basis of the CEQA Document as "based on" 2010 plans by BKF "dated January 20, 2010". However these plans aren't in the record and are not approved plans - itself possibly compromising the CEQA Document. The investigation that was required to happen on all lots as mitigation GEO-2b was only performed on one lot (lot 11) out of the seven lots (5-11) in the Report, and on none of the lots (5-8) that form the basis of the CEQA Document. The CEQA document then states that the Report was in turn "informed by" plans dated 2018 by BKF (which were drafted 3 years after the Report and 8 years after the original BKF plans on which Cornerstone based its Report). Then, the CEQA document states: "subsequently clarifying" communications between Staff and

applicant happened. Which communications between the county, are these communications in the record and do they support this claim? The limited communications of this nature that *have* been located in the record raise more questions than they answer, and most reference and rely upon *other* documents that aren't in the record. All of this adds up to a continued absence of believability and a failure to support, much less *substantially support*, that a decision not to prepare a subsequent EIR was sound.

I respectfully request that the County withdraw this CEQA document immediately, address the issues that have been raised and properly characterize it as a supplement or subsequent EIR pursuant to CEQA Section 15162 before re-issuing it.

Sincerely,
Dave Michaels