

December 8, 2008

The Honorable Members of the
Santa Barbara County Board of Supervisors
105 E. Anapamu Street
Santa Barbara, CA 93101

Dear Members of the Board of Supervisors:

This letter responds to the appeal from Stan and Jean Harfenist and other homeowners that was prepared and submitted by the law firm of Strumwasser & Woocher and dated December 1, 2008, well after the deadline for submittal of an appeal. This letter also responds to the PACE letter dated November 25, 2008, and submitted as an attachment to the letter referenced above.

All of the items discussed in the Strumwasser & Woocher and PACE letters have been raised before, by the appellants and others and all of the issues have been addressed. The responses are part of the now very substantial record on this project. However, and despite all of the information that is in the record already, we would like to provide some clarification on a few of the items that have been raised. Moreover, you should also refer to the letters we have provided to the County responding to the initial Harfenist appeal (dated November 19, 2008 and prepared by DLA Piper), and to the CLA appeal (dated November 6, 2008 and prepared by DLA Piper).

Flooding and Drainage

Section B-1 Flooding and Drainage Impacts, Paragraph 2, Page 4

The paragraph quotes portions of an Army Corps of Engineers letter dated 30 March 1978 indicating that the area is undesirable for development. The Corps of Engineers letter indicates that exact flood elevations in this area could not be determined due to lack of surveys but that the combined flow of San Ysidro Creek and Oak Creek may cause weir flow over the railroad of about 1 foot deep. It then goes on to recommend several factors which should be included in any development scheme. These are:

- Adequate conveyance should be retained in the Oak Creek channel to pass the 100-year frequency flood.

- Structures should be padded at least two feet above the elevation of the railroad embankment.
- The flows in the Oak Creek Channel should have access to a sufficient length of the railroad embankment to allow weir flow to occur without a significant rise in water surface elevation.
- It should be pointed out that any development in this area that would obstruct any portion of the weir flow across the railroad or cause any rise in water surface elevation would cause more water to cross the railroad to the east increasing the flood hazard to homes along San Ysidro Creek.

Therefore, the proposed Miramar project meets all the conditions (and more) of the Army Corps of Engineers letter dated 30 March 1978 for the reasons stated below. The conclusion in the Strumwasser & Woocher letter of December 1, 2008 that the proposed project would fill along the railroad embankment “*where the Army Corp warned would increase the risk of flooding*” is in error. No flooding is projected to occur by FEMA or by the Penfield & Smith analyses at this location.

Penfield & Smith has used topographic mapping of the overflow area with accuracy acceptable to FEMA for flood studies and has completed a detailed analysis to assess not only the impacts of the proposed development on conveyance of floodwaters in Oak Creek but also the related impacts of filling within the floodplain as proposed by the Miramar Project. The results of the analyses clearly indicate the following:

1. There is adequate conveyance in Oak Creek to pass the 100-year frequency flood with no increase in water surface elevation either upstream or downstream of the proposed project.
2. The proposed structures are floodproofed to over 5 feet above the low point in the Union Pacific Railroad tracks and about 5 feet above the top of the railroad bridge at Oak Creek.
3. The flows in Oak Creek Channel have access to the railroad tracks to the same extent as under the pre-project condition. The proposed Miramar project does not fill next to the railroad in the areas that FEMA has projected to overflow. The overflow is projected to occur east of the proposed project with or without the Caruso project.

Section B-1 Flooding and Drainage Impacts, Starting on Paragraph 3, Page 4 and 5

The Penfield & Smith March 2008 report addresses in detail the flooding impacts of the proposed Miramar project. It has been reviewed and accepted by the County of Santa Barbara.

Section B-1 Flooding and Drainage Impacts, Starting Paragraph 2, Page 5-7

Much of the discussion in this section centers on internal discussions with the County, and includes vague references to procedural questions discussed between Penfield & Smith and the County. The inferences of the appellants are unclear. However, Caruso Affiliated, with the assistance of Penfield & Smith has provided all the analysis that has been requested by the County with respect to Oak Creek. Moreover, Penfield & Smith produced a study that not only evaluated the 100-year flood event in Oak Creek, but it went above and beyond the typical standard and also studied the unlikely occurrence of a simultaneous 100-year flood event in Oak Creek and San Ysidro Creek. In the 100-year flood event there is no impact on Oak Creek. This result has been consistent throughout all iterations of analyses on Oak Creek.

Secondly, even at the simultaneous 100-year flood event (in Oak Creek and San Ysidro Creek), the study shows no significant impact on Oak Creek, and in particular the downstream neighbors. This analysis has been confirmed by County Flood Control. There was significant discussion of this topic at more than one of the Montecito Planning Commission meetings, and the MPC made its decision to approve this project in full awareness of the facts and the analyses on this matter.

The portion of the letter covering the 'fatal flaw' and Mr. Frye's email of January 31, 2008 were addressed in the response to Coast Law Group Letter dated July 15, 2008, in response to various letters from B and E Engineering submitted to the County of Santa Barbara on July 25, 2008, and in the Caruso Affiliated responses to new comment letter dated July 30, 2008. Also see response to CPA appeal prepared by DLA Piper dated November 6, 2008

Section B-1 Flooding and Drainage Impacts, Paragraph 4, Page 7

Please refer to the response to the CPA appeal prepared by DLA Piper dated November 6, 2008.

Section B-1 Flooding and Drainage Impacts, Paragraph 1 and 2, Page 8

The comments in these paragraphs reference a report which has been commented on in the Caruso letter responding to the CPA appeal prepared by DLA Piper dated November 6, 2008. Additionally, the author indicates that there has not been an accurate study of the 'existing retention basin on the grounds of the Miramar'. To-date, the March 2008 report is the only hydraulic analysis that has analyzed the retention basin properties and the impacts of filling in the floodplain by the proposed Miramar project and which includes flow rates and volumes of overflow from San Ysidro Creek. This report demonstrates that the proposed project has no impact on Oak Creek, either upstream or downstream, in a 100-year flood event.

Section B-1 Flooding and Drainage Impacts, Starting at Paragraph 3, Page 8-10

References are made to PACE letters dated October 7, 2008 and November 25, 2008 which explain how some waters from San Ysidro Creek will overtop the US101 due to undersized culverts and flow over to and discharge into Oak Creek. The PACE report states that "If the proposed site plan were to remove this depression storage then the result would be the elimination of temporary storage area in the depression or basin, which would increase flooding elsewhere." The Penfield & Smith March 2008 report already verifies there is no impact from the project at the Oak Creek 100-year flow rate. Any potential impact from the project, however minimal, would not begin to occur until a level almost double the Oak Creek 100-year flow rate. At the Oak Creek 100-year peak flow rate neither downstream flow rates nor upstream Oak Creek culvert capacities at US101 are affected because there is no elevation increase upstream to affect the US101 culverts and there is no flow rate increase downstream because the Union Pacific Railroad bridge is large enough to accommodate the flow. Therefore, as stated previously, the culvert capacities at US101 and Jameson Lane and Union Pacific Railroad are part of the regional flooding problem in the area and are not affected at all by the proposed Miramar project filling at up to the 100-year event flooding or even at a 500-year event in Oak Creek to any significant degree.

Response to PACE letter dated November 25, 2008, Exhibit 5

1. The PACE response generally agrees with the approach that has been used in the Penfield & Smith March 2008 report. That is, the capacity of Oak Creek has been assessed 'regardless of the source of the runoff.' Attenuation and depression storage were assessed using runoff hydrographs from the Oak Creek and San Ysidro Creek watersheds

to evaluate storm volume. There will be no significant increase in flooding depth upstream of the proposed Miramar project even at the 500-year Oak Creek flow (or concurrent 100-year events in Oak Creek and San Ysidro Creek) because analysis indicates that there will be no significant backwater and therefore flood depths at the US101 will not be significantly increased and historic flooding patterns will not be altered.

2. PACE and Penfield & Smith disagree on the use of the term 'on-line' and 'off-line' basin in this application. Since the creek had originally run through the middle of the basin before the east side was filled, the filling in of one side of a basin does not transform it from an on-line to an off-line type of basin. The basin still functions in generally the same manner.
3. The PACE report is self-contradictory in that in Point 1 it states that its report is 'based upon the evaluation of the conveyance capacity of Oak Creek, without regard to the source of stormwater runoff.' However in Point 3 it suddenly says that the source of the runoff is important. The Penfield & Smith March 2008 report takes both source and conveyance into account and thereby definitively can state that the significant impacts of the proposed Miramar project filling do not extend upstream to affect the hydraulic control of the South Jameson/US101 culverts. Therefore, the analysis of the deficient US101 culverts is part of the regional flooding situation and is not affected by the local improvements of the Miramar project.
4. PACE proposes that with the improvement of the US101 culverts, flows to Oak Creek may increase. PACE has misunderstood the situation regarding US101 improvements and their relation to Oak Creek. If the US101 culverts at Oak Creek and San Ysidro Creek are improved, it will keep more flow within the native watersheds and minimize the overflow from San Ysidro Creek into Oak Creek. Therefore, with the improvement of the US101 culverts, flows to Oak Creek will be reduced.

The two dimensional analysis that PACE suggests is not necessary in order to assess the Miramar project and its relation to Oak Creek. The analysis conducted by Penfield & Smith for this project more than meets the standard necessary and that has repeatedly been confirmed by Santa Barbara County Flood Control.

In addition, the standard method of FEMA flow analysis is to assume that there is no attenuation due to minor ponding – such as upstream of US101. Therefore, the peak flow

rates used for each creek in Penfield & Smith March 2008 analysis are conservative (higher than might be calculated in sophisticated models).

5. PACE asserts that the modeling techniques used in the analysis of Oak Creek were incorrect. Penfield & Smith respectfully disagrees. The cross sections are based on accurate topographic mapping that accurately reflects the existing and proposed topography and vegetation. The Manning's roughness factors are within the range of acceptable published limits and agree with over 20 years of hydraulic modeling experience in Santa Barbara County. Analysis of Caltrans culverts is unnecessary as described previously. The analysis prepared by Penfield & Smith has also been confirmed and accepted repeatedly by Santa Barbara County Flood Control
6. PACE asserts that the cross sections used to model Oak Creek lack definition. That is incorrect. The cross sections used by Penfield & Smith were based on detailed topographic information which included field topographic mapping, 1 foot contour aerial topographic mapping, ample spot elevations and 2 foot contour topographic mapping in outlying areas and accurately reflect conditions as they presently exist. Penfield & Smith believes this is more than enough definition.
7. No response necessary.
8. The Penfield & Smith report of March 2008 is based on actual analysis as opposed to supposition. It shows that the impacts of the proposed Miramar project are separated from the regional flooding problem and does take into account the comingling of the flows of San Ysidro Creek and Oak Creek. The use of more sophisticated modeling techniques only increases the precision, not the accuracy in this situation. Gross assumptions still need to be made with regard to rainfall distribution and intensity, storm duration, storm type, direction of storm, cover type and imperviousness, debris and blockage, Therefore the statement that 'No gross assumptions are necessary if the correct models are employed....' is simply incorrect and misleading.

The Penfield & Smith report of March 2008 clearly shows that even with significant overflow from San Ysidro Creek, there will be no significant impacts to neighbors either upstream of the proposed Miramar project or downstream. Therefore, there will not be any significantly greater peril or greater likelihood of flooding as erroneously stated in the PACE letter.

Again, based on Penfield and Smith's more than 25 years of hydraulic modeling experience in Santa Barbara County, Ventura County, San Luis Obispo County, Los Angeles County, and San Diego County using both one dimensional and two dimension models, the precision offered by advanced modeling in this situation provides a false sense of accuracy because it would be based on so many gross assumptions that the final results would be no better than the common sense approach used in the Penfield & Smith report.

Cumulative Impacts

The commenter asserts that the analysis of cumulative impacts is deficient, which is an unsupportable statement. Montecito is an unincorporated area of Santa Barbara County that is predominantly residential, mostly estates, and semi-rural in character. The demographics vary slightly, if at all, from year to year. The community is essentially built out and development in the area consists mainly of remodels, renovations and conversions of existing development. There is very little new development in Montecito, the exception being the update to the Westmont College Master Plan and development associated with buildout of its campus. While this project is within Montecito, it is not in the immediate area of the Miramar project and has no potential to affect the Miramar project. Nonetheless, review of the EIR associated with the Westmont project and the analysis of the cumulative impacts to traffic indicate that these are less than significant (please see page ES-50 of the Westmont College Master Plan, Final Subsequent Environmental Impact Report, Volume I, February 2006).

Negative Declaration 00-ND-03 found no cumulative impact in any impact area. As evidenced in the Addendum to Negative Declaration 00-03, because the Caruso Plan impacts are less than or equal to the impacts of the Schragger Plan, then the Caruso Plan's contribution, even to a cumulative significant impact, would not be cumulatively considerable. To the extent that the Caruso Plan will utilize the Torque Down 1275 pile installation method when the Schragger Plan would not, vibration impacts of the Caruso Plan would be greater than the vibration impact of the Schragger Plan, but still less than significant. As there are no construction projects in the immediate vicinity of the Project site that would occur during the same time that the Torque Down 1275 pile installation method would be utilized, the cumulative vibration impact would be less than significant, and the Project would not make a cumulatively considerable contribution to this less than significant cumulative impact. With regard to all other impacts, the Caruso Plan impacts are less than or equal to the impacts of the Schragger Plan, and the Caruso Plan's contribution, even to a cumulative significant impact, would not be cumulatively considerable.

Within the SEIR prepared for the Miramar Beach Resort and Bungalows project, there is a substantial discussion of the cumulative impact associated with historic resources. As discussed in the document, *“under the proposed project, demolition of all of the existing historically significant structures would be a permanent loss to the historic resource and therefore, would be considered a Class I, significant and unmitigable project-specific impact. The loss of these historically significant structures would also be a considerable contribution to cumulative impacts on historic resources in the community.”* Moreover, the Addendum to the Mitigated Negative Declaration has a discussion of the cumulative impacts of the project in each issue area. Further, the project does not rely on a 10-year old traffic study. ATE prepared traffic analyses for the project and determined that the project would have less of an impact to traffic than the previously entitled plan and that in fact, area intersections actually improved since the preparation of the traffic study for the Schrage plan. Please compare Table 1 of the 8/27/08 ATE letter to Table 14-1 (Levels of Service at Miramar Intersections), which is in the Addendum. Specifically in relation to traffic, on page 49 of the Addendum, there is a discussion of the future projects that would have a probable impact:

“Caltrans is currently planning the South Coast 101 High Occupancy Vehicle (HOV) project on Highway 101 near the Miramar property, where Caltrans is proposing to add an HOV lane in each direction from Sycamore Creek in the City of Santa Barbara south to 0.44 mile south of the Carpinteria Creek Bridge in the City of Carpinteria (Chris Schaeffer, Caltrans District 5 Development Review, pers. comm. March 21, 2008). ... A range of alternatives is being considered, however alternatives that would require significant changes to the frontage roads and adjacent properties in the area of the Miramar Hotel are expected to be “considered but rejected” due to the highway right of way limitations in this corridor (Chris Schaeffer, Caltrans District 5 Development Review, pers. comm. March 21, 2008). ...

Construction of the proposed project is targeted for 2010 and expected to take 22 months to complete, which is likely not going to overlap with Caltrans’ South Coast 101 High Occupancy Vehicle (HOV) project. In addition, because Caltrans’ project would not likely affect South Jameson or the Miramar property itself, encroachment into the road right-of-way for South Jameson Lane is not anticipated to affect the Caltrans project or County roads. Finally, the proposed project is not anticipated to significantly impact the Highway 101 off-ramps or on-ramps to San Ysidro Road, however, Caltrans’ potential improvements to the

overpass and ramps would improve site conditions. Therefore, the proposed project is not anticipated to have a considerable contribution to these new cumulative impacts on transportation/circulation.”

Other than the Westmont College Master Plan and the Caltrans widening projects discussed above, there are no cumulative projects remotely close to the project area. No related project would bear any impact on the Project. Thus, the analysis of cumulative impacts is sufficient, and the project would not make a cumulatively considerable contribution to cumulative impacts.

Traffic

Please see attached letter prepared by Scott Schell of ATE Engineers.

Sincerely,



Jane Gray



ASSOCIATED TRANSPORTATION ENGINEERS

100 N. Hope Avenue, Suite 4, Santa Barbara, CA 93110 • (805) 687-4418 • FAX (805) 682-8509

Since 1978

Richard L. Pool, P.E.
Scott A. Schell, AICP PTP

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Jane Gray
Dudek & Associates
621 Chapala Street
Santa Barbara, CA 93101

MIRAMAR HOTEL AND BUNGALOWS REMODEL PROJECT - WEEKEND TRAFFIC

This letter provides Associated Transportation Engineers' (ATE) responses to the comment submitted by Hansen Associates regarding weekend traffic in the study area adjacent to the Miramar Hotel and Bungalows Remodel Project.

The weekday A.M. and P.M. peak hour volumes experienced in the project study-area are typically higher than the weekend volumes. There are several schools located in the San Ysidro corridor that generate peak hour traffic on weekdays that do not generate traffic on weekends. There are weekday commute trips that occur to and from the Montecito area during the peak morning and afternoon periods. Weekend traffic experiences less peaking and loading at the intersections as the volumes are more evenly spread throughout the day. Thus, the review of the weekday peak hour volumes captures the typically highest peak periods on the street network.

As noted in the previous responses submitted by ATE on the Hansen Associates letter, the Caruso Plan will generate less traffic on weekends than the entitled Schrage Plan due to reduction in the number of hotel rooms provided at the hotel (213 rooms reduced to 192 rooms). Because weekend traffic volumes will be reduced at the site, no additional weekend analysis was required by the County.

This concludes our additional responses to the comments submitted on the Miramar Hotel and Bungalows Remodel Project.

Associated Transportation Engineers

A handwritten signature in cursive script, appearing to read "Scott A. Schell".

Scott A. Schell, AICP, PTP
Principal Transportation Planner

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attachments