

VIA ELECTRONIC MAIL

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May 11, 2018

Santa Barbara County Board of Supervisors
Attention: Clerk of the Board
105 East Anapamu Street
Santa Barbara, CA 93101-2058
sbcob@co.santa-barbara.ca.us

RE: Agenda Item No. 5/Hearing Date May 15, 2018 [18APL-00000-00003]: MacElhenny Appeal of the Montecito Planning Commission's Approval of the Lighthouse Trust Demo/Rebuild Project [17APL-00000-00013 and 17APL-00000-014] and De Novo Approval of the Lighthouse Trust Demo/Rebuild Project [16BAR-00000-00219] and the Director's Land Use Permit Approval [17LUP-00000-00035] for 1948-1952 Tollis Ave., Santa Barbara, California 93108 (APNs 007-110-001 and 002)

Dear Chair Williams and Members of the Board:

As you know, Brownstein Hyatt Farber Schreck, LLP represents the Lighthouse Trust (the **Owner**) with respect to its Montecito parcels at 1948 and 1952 Tollis Avenue (the **Property**).

We have just finished our initial review of the May 11, 2018 letter from the Appellant which sadly seeks to use the January 9, 2018 debris flow tragedy which impacted portions of Montecito (the **Event**) as justification for the Appellant's relentless effort to derail the Owner's plans to build a home for her family on the Property. This is hardly surprising. He made similar delay arguments attributable to the Thomas Fire at the Montecito Planning Commission (the **MPC**), and used the Event as his justification for cancelling a County facilitation meeting on this appeal after agreeing to and confirming a March 14, 2018 date for that facilitation meeting. A copy of an email from the Appellant's prior legal counsel on this topic is attached.

The Appellant's assertion that the Property was physically impacted by the Event is false. No rock, mud or debris flowed onto or was otherwise deposited on the Property during the Event. A short segment of a dilapidated chain link fence along the easterly property line collapsed when leaves and other loose vegetative debris carried by surface flow waters built up on the east side of the fence causing it to topple. Clear surface flow and piped runoff water from the easterly adjoining property did enter a drainage swale on the Property – a drainage pattern which appears to have existed for many years, and was presumably an element of the original development of the Property for residential purposes. Importantly, the surface flow and piped runoff water entering the drainage swale was entirely contained within it. Other than the collapsed fence segment, the Property sustained no damage from the Event. A couple of photographs of the collapsed chain link fence and drainage swale taken shortly after the Event are attached.

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The Appellant's reliance on preliminary mapping of the Event as confirmation "that debris flow ended on the Lighthouse Property itself and, indeed, in areas of the Property where the Project's larger new home will be constructed" is entirely erroneous. The generalized mapping that Appellant cites in his analysis does exist, but it was presumably prepared as an overlay on top of aerial images during the very early stages of the assessment and emergency management of the Event. It was not and was never intended to be site specific mapping of areas actually impacted by the Event. That type of mapping is in process and will conclusively establish that the Property suffered **no damage** from the Event.

The Event was a natural disaster arising from an extraordinary high volume of rain falling within a very short period of time on a watershed that had been devastated by fire approximately one month earlier. It was not a typical and/or predictable occurrence that could or should have been considered during the planning process. The California Environmental Quality Act (**CEQA**) and CEQA compliance is **an entirely new topic** that has never been raised by the Appellant or anyone else during the Montecito Board of Architectural Review (the **MBAR**) and/or MPC processes. CEQA compliance was not identified as an appeal issue on Appellant's appeal form (which was filed after the Event), and is definitely a "late hit" that should be ignored. **The Project is and always has been exempt from CEQA.** That being said, Appellant's suggestion that a once-in-a-lifetime disaster such as the Event becomes justification for requiring exhaustive CEQA environmental review for the construction of a new home on an existing lot which is already developed with two homes is appalling. Appellant is himself a real estate developer, together with the sincerity of his CEQA related concerns relating to the Event, seem opportunistic and questionable given his long-standing pattern of objecting to Owner's Project based on view concerns. A decision to reject Planning Staff's appropriate determination that CEQA Guidelines sections 15301 (exemption for existing facilities) and 15303 (exemption for new construction or conversion of small structures) are applicable to the Project, would mean that virtually every project in Montecito would require environmental review under CEQA.

There is no reasonable justification to further delay approval of Owner's Project as the Appellant is requesting. This is an appeal of a unanimous MPC approval of a Project that was given unanimous preliminary approval by the MBAR. **CEQA is not an issue** -- the Project is exempt and the Appellant never questioned the CEQA exemption prior to today. If studies of the Event that are presently in process indicate the need for area-wide changes with respect to base flood elevations or other similar design criteria, those changes will be incorporated into the Project during the MBAR final approval process or during the Building & Safety Division's plan review.

We will be able to provide additional detail or answer questions on this topic during the May 15 hearing.

Thank you for considering the foregoing.

Sincerely,



Christopher A. Jacobs

cc: Anne Almy, Supervising Planner
Brian Banks

Attachments

16809934

From: Shereef Moharram <smoharram@ppplaw.com>
Sent: Tuesday, March 13, 2018 2:29 PM
To: Jacobs, Chris
Cc: Drossel, Danielle; Susan M. Basham
Subject: Re: Facilitation of Appeal of Lighthouse Trust Demo/Rebuild Project

Danielle:

Due to the storm and related circumstances, our side is unavailable tomorrow and is requesting a postponement. We are generally available to meet in the next 2 weeks (in the event the parties don't informally resolve the matter in the next few days).

Thanks,

Shereef Moharram, Esq.
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DRAINAGE SWALE AND TOPPLED CHAIN LINK FENCE SEGMENT [LOOKING TO THE WEST FROM THE ADJOINING PROPERTY TO THE EAST]

