



The Weinberg Law Group

August 23, 2018

Via Email

Das Williams, Chairman of the Board of Supervisors
Members of the Board of Supervisors
County of Santa Barbara
123 E. Anapamu St.
Santa Barbara, CA 93101
(sbcob@co.santa-barbara.ca.us)

Re: 755 Sand Point Road

Mr. Chairman and Members of the Board:

At the Board hearing scheduled for August 28, 2018, you will be hearing an appeal regarding a proposed residential project at 755 Sand Point Road, identified as Agenda Item #6 (Board File Number 18-00648).

Attached to this letter are two items to be considered by the Board and included in the administrative record for this matter.

First, please review the attached letter that this firm submitted to the Planning Department on May 25, 2018. This letter responds to the incorrect allegations made by the appellant regarding several alleged environmental impacts under CEQA. The letter contains a point-by-point rebuttal of all of the CEQA claims raised by the appellant in the appeal you will consider at the hearing.

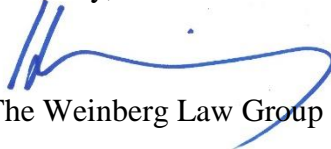
Second, during the hearing before the Planning Commission, the appellant made several assertions that were attempts to cast doubt on the validity of the wave uprush study that the applicant has prepared for the County in this matter. In response, we have had our hydrology consultant prepare a written, point-by-point rebuttal of all of the incorrect assertions made by the appellant's counsel during testimony to the Planning Commission.

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In summary, none of the CEQA claims made by appellant are valid, and there are no unidentified or unmitigated environmental impacts for this project. Also, the wave uprush study that is part of the record in this matter is valid, peer-reviewed, and fully considered by both County staff and the Coastal Commission staff. None of the claims raised by appellant during testimony to the Planning Commission diminish or limit in any way the validity of the study or the conclusions in that study. Accordingly, the wave uprush study constitutes substantial evidence that the project is not subject to any meaningful risk from wave damage or inundation during the design life of the project.

We urge the Board of Supervisors to approve the project and deny the pending appeal.

Sincerely,



The Weinberg Law Group

Attachments:

1. CEQA comment letter
2. Streamline West Letter

C: Dianne Black
Jeffrey Wilson
Nicole Lieu
Alan Seltzer, Esq.
Janice Feldman



The Weinberg Law Group

May 25, 2018

Via Email and FedEx

Ms. Nicole Lieu
Planning Department
County of Santa Barbara
123 E. Anapamu St.
Santa Barbara, CA 93101
(nlieu@countyofsb.org)

Re: 755 Sand Point Road

Dear Ms. Lieu:

As you know, 755 SP Road LLC (“Owner”) submitted an application in early 2013 for two discretionary approvals required for redevelopment of the single-family residence at 755 Sand Point Road (13CDH-00000-00001 and 13MOD-00000-00001, collectively, the “Original Project”). In early April 2014, the Zoning Administrator granted the Project approvals. On April 15, 2014, the adjacent property owner at 745 Sand Point Road, Carey Lovelace on behalf of Raemar Crest, LLC (“Appellant”), filed an appeal of the Project approvals. The Original Project was modified, resulting in the “Revised Project”. The Revised Project was approved by the Planning Commission on , 2018. Appellant has filed an appeal of the Planning COMmission determination to the County Board of Supervisors.

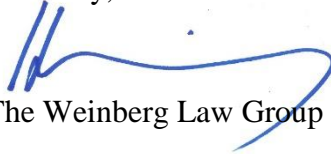
In the appeal to the County Board of Supervisors, Appellant raises several CEQA claims. Attached to this letter is our response to those CEQA claims.

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Ms. Nicole Lieu
February 20, 2018
Page 2

We believe that our attached response to the CEQA claims confirms that the pending appeal has no merit and that CEQA and LCP Policy consistency findings for approval of the Revised Project are supported by the record and should be made by the Board of Supervisors. We urge the Board of Supervisors to approve the Revised Project with the conditions of approval and so-called "trigger conditions" proposed by staff related to the California Coastal Commission.

Sincerely,



The Weinberg Law Group

Attachments:

1. CEQA comment memo

C: Alan Seltzer, Esq.
Janice Feldman

Response to CEQA appeal claims

The County has prepared an MND for this project. Accordingly, the appellant must demonstrate by substantial evidence that (i) the proposed mitigation measures are inadequate or (ii) that the appellant has made a fair argument that the project (as revised) may still have significant adverse effects on the environment. (CEQA §21064.5.) As set forth below, the appeal fails to present any evidence, much less substantial evidence, contradicting the impact analysis in the MND. The appeal also fails to identify any defect in the factual analysis by County staff in the record supporting staff's determination that that project will not have any significant impact on the environment.

Coastal Hazards / Resources.

As a threshold matter, the effects of the environment on the proposed project are not impacts to be analyzed under CEQA. Thus, CEQA does not require discussion of the impact of sea level rise ("SLR") on the project. (*Ballona Wetlands Land Trust v. City of Los Angeles* (2011) 201 Cal.App.4th 455, 473 [identifying effects on a project and its users of locating a project in a particular environmental setting is not a CEQA impact].)

Appellant presents no evidence to support her contention that the project will be permanently inundated by SLR during its projected lifetime. The two existing rock revetments (the "seawalls") are part of the baseline situation for the project. The MND contains the Sea Level Rise and Wave Run-Up Analysis ("SLR Analysis"), which constitutes expert testimony regarding SLR as well as wave action, storm surge, tide and other hydrology matters related to the ocean, as regards the project. The SLR Analysis makes clear that the seawalls will prevent the mean high tide line from advancing past the seawalls and toward the project. Thus, appellant's claim that the mean high tide line will, over time, overwhelm and inundate the project is expressly refuted.

Also refuting appellant's claims about project inundation are Tables 7 and 8, and Figure 6 of the SLR Analysis. These tables, figures and accompanying text state that even under the extreme worst-case scenario, the seawalls prevent significant run-up from storm surges and waves from ever reaching the proposed improvements during their design life. Not once in the design life of the project would anticipated storm surge and SLR overtop the seawalls and result in water intrusion above the finished floor of the upper, habitable level of the project. Thus, appellant's claim of permanent inundation of the subject property during the project's 75 year design life is impossible. The SLR Analysis is expert testimony to this conclusion, and appellant's claim is naked speculation (by an attorney, not an expert), which is unsupported by any evidence at all.

As stated above, the effects of the environment on the proposed project are not impacts to be analyzed under CEQA. Thus inundation is not an environmental impact cognizable under CEQA.

Nonetheless, we address appellant's allegations of inundation under the even more speculative, theoretical assumption that both seawalls were to be removed. One should note

that this assumption is included in the SLR Analysis only for purposes of addressing a combination of theoretical conditions that the California Coastal Commission proposed for their staff's analysis of the project's compliance with Coastal Commission policies and the LCP. Even under this entirely hypothetical scenario (with both seawalls removed), the SLR Analysis concludes that wave impacts under the extreme, worst-case scenario will not reach the finished floor level of the residence until 73 years from now (i.e. during the last two years of the 75-year design life). And, as the SLR Analysis makes clear, this small amount of wave impact would be an exceedingly rare event, requiring the combination of all of the following elements: (1) the most conservative predictions of SLR would be as high as predicted; (2) the entirety of both seawalls would have to be removed; (3) a once in a 100-year storm would have to occur; and (4) the storm would have to occur during a tidal event (which includes within it storm surge levels) that would be higher than has ever been recorded in the area for the last 100 years. There is an extremely small statistically probability of co-occurrence. Even if these four events all combined, the duration of such a tide event would be very brief (in the order of minutes, as a high tide is only 6 hours in total). Thus, this momentary but extreme wave up rush event, even if it did occur, could not cause the mean high tide line to shift onto the Feldman property. Nor could it cause permanent inundation of the subject property. (See, SLR Analysis, pp. 13-15.) The SLR Analysis makes clear that even without the seawalls in place, the mean high tide line will not advance toward the project. Thus, appellant's claim that the mean high tide line will, over time, overwhelm and inundate the project is expressly refuted.

Appellant also claims that due to future inundation, the sewage infrastructure will fail and could result in sewage or debris discharge adversely affecting the environment. Of course, this additional claim is merely speculation heaped upon prior speculation. The allegation of inundation has been refuted; there will be no inundation of the property. The additional, layered speculation that IF inundation were to occur, the sewer infrastructure would be damaged, is simply not true. The SLR Analysis is expert testimony to this conclusion, and appellant's claim is naked speculation (by an attorney, not an expert), which is unsupported by any evidence at all. Moreover, none of these claims about inundation are even an environmental impact to be considered under CEQA.

Appellant attempts to challenge the Planning Commission's adopted findings that the project is consistent with CLUP Policy 3-1, 3-8 and Coastal Act §30253, all as set forth at section 6.3 of the staff report dated March 14, 2018. Appellant provides no substantial evidence to challenge these findings, and does not raise any credible arguments why the findings are incorrect. Instead, appellant points to *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 930, claiming that this case somehow supports Appellant's challenge to the findings. Appellant is wrong.

The *Pocket Protectors case* does not assist the appellant. The cited page states the undisputed fact that the CEQA Initial Study Checklist, which is used to determine whether a project may have significant environmental impacts, includes the question whether a project may "[c]onflict with any applicable land use plan, policy, or regulation ... adopted for the purpose of avoiding or mitigating an environmental effect." (CEQA Guidelines, appendix G, § IX, subd. (b).) As made

clear above, appellant has failed to identify, much less provide substantial evidence to support, how the SLR Analysis conflicts with CLUP policies. Nor does she provide any evidence to dispute the Planning Commission's adopted findings. Importantly, Appellant seems to ignore the unique design and placement of the proposed project. Based on the request from the Coastal Commission, and in conformance with Coastal Land Use Plan Policy 3-1, the project has been designed and analyzed with the assumption that both of the existing seawalls would be removed. Also, there are numerous special conditions of approval have been imposed, including a prohibition on new shoreline protective devices, and an obligation that the property owner remove the deck if the deck or the residence are ever destroyed by wave action or inundation. (Condition 32-36). For all of these reasons, the Planning Commission's adopted findings that the project is consistent with CLUP Policy 3-1, 3-8 and Coastal Act §30253 are correct, and the *Pocket Protectors* case does not contain any law or analysis that would change the correctness of the Planning Commission findings.

Biological Resources.

Appellant's appeal is based on false statements about project impacts on biological resources. Appellant provides no substantial evidence of biological impacts (indeed, Appellant provides no evidence of any sort). The Biology Report that is part of the MND is expert testimony to the Planning Commission's conclusion that there are no biological significant impacts from the project. Appellant's claim is naked speculation (by an attorney, not an expert), which is unsupported by any evidence at all.

First, appellant wrongly states that the project intrudes into the approximately 0.18 acre wetland area within the 1.15 acre project site located south of Sandpoint Road. There is no intrusion into the protected wetland, but only slight intrusion into a 100-foot wide "Buffer Area" that protects the wetlands themselves. Only small portions of the new residence will intrude a few feet into the 100-foot Buffer Area. The Buffer Area is currently overrun by ruderal vegetation dominated by a non-native iceplant.

Second, appellant misrepresents a statement found in the Coastal Commission staff's comment letter on the revised MND. Appellant would have the County believe that the Coastal Commission requires a smaller footprint for the residence, because the proposed project would result in a significant biological impact due to intrusion into the Buffer Area. This is entirely incorrect. Coastal Commission staff's letter did not identify any biological impact from development activities within the 100 foot Buffer Area. Rather, Coastal Commission staff requested a design analysis of a smaller house because such staff wanted to determine if the 100-foot Buffer Area could be preserved to satisfy Coastal Commission preferences (but not any identified policy or regulation). To be clear, Coastal Commission staff does not state nor suggest that the revised project would have any significant impact on biological resources on the on-site wetland, nor did such staff state or suggest that the Restoration Plan was ineffective to eliminate any adverse impacts to on-site wetlands.

The MND includes a Native Plant Restoration and Habitat Enhancement Plan (the “Restoration Plan”). The Restoration Plan indicates that approximately 24,902 square feet of restoration would occur on-site in order to mitigate permanent and temporary impacts to small areas located within the Buffer Area (i.e. less than 100 feet from the on-site wetland). This provides for restoration at a ratio of greater than 3:1 for permanent impacts and greater than 2:1 for temporary impacts. Restoration would include removal of invasive plants, restoration using native plants appropriate to the region, and monitoring/maintenance for 3 years. Appellant does not criticize much less mention the Restoration Plan, and the fact that it provides a benefit to the environment. Appellant does not discuss the Restoration Plan nor make any evidentiary showing that the Restoration Plan is inadequate.

The Planning Commission findings confirm that the MND demonstrates that the Revised Project (as mitigated) has no significant impacts on biological resources and that the Restoration Plan mitigates and eliminates any potential harm to the on-site wetland, and further that the mitigation measures provide a benefit to the environment.

Finally, Appellant suggests that the MND should include an Alternatives Analysis of different and smaller proposed projects. CEQA does not require any Alternatives Analysis, unless there is a significant environmental impact to be mitigated or avoided in the first instance. For this project, no Alternatives Analysis is required or appropriate. There are no significant impacts to biological resources to avoid or to substantially lessen. (See CEQA Guideline §15126.6).

Cultural Resources.

Appellant makes the unsupported allegation that “the project is in a known sensitive cultural area.” From this statement alone, Appellant concludes that the MND does not adequately analyze or mitigate potentially significant cultural resource impacts. Appellant ignores the MND’s discussion of cultural resources, particularly that “...the project is located on a disturbed, developed site, and no known archaeological or other cultural sites are located on the project site itself” and that “[t]he site is located on a sandspit which has been subject to coastal erosion and deposition over time. In addition, the site is disturbed due to existing development including a residence, driveway, and landscaping. Therefore, the potential for undiscovered cultural resources to exist onsite is low, as confirmed by the P&D staff archaeologist. Accordingly, potential cultural resources impacts are considered less than significant.” (Emphasis added.)

However, even without the archaeological report, CEQA law is clear that mere argument, speculation, and unsubstantiated opinion, even expert opinion, is not substantial evidence for a fair argument. CEQA Guidelines, § 15384(a). Substantial evidence must include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. §15384(b). Because appellant presents no facts to support her claim or to disagree with the P&D staff archaeologist, she fails to present substantial evidence in support of this appeal claim.

Nonetheless, the applicant has retained an expert archaeologist to perform a site-specific analysis to determine whether there are any archaeological or other cultural sites located on the project site itself. The applicant has delivered the report prepared by Brent Leftwich, which concludes that there are no archaeological or other cultural sites located on the project site and the proposed project will have no significant impact on cultural resources.

Moreover, Appellant ignores the mitigation condition that requires the owner to stop and redirect work if cultural resources are encountered during construction. This mitigation measure is discussed at p. 22 in section 6.3 of the staff report dated March 14, 2018, and imposed as Condition 5 in Attachment B1 of the Planning Commission's project approval.

Visual Resources.

Appellant's visual resources claim is also based on false assumptions and unsupported conclusions.

The Revised Project has had a Modification approved for small portions of the roof to exceed the zoning height limit of 28 feet. The MND and the Planning Commission's findings make clear that the Modification is minor; only 2% of the 5,995 sq. ft. structure would extend above the height limit, and that excess height is never more than 2 ft., 8 inches above the 28 foot limit. This modest and reasonable Modification is required by the Revised Project for two reasons. First, the County requires the finished floor of the habitable level to be more than 15 feet above sea level, so that this portion of the building is above any flood hazards to the structure. Second, the architecture of the project is a grouping of pavilions, that are pyramidal roof shapes on top of the cube shapes that define the rooms. As a result, the roof lines must exceed the 28 foot limit in a few instances, so that the rigid geometry of the project can be accommodated.

Appellant also claims that "the design includes development across the entirety of the lot's frontage from setback to setback." This statement is at best misleading, and is not strictly factually accurate. The design uses a series of "pavilions", incorporating spaces between the pavilions and breaking the residence down into a series of different geometrically shaped buildings. This pavilion design allows for a "saw tooth" roof form that allows views through the roof elements to the sea (and from the beach, through the roof elements to the mountains). The Revised Project is dissimilar from more contemporary houses that have a singular, monolithic form and massing that creates a single large object that blocks views across the entire façade of such a home.

Appellant further claims that the property is subject to a view corridor overlay district. This is simply wrong. There is no View Corridor Overlay District pursuant to CZO §35-96 affecting the project site. "The purpose of this overlay district is to protect significant coastal view corridors from U. S. 101 to the ocean in areas of the County where such view corridors currently exist." (Section 35-96.1.) The MND explains why the site is not appropriate for such an overlay district because views from Highway 101 to the ocean are already obstructed. Indeed, as indicated in

the photograph delivered to County staff under separate cover, the view from a person in a vehicle on U.S. 101 to the subject property does not allow for any view of the ocean or the horizon. In fact, all one can see when looking toward the ocean from U.S. 101 is blue sky beyond the subject property.

“Views of the project site are primarily limited to viewing areas in the immediate neighboring properties and from Sandpoint Road (a private road). However, distant views of the property are available from HWY-101 and UPRR (both located approximately ¼ mile away) and from public walking paths located on the southeastern edge of Carpinteria Slough, approximately one mile away. The subject property is developed with an existing residence and is bordered on both sides by residential development. Views of the ocean from HWY-101 and UPRR are mostly obscured by existing residences along Sandpoint Road, limiting views to a narrow slice of ocean over the top of existing residences. Therefore, the proposed project would not result in obstruction of a scenic vista.” (MND, p.3)

Moreover, the consequence of a View Corridor Overlay District is to require “any structural development in areas within the View Corridor Overlay district [to] be subject to approval by the Board of Architectural Review prior to issuance of a Coastal Development Permit.” (Section 35-96.3.) The BAR has long ago reviewed and approved the project design.

Finally, once again, appellant ignores the evidence in and the findings of consistency with Coastal Act Section 30251 as set forth at section 6.3 of the staff report dated March 14, 2018, which all support the MND’s determination that there is no visual resource significant impact.

After taking all of this into account, the Modifications are necessary, but very small. The Planning Commission findings have established that there is no significant impact to visual resources from the small portions of the roof that exceed 28 feet. The Appellant has not provided any substantial evidence that could support a fair argument that there is, in fact, a significant impact arising from impaired views of the ocean or other significant views.

Cumulative Impacts.

Appellant has requested that the applicant prepare a full environmental impact report to analyze a reduced size alternative. Apparently, this request is based on Appellant’s improper assertion that the project will cause “cumulative impacts” to the various resources discussed above. No EIR is either required by CEQA for the proposed project, nor would it be appropriate to prepare one.

Appellant has failed to state the proper legal test CEQA applies to determine whether an EIR would be required. Also, Appellant fails to provide any factual evidence to support her cumulative impact assertion.

With regard to the legal standard for EIRs, CEQA Guideline 15064(h)(1) requires that a project's contribution to significant cumulative impacts must be *cumulatively considerable* before the lead agency may require an EIR to consider cumulative impacts. It is instructive to read Guideline Section 15064(h)(1) that states:

“When assessing whether a cumulative effect requires an EIR, the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable. An EIR must be prepared if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable. “Cumulatively considerable” means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

The determination of whether cumulative impacts are significant and a project's contribution to cumulative impacts are cumulatively considerable requires a two-step analysis. The first question is whether the combined effects from both the proposed project and other projects would be cumulatively significant. In this matter, appellant uses the list method to identify the effects of past projects, the effects of other current projects, and the effects of probable future projects. Appellant's proposed list is materially flawed, because it proposes to include a theoretical project that would be the removal of the existing 1983 seawall (i.e. the seawall that is closest to the ocean) (the “Possible Seawall Removal Project”). CEQA does not require, and actually prohibits the inclusion of the Possible Seawall Removal Project in any list that would be used for cumulative impact analysis. Without the Possible Seawall Removal Project in the list, there is absolutely no combination of other projects that, together with the applicant's proposed residential project, that could result in cumulatively considerable impacts of any of the above referenced environmental resources.

The primary reason that the Possible Seawall Removal Project should not be included in a cumulative impact list is that there is no evidence that (as a result of the notice of violation issued by the Coastal Commission to the County) the 1983 seawall would ever be removed. The Possible Seawall Removal Project is not a real, imminent or reasonably foreseeable project. The County has not submitted an application for the Possible Seawall Removal Project, and thus no environmental review for such a hypothetical project has been initiated. Indeed, it is a matter of pure speculation that ongoing negotiations between the County and CCC staff would ever result in a project anything like the Possible Seawall Removal Project. In any event, theoretical or possible projects are not included in any list of “probable future projects.” At a minimum, to be part of a cumulative impact list that complies with CEQA Guideline 15064(h)(1), a project must have filed an application for review and there must be a reasonable likelihood that such project would be approved after environmental review is completed. Similarly, staff is unaware of any facts that would make modifications to the existing Casa Blanca seawall a reasonably foreseeable project.

One should also note that even if the Possible Seawall Removal Project were to be included in the cumulative project list, the original, legal, nonconforming 1964 seawall remains in place. The single seawall alone inhibits SRL and wave run-up for all of the properties along Sand Point Road.

Also, one cannot consider the cumulative projects list proposed by Appellant in a vacuum. Nothing in the Appellant's appeal provides any evidence (let alone substantial evidence) to even suggest that the redevelopment of four single-family homes on Sand Point Road would cause significant cumulative impacts to visual, biological, cultural resources or coastal hazard risks. Thus, there is nothing for the County to consider as to whether there could be cumulative impacts, and there is certainly not a fair argument made that there might be cumulative impacts to any of these stated environmental resources. Accordingly, Appellant fails to satisfy the first part of the CEQA test – that is whether the combined effects from both the proposed project and other projects would be cumulatively significant.

Appellant's request for an EIR based on cumulative impacts also fails to satisfy the second part of the test under CEQA – that is whether the proposed project's incremental effects are cumulatively considerable. In this matter, the simple answer to such second question is No.

The proposed project will add no incremental contribution whatsoever to any identified environmental impact. (*Santa Monica Chamber of Commerce v. City of Santa Monica* (2002) 101 Cal.App.4th 786, 799 [“just as zero when added to any other sum results in no change to the final amount, so, too, when no impacts cognizable under CEQA are added to the alleged environmental impacts of past projects, there is no cumulative increased impact.”])

Here, because the MND demonstrates that the project will not make any incremental contribution to a potential significant cumulative impact (*Santa Monica Chamber of Commerce*, supra), and because mitigation measures have been required that eliminate any potential incremental effect (CEQA Guideline 15064(h)(2)) then the inescapable conclusion is that there can be no cumulatively considerable impact from the project.

The project does not have an incremental impact on a potential significant cumulative impact to any significant views.

The project does not have an incremental impact on a potential significant cumulative impact to any cultural resources. As confirmed by the archeologist's report, the project is located on an already disturbed, developed site with no known archaeological or other cultural sites. Also, there is a mitigation measure that requires the project to stop work if cultural resources are encountered.

The project does not have an incremental impact on a potential significant cumulative impact to any biological resources. The record shows that the Restoration Plan required as a condition of the project will have a *beneficial* biological resource impact on the on-site wetland.

The project does not have an incremental impact on a potential significant cumulative impact to coastal hazards. There is no evidence in the record that any other project on Sand Point Road will create coastal hazards or that this proposed project could somehow be combined with the effects of other projects. Also, the SLR Analysis confirms that the project has been designed to withstand the most extreme SLR predictions and 100 year storm events based on a SLR Study peer reviewed by the County and Coastal Commission.

For all of these reasons, the record in this case demonstrates that there is no cumulatively considerable impact resulting from the proposed project that would require the preparation of an EIR.

August 3, 2018

County of Santa Barbara
Planning Department
Attn: Nicole Lieu
123 E. Anapamu St.
Santa Barbara, CA 93101

**Re: 755 Sand Point Road
Response to Transcript of Feldman Planning Commission Appeal Hearing April 4, 2018**

Dear Nicole:

In connection with the pending hearing before the Santa Barbara County Board of Supervisors, the applicant for the approvals to develop the residential project at 755 Sand Point Road has requested that Streamline West Engineering LLC (Streamline) consider all of the oral testimony presented by Mr. Chyttilo during the Planning Commission Appeal Hearing, that was held on April 4, 2018, regarding this project.

Streamline has reviewed a transcript of the hearing testimony given by Mr. Chyttilo. This letter contains Streamline's responses to the portion of the transcript that relate to the coastal studies for the Feldman property from the Planning Commission Appeal Hearing on April 4, 2018 (the PC Hearing). For your ease of reference, I have organized my responses by first stating a comment in the transcript made by Mr. Chyttilo (shown below in *italics*) and then stating my response to such comment.

From time to time, I refer to the wave uprush study that Streamline delivered to the County in this matter that is Feldman Rebuild Sea Level Rise and Wave Run-up Analysis (the Wave Study).

Comment #1. *I'm going to move onto the coastal issues and coastal hazard issues. This is a new ocean protection council guidance that just came out this year. I have had a number of conversations with Coastal Commission staff. They are short staffed as usual and extremely busy, but they wanted me to relay to you that they have continuing concerns. They did not reply to the staff report because they felt that staff did not respond to their comment at February 2018. So they felt they didn't to add anything more because they had already said it. They would just restate those objections.*

Response: First, no member of the public may state on behalf of the California Coastal Commission (CCC) what their position may be on a particular project. Only the CCC themselves may deliver comments to the County. During the PC Hearing, no CCC comments were provided and thus Streamline cannot respond to this assertion by Mr. Chyttilo. Previously, the applicant responded to the written comments from the CCC that were delivered to the County prior to the PC Hearing.

Comment #2. *This is an extremely vulnerable site. It's surrounded on three sides. The analysis that the applicant has put forward and is reporting now looks at the still-water sea-level rise and large waves. However, it ignores, it doesn't consider the effect of the storm surges and king tides, and importantly and specific to this site, the flows into and from the slough.*

Response: Mr Chytillo is incorrect about the location of the subject property. There is water only on two sides of the subject property, not three sides. The subject property extends to the mean high tide line on the west, and also extends into the El Estero Lagoon (slough) on the east.

Mr. Chytillo is incorrect when he states that the Wave Study does not consider storm surges and king tides. As discussed on page 2 of the Wave Study, storm surge is addressed and included in the design water level for the project. King tides are extreme tides that occur numerous times every year. The design water level identified in the Wave Study is the 100-year event (i.e. an event that occurs only once every hundred years) and greatly exceeds king tide levels. The Wave Study also includes a discussion and evaluation of the flows into and from the lagoon, as set forth in the analysis starting on page 4.

Comment #3. *Most of the sea level analysis that's been examined looks at properties that are backed by a bluff or they are on the mainland. This property, because it's on a peninsula of sand with a water feature behind it, is exposed to a different set of coastal hazards that aren't addressed in the analysis that's before you. Not only with the closed into and from the slough which could take out the project along with other structures in the area, there are additional hazards from debris in the moving water. This is an issue that the Coastal Commission raised with the breakaway walls, where adding additional debris then adds more material that can then impact other homes or limit access.*

Response: Mr. Chytillo is incorrect about breakaway walls. The breakaway walls are designed to fall to the ground, but not detach from the structure. This reduces the load from a storm surge on the structure and reduces scour and damages to the structure. Since the breakaway walls do not detach, they will not contribute to potential debris that can be mobilized during a storm event. Streamline has analyzed a significant storm event that could cause the breakaway walls to fall (assuming the sea walls remain in place). Streamline concludes that there is no threat of such an event occurring within the design life of the improvements. See Table 8 on page 16 of the Wave Study, which provides the year in which a significant wave event could occur and the frequency for both the with and without seawall site conditions.

Comment #4. *Of course, the road itself will be flooded under these events. Residents will be unable to evacuate and then emergency responders won't be unable to access the property. There's a few flaws that we identified in the Stream West, Streamline West Analysis. There is in the bay area, studies have shown that there is a peak inundation from a storm surge followed by a tended runoff from the hills that then fills the area behind, and that this generally results in a duration of an event in excess of a day.*

Consequently, exposes the structure to multiple tide cycles. As I mentioned before, the back-bay ponding hasn't been addressed. There's a new study just from February of this year that analyzed the Carpinteria Marsh and saw that in the 1861, '62 storms, it entirely washed over Sand Point comparable to a hurricane and tsunami wash over. The evidence is that in the last 2,000 years, there has been five such events. So, this is very, very exposed area.

Response: Mr. Chyttilo is incorrect in his allegations about road flooding and inundation. The Wave Study addresses flooding in the slough, starting on page 4. This evaluation includes an analysis of a significant flood event – that would, in fact, flood over Sand Point Road and the lower level of the residence. The evaluation found no immediate impacts to the proposed residence or road from flooding. The analysis also shows that the potential for such flooding is very infrequent and, even so, the Wave Study estimates that "significant" flooding of the lower level of the residence and the road would occur (i) only during end of the 75-year design life of the improvements and (ii) only if the higher rates of sea level rise occur.

Mr. Chyttilo refers to flooding events that occurred in the 1860's, and possibly prior. Those flooding events are not relevant to today's analysis of flooding for many reasons. Most importantly, the floods in the 1860s occurred prior to (i) the numerous flood control structures and improvements that have been made to the upstream watershed(s) and (ii) the seawall also extends to and stabilizes the outlet of the lagoon and upstream drainage(s) to prevent Sand Point Road and adjoining residences along Sand Point from being over-washed by floods.

Comment #5. *Here's what the FEMA analysis that was relied on by the consultant, for the applicant here. You'll see right here that they identified the 100-year still-water elevation.*

Well, ocean people know that the ocean is not a still-water. It is constantly moving. They've identified how much of an additional sea level rise is expected from large waves. Here's their wave-height analysis. But they don't look at storm surge. They don't look at king tides and things like that, the dynamic ocean events. So in this latest guidance that came out this year from the ocean protection council, they cautioned that acute increases such as storm surge, El Nino, king tides should be considered. They produce significantly higher water levels than sea level rise alone and would be the likely drivers of the strongest impacts [on] coastal communities.

Response: Contrary to Mr. Chyttilo's assertions, Streamline is aware that the ocean is not a still body of water. The term is not used to imply that the ocean is still. Perhaps what Mr. Chyttilo does not understand is that the so-called "still water elevation" is a coastal engineering term used to define the baseline water level (without waves) for the ocean for any water level or flood event. When a coastal engineering analysis of storm surge, waves and other climatological factors is

performed, the engineer uses the “still water elevation” as the baseline against which one can measure and analyze the effects of storm surges, waves and so forth. Streamline has applied this same industry-standard method in the evaluation and analysis in the Wave Study.

Mr. Chyttilo refers to guidance from the Ocean Protection Council, including storm surge, El Nino, and king tides. As discussed above, the Wave Study considers all three elements. One should note that El Nino is not a unique ocean event like a wave or a storm surge. Rather, El Nino is an atmospheric condition characterized by unusually warm ocean temperatures in the Equatorial Pacific that has the potential to generate larger storm surge and wave events. Storm surge, tides in excess of king tides and storm waves from El Nino events have all be evaluated in the Wave Study.

Mr. Chyttilo is further confused when including sea level rise in his comments. Sea level rise occurs independent of storm surges and waves. Sea level rise could cause them to become more significant and have greater impacts depending upon the actual height of sea level rise. For these reasons, the guidance says that storm surge, El Nino, and King Tide events will become increasingly important to coastal communities if SLR progresses. All of these issues are covered extensively in the Wave Study.

Comment #6. *Indeed, they recommended a new HH scenario which identifies a less probabilistic analysis but one that they believe should be considered. In here, they show a potential sea level rise of 7.9 as opposed to six feet which is what the study person prepared. I ran the army corps engineer model, inputting that they used a 1915 army corps engineer model in the study that's before you. There's a new updated model that's 2017. I ran that one last night. Just for illustrative purposes, while the maximum height they anticipated then was 12 feet, and they relied on a 6.08 feet, the current model puts the probable or the possible high event over 14 feet. So, I think there is some substantial questions with respect to the adequacy of the sea level rise analysis.*

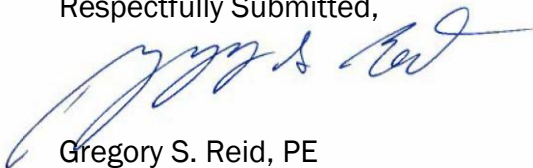
Response: Mr. Chyttilo is incorrect. The Wave Study did not use a 1915 model. The Wave Study utilized the sea level rise rates identified by the National Research Council (NRC) study of 2012 which is to be used according to the CCC's currently adopted SLR Guidance Policy. These rates were then compared to the values derived by the USACE model that was available during the update of the report in October of 2017 and found to be consistent with the NRC findings and appropriate for use in the Wave Study.

Comment #7. *This is a photograph of debris in the slough. As we know, this is the debris that then becomes missiles and agents of structural destruction as it flows out with water. Then finally, on the coastal hazards, this is the lower elevation from the plan set. It shows all of these black walls are breakaway walls. Each of these rooms, and I cannot explain or understand why there needs to be all these additional rooms. They should be an open area so that the water can flow through. Instead there's all these walls, cars and other activity in this lower zone which will, when it does, flood out, become debris that will simply flow out. It could impact other neighbors. It could impact the environment. We consider that to be a potentially significant impact, certainly a policy issue that has not been addressed as part of the analysis.*

Response: Mr. Chyttilo is concerned that many break-away walls will be detached from the residence in a storm event, and become floating debris. This is incorrect. As stated above in the response to Comment #3, the breakaway walls are designed to fall to the ground, but not detach from the structure. Also, as stated above in the response to Comment #3, so long as the seawalls remain in place, the proposed improvements are protected from storm and wave surges and there is not a threat of a storm event with the force to make the breakaway walls fall within the design life of the improvements. Even if the seawall were removed, there would only be a small likelihood of a significant storm event capable of causing the breakaway walls to fall, but only near the end of the 75-year design life of the improvements and only if the higher rates of SLR occur. If such flooding does become a potential in the future, the project could be conditioned to eliminate storage in the lower levels to prevent debris from being released during storm events.

If you have any questions regarding these responses, please do not hesitate to contact me.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read 'Gregory S. Reid', is written over the typed name.

Gregory S. Reid, PE