

## Amy Ow

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**From:** Dave Michaels <dm94402@gmail.com>  
**Sent:** Friday, June 4, 2021 5:47 PM  
**To:** Camille Leung; Steve Monowitz; Amy Ow; David Burruto; Dave Pine  
**Subject:** EIR Addendum - request for documents related to AES-1a (Highlands)  
**Attachments:** lot11actual.jpg; lot11feir.jpg; 2021 04 01 \_ Highland Estates\_Environmental Compliance Matrix\_March 2021.pdf; building heights staff report.pdf

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Dear Ms Leung,

I have cc'd Honorable Supervisors (and bc'd dozens of neighbors, commenters and concerned parties)

I'm writing to request documents needed in order to comment (during the comment period expiring on 6/17/21) both on statements made in the recent Environmental Impact Review Addendum ("addendum") and on whether the addendum is complete or appropriate in scope. (Please note I disagree with the characterization of this document as an addendum since a "supplement" at minimum was required under CEQA, if not a "subsequent EIR").

The documents I'm requesting are required by measure AES-1a from the Final Environmental Impact Review (FEIR): three height surveys for each home on lots 1-4 and 9-11 (minus one roof survey already produced for lot 11) to verify height compliance for measure AES-1a. The absence of these required surveys (or difficulty in locating them) limits the ability of concerned parties to comment on the addendum, its assertions and its scope.

I am respectfully asking for these documents to be produced, uploaded to the top of the project site at <https://planning.smcgov.org/highland-estates-subdivision-records> and neighbors given a courtesy notification.

These are necessary, aside from being required in the project approval, because the addendum appears to both downplay the significance of the massive grading increase, and assert its own sufficiency in terms of scope, in part by suggesting that the aesthetic impacts considered in FEIR "remain unchanged" and suggesting that the "same improvement measures apply" in the lots of the proposed increased grading.

**The problem is the AES section has been already found to be grossly insufficient, outdated and misleading.** Suggesting that the "same improvement measures apply" implies they have been appropriately applied to date on the seven homes already built. Neighbors and concerned parties already know that either this section of the FEIR grossly visually misrepresented the buildings, or the builder chose to build them in a manner vastly different from the representation in the AES section. **(See photos attached of proposed pre**

**and post construction from FEIR and the actual house - an apparent visual height difference of at least ten feet, and removal of the promised "view to the bay" all done without a major modification for height!).** The county has been put on notice over several years in writing (see 2019 email to Supervisors attached) that the requirements of this measure and its monitoring have been patently violated numerous times by the County and builder and/or kept from the public. **Yet given all of this, somehow the County opted not to include the AES section in the scope for additional environmental review with this new "addendum"!**

Accordingly, to the extent the addendum relies on the information and impacts discussed in the AES section of the FEIR as "unchanged", true or sufficient, or the monitoring to have been appropriately "applied", it's not a valid basis. (Whether that be to justify or minimize the impact of the increased grading, the absence of additional much-needed environmental review required in the AES section and other sections, or the improper naming and downgrading of the addendum as "addendum" (vs. supplement or subsequent EIR. Or simply to pass a common sense test).

**The addendum states the following regarding the aesthetic impact to the existing visual character of our neighborhood:**

**Impacts AES-1 through AES-4**, which are based on home elevations and locations and potential effects on scenic vistas and the existing visual character, remain unchanged and the same improvement measures apply to the completion of the project as presently proposed (Improvement Measure AES-1a, Improvement Measure AES-1b, and Improvement Measure AES-2).

**The FEIR (as well as the addendum) state the following:**

**Improvement Measure AES-1a:** The Project Applicant shall provide "finished floor verification" to certify that the structures are actually constructed at the height shown on the approved plans. The Project Applicant shall have a licensed land surveyor or engineer establish a baseline elevation datum point in the vicinity of the construction site. Prior to the below floor framing inspection or the pouring of concrete slab for the lowest floors, the land surveyor shall certify that the lowest floor height as constructed is equal to the elevation of that floor specified by the approved plans. Similarly, certifications of the garage slab and the topmost elevation of the roof are required. The application shall provide the certification letter from the licensed land surveyor to the Building Inspection Section.

**Mitigation timing:** Project design and review process

**Monitoring Timing:** Confirm and document during building permit review and project construction

In other words, each of the 11 homes required three height surveys at specific timelines, which together verify *both* the sea level height *and* overall height of the structure. The "datum" were to have been created during the project design period which was in 2009-2010. The "confirming and documentation" was to have occurred during the review prior to construction, and the 21 surveys created and produced during construction. While one would expect significant email chatter, datum, and surveys in the public record on this measure, I so far have only located one of the 21 surveys (a single roof survey for lot 11).

I don't know if the mitigation and its monitoring have either not occurred as required, or not been made readily findable to the public. Even when requesting proof of AES-1a directly via email, the most the community has received is the single roof survey for lot 11. Neither the mitigation itself (AES-1a), nor its monitoring, are acknowledged on the primary public spreadsheet page that tracks the monitoring (see SWCA matrix attached)

It's no secret this specific mitigation is enormously important to neighbors, and neighbors have been requesting proof of compliance for years. The conditions of approval specifically state that height is only as approved at the 2010 heights (see attached table) except with a major modification with a public hearing.

The overall heights were mandated to be these specific heights that were also *well below* the max allowed for the district by several feet per house (as shown in the attached table). The monitoring timing for these surveys has passed for seven of the 11 homes, meaning 21 surveys should be in the public record as part of this mitigation, plus the datum and "confirmation and documentation during building permit review". Also concerning are some emails in the record alluding to the heights of one or more of these properties not being compliant with the approval but instead being compliant with the "max height allowed in the district", which is not only several feet higher than approved on each property but is a total diversion when discussing *this* project and *these* approved parameters and heights).

I regret that it's necessary to even make this request as these documents should have already been produced (if not easily findable). Since the due dates for these surveys required for the county's monitoring have passed, it's my hope that these surveys and documents already exist and can be produced in a way that will allow sufficient time for review. I understand the county has already produced roof verification for lot 11 (1 of the 3 surveys required for that lot). I respectfully request the remaining 20 out of 21 required surveys for lots 1-4 and 9-11 be produced on or by Monday June 7, to allow enough time to review during the comment period.

If they cannot be produced by then, I respectfully request that all concerned parties be granted at least ten business days after their upload to be able to meaningfully comment on the EIR document. I also respectfully request a courtesy email when they're uploaded, and that they be added to the project repository in a reasonable way (i.e. clearly marked in a scrollable pdf vs one page at a time, added at the top of the chronological index vs added as a lower link or added inside an existing earlier file (and therefore essentially hidden from the public). All of these seemingly adversarial methods of project updates have sadly happened even as recently as last week at the project website at , creating undue difficulty for concerned parties to access the project record at <https://planning.smcgov.org/highland-estates-subdivision-records> -- I will address this in a separate email). I'd also like to see these documents added to the monitoring reporting MMRP tracking matrix, the primary location for all monitoring data, where tracking and mention of it has been absent.

Very truly yours,

Dave

CC: Honorable Supervisors

BC: concerned parties, commenters on the project