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FILED
ALAMEDA COUNTY

SEP 26 2019

CLERK OF THE SUPERIOR COURT
By _____ Deputy



**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

RG 18-933140

FRIENDS OF CRAB COVE, et al.,
Petitioners,

vs.

MALIA VELLA, et al.,
Respondents,

ALAMEDA POINT COLLABORATIVE, et al.,
Real Party in Interest,

**ORDER DENYING
PETITION FOR WRIT OF MANDATE**

The hearing on the Petition for Writ of Mandate herein came before the court on August 16, 2019. Barbara Thomas appeared for Petitioners, Robert Sohagi and Celena Chen appeared for Respondents, and Ashley Breakfield and Steven Vettel appeared for the Real Parties in Interest.

After consideration of the pleadings and papers filed by the parties, the pertinent part of the Administrative Record and the argument of the parties, with good cause therefore, the Petition for Writ of Mandate is DENIED. The reasons therefor follow.

Petitioners complain that the respondent City of Alameda's City Council committed a prejudicial abuse of discretion in the council's approval of a project named the McKay

1 Wellness Center. The city had approved the project relying on the Mitigated Negative
2 Declaration (MND) it adopted to satisfy the requirements of the California Environmental
3 Quality Act (CEQA).

4
5 Petitioners assert that respondents failed to properly notice the hearing at which the
6 MND was considered and adopted. The court disagrees that proper notice was not given. On
7 September 26, 2018, the City mailed to all necessary places and parties its Notice of Intent
8 to consider, inter alia, an MND for the project. This occurred prior to the meeting of
9 Planning Board and over two months prior to the City Council meeting at which the MND
10 was adopted by the City Council. (AR 10058 et seq.) This notice satisfies the requirements
11 of PRC § 21012 and CEQA Guidelines § 15072 (a) & (b).
12

13 Petitioners argue that the “project” was not adequately described. While the
14 petitioners list a number of “facts” that petitioners believe should be included in a project
15 description, the court finds that the project description found in the Initial Study and
16 Mitigated Negative Declaration (AR 479-540) easily satisfies the requirements of CEQA
17 Guidelines § 15071.
18

19 Petitioners assert that the MND neglects to consider historical resources that will be
20 impacted by the project. Petitioners cite only to a “Historical Study List,” which is not
21 identified by petitioners as part of the Administrative Record and which, from its title alone,
22 is not a document that establishes any particular building as an historic landmark. The Initial
23 Study and Mitigated Negative Declaration (AR 82) contains the evidence used by the City
24 to conclude that no historic resource will be impacted by the project. The court finds such
25 evidence to constitute substantial evidence.
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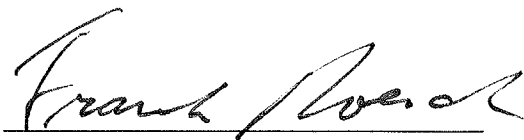
1 Finally, petitioners argue that the mitigations identified in the Initial Study and
2 Mitigated Negative Declaration are insufficient. Petitioners not only mistakenly conflate the
3 concept of a mitigation in a MND and the concept of finding overriding considerations in an
4 EIR, but they, further, do not actually identify the reasons asserted for the inadequacy of the
5 mitigations listed in the MND. Mere arguments that mitigations proposed are not good
6 enough in the absence of any supportive facts in the AR is inadequate to raise a fair
7 argument that the project may result in a substantial impact to the environment.
8

9
10 For the reasons stated above, the Petition is DENIED.

11 Respondent shall deliver a form of judgment to the Dept 17 clerk within ten days for
12 the court to endorse and file.

13 **IT IS SO ORDERED,**

14
15
16 Date: September 26, 2019

17 
18 **Judge of the Superior Court**

CLERK'S CERTIFICATE OF MAILING


RE: RG18-933140 Friends of Crab Cove et al vs Vella et al

I certify that the following is true and correct: I am the Clerk of the above-named court and not a party to this cause. I served this **Judgment**, by placing copies in envelopes addressed as shown below and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Oakland, California, following standard court practices.

Dated: 9/26/19

Chad Finke
Executive Officer/Clerk of the Superior
Court

By



Param Bir, Deputy Clerk

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