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City of West Sacramento (916) 617-4500  
1110 West Capitol Ave., West Sacramento, CA 95691

City of West Sacramento  
City Manager's Office

Appeal Filing Fee: \$100.00, **Paid Herewith ck #2053**. File Number (Staff Use Only): \_\_\_\_\_

Please understand that after you have made your application for an appeal, staff will place your appeal on the agenda at the earliest possible legal date and will prepare a brief report to accompany your appeal. The more information you can provide, the more complete your appeal will be at the time it is heard.

According to the City of West Sacramento Municipal Code, this appeal will be heard by:

\_\_\_\_\_ Planning Commission \_\_\_\_\_ Board of Appeals \_\_\_\_\_X\_\_\_\_\_ City Council \_\_\_\_\_ Hearing Officer

**1. KIMBER B GODDARD, LAW OFFICE OF KIMBER B GODDARD (916) 747-9946**

Name of Applicant Telephone

**3575 Burrows Avenue West Sacramento CA 95691**

Street Address City, State & Zip Code

**2. State what you, or the applicant, requested to do that was denied/approved that you wish to appeal:**

**Agenda Item #4 January 30, 2025 Planning Commission, Liberty Specific Plan Development Approval. See Exhibit A, B and C attached Hereto and incorporated herein by reference**

**3. Give the location (street address, general location, etc.):** NA

**4. Provide the Assessor's Parcel Number(s):** NA **5.**

State in detail the reasons for your appeal (if additional room is needed, please use an additional sheet of paper): **See Exhibit A, B and C incorporated herein by reference**

I certify that the above statements are correct and that all accompanying documents and maps are accurate.

**\*\* (ALSO SEE BELOW)** Kim B. Goddard 2/4/25 Date Signature

Notice: Within ten days after the filing of a valid application, the City Clerk shall set a subsequent date for a hearing thereon. In most situations the

hearing will be no later than forty-five days after the filing of a valid application. Notice of the time and place of the hearing shall be given to the applicant and all other know interested parties and shall state which city body or officer will hear the applicant's appeal. The notice shall be mailed at least five days before the hearing date. Refer to section 1.08.050 of the City's Municipal Code for more information.

**\*\*NOTE; As an Appellant in prior City Council Appeal Hearings, City Staff has given the hearing time frames and procedure information to me at the hearing just before the agenda item (i.e., Yarbrough Nov 8, 2024, Appeal Healing, 7:00 p.m. to 1:30 a.m.), despite my having asked for this information, in writing, well in advance. Procedure and time frame rules should be flexible and negotiated at least 10 days in advance so that appellants may properly prepare for the presentation of witnesses and evidence. Each appeal case is different. Complex, large development, Writ preparation presentations, Including witness evidence, may take at least 2 hours of appellant presentation time. To avoid later procedural error litigation, all hearing preparation rules and information must be made available well ahead of time to all parties. The City can easily do this. Issuing last minute documents mandating minimal presentation time fiats is a clear violation of Due Process and Fair hearing procedures as well as West Sacramento Municipal Code Hearing Procedures Section 1.08.060A:**

**"Hearings pursuant to this chapter shall be informal, the formal rules of evidence and Discovery shall not apply. All necessary parties shall be offered a reasonable opportunity to present all relevant facts, applicable laws, evidence and analysis demonstrating the merits of their claim or appeal..."**

**Likewise, holding hearings requiring witness testimony late into the night and exhausting witnesses until they must leave without testifying, violates the same codes, principles and procedures. In accordance with Municipal Code Section 1.08.060A, if an appeal hearing exceeds 10:00 p.m. presentation times it should be continued under Section 1.08.060D.**

**Thank you for your attention to these issues well in advance so that hearings may be conducted in accordance with proper decorum and respect to all Parties, witnesses and the council's time.**



**Kimber Goddard**

## **EXHIBIT A LIBERTY APPEAL**

### **INTRODUCTION**

The Liberty Specific Plan Development, aka, LSP, approved unanimously by the West Sacramento Planning Commission on January 30, 2025, comes 8 years after the circulation of the Draft EIR. It is clearly in need of a new EIR, supplemental augmentation and/or recirculation. This Planning Commission Appeal to the City Council is necessary to exhaust all administrative remedies, prerequisite to seeking a Writ of Mandate in Yolo County Superior Court under Code of Civil Procedure Section 1094.5, Public Resources Code Section 21168, 21166(c) and Sections 15088.5 and 15162, et seq, of the California Environmental Quality Act (CEQA), to obtain judicial review.

### **WHAT IS APPEALED**

The appeal is taken as to Item #4 on the Planning Commission Agenda of 1/30/25, and hereby appeals each and every appealable act, action and decision pertaining thereto, including but not limited to, any and all Resolutions as applicable, Findings of Fact, EIR or other Certifications, Adoptions, Statements of Overriding Concern, Mitigation Monitoring Reporting Programs, Ordinances and Zoning Code Additions or Amendments, Map Changes, General Plan Amendments, Southport Specific and Framework Plan Amendments, Development Agreements as applicable, Vesting Tentative Map Approvals, Vesting tentative Map Revisions, Proposals, Agreements and any and all other acts, actions and approvals relative to Agenda Item #4, The Liberty Specific Plan.

### **UPON WHAT IS THE APPEAL BASED**

This appeal is based upon Government Code Section 66452.5(d)1, and upon each and every other grounds allowable by law, due to new information and substantial and unforeseen environmental impacts occurring in the 8 year period between the draft EIR circulation (Aug 2017) and the Final EIR adoption by the Planning Commission (Jan 2025). At a minimum, Recirculation for significant new information under CEQA Section 15088.5 (a) is indicated. Relative to CEQA Section 15162(a)(1), (2) and (3)(A), (B), and (D)(b), and Public Resources Code Section 21166(c), a Supplemental , Amended and/or New EIR is required. For brevity, mention is only made herein of new information (last minute disclosure of unavoidable flood potential) and of the particular new and more severe impacts of flooding (Significant and unavoidable), and emergency evacuation impacts, none of which were comprehensively analyzed in the EIR. By way of example, To Wit:

### **FACTUAL HISTORY, EXAMPLE OF APPEAL GROUNDS**

The Draft EIR, at Impact WQ-7, pg 318, originally stated that, *"The placement of the Liberty housing units within a 100-year flood hazard area as mapped on a federal flood hazard*

**EXHIBIT A**

*boundary or flood insurance rate map or other flood hazard delineation map,"* was, "**Less than significant with mitigation.**" The original suggested mitigation was to phase-in the residential building as levee improvements occurred. This was the innocuous information the public received in the initial Draft EIR circulation and at **the project's only Public Workshop, years ago.**

Years of levee improvements and multi-millions of dollars later, the levee erosion and flood risk issues continued to become so much worse all-around, that, notwithstanding the brand new setback levee right next to this development, 8 years later the Liberty Final EIR was forced to make a total reversal of its original flood risk characterization to, "**Significant and unavoidable.**" No second Public Workshop was ever held to disclose this dramatic change in risk assessment to the public at large.

Over the years between the two document dates, new and more severe flood risk information became available by virtue of years of failed efforts by the WSLIP (West Sacramento Levee Improvement Plan). Between the Draft and Final EIR dates it became obvious that the former mitigation plan would never work, and no building phase-in plan would ever be feasible since the required 100 and 200 year FEMA levee safety certification was not going to be soon, if ever achieved. With each passing year's report from the WSAFCA (West Sacramento Area Flood Control Agency), to the CVFPB (Central Valley flood Protection Board) it was further disclosed that West Sacramento levees would take billions (even up to \$1.2 TRILLION) of dollars and decades more improvements to get to the required FEMA flood protection certification level. In 2022, the West Sacramento government sought special legislation for privileges to extend the certification time until 2040 to find the money and do the repairs to achieve the mandatory flood certification level (SB 586). The legislation found a technical way around the ongoing significant public health and safety risk to the citizens of West Sacramento.

#### **LIBERTY TYPO EXCUSE**

The LSP Final EIR makes a lame excuse for the reversal of their flood risk assessment. There was no typographical error in the 2017 Liberty Draft EIR that yielded the narrative of a more **reduced mitigable flood risk** than that of the **unmitigable flood risk** alleged in the 2016 West Sacramento General Plan Revision EIR, which had already been publicly circulated when the LSP Draft EIR was initiated. Are we to believe that the Liberty developers did not read the 2016 West Sacramento General Plan Revision EIR before circulating the Liberty Draft EIR, and then waited 8 years to correct a "typo?" More than a year before the LSP Draft EIR was circulated, the updated 2016 West Sacramento General Plan EIR had thrown in the towel on the flood risk reality, indicating that the flood risk of ANY further residential development in Southport was, "*Significant and unavoidable.*" The Liberty Draft EIR'S 2017 statement that the flood risk could still be mitigated was more likely a calculated concealment of the flood risk reality, adopted to move the development forward, purposefully underestimating the risk, and hoping for the best regarding future levee improvements. Unfortunately, 8 years later, levee improvement reality caught up with the Liberty Specific Plan and forced acknowledgment in the Final EIR of the flip-flop disclosure, that the flood risk of the project is indeed, "*Significant and unavoidable.*"



## THE UNVARNISHED TRUTH OF FLOOD RISK

Despite this new information and admission of new and more severe impacts than were contemplated in the Draft EIR, the Liberty Development ignored the significant and substantial change in erosion circumstances throughout the City's 50 mile levee system, until years later, suddenly disclosing without further public review, what now has become obvious. No amount of levee improvement can protect this area, or any other Southport Basin area, under 100 year, let alone the required 200 year FEMA flood certification level. Therefore, the Final EIR, at pg 3-8 of Impact WQ-7, revised the original flood risk analysis to, "**Significant and unavoidable,**" recommending feckless mitigation statements be placed in subsequent buyer's deeds, with flood and insurance issue warnings, and developer, "In lieu of." However, LSP Final EIR finally stated the West Sacramento flood risk truth, at pg 3-8, pp 4 and 6:

*"A levee failure anywhere in the Southport basin would likely inundate the entire Basin (US Army Corps of Engineers). The generally flat topography of West Sacramento South of the DWSC, and the substantial flood deaths predicted for a levee failure, suggest that flood water could spread extensively into the LSP (Liberty Specific Plan) area, even if the Southport Levee were to remain intact." "...[I]t will be many more years until the flood protection goal is achieved, and in the meantime, new development in the city of West Sacramento (that) occurs prior to completion of improvements ensuring full protection, will not have 100-year flood protection. Therefore the impact is significant and unavoidable until the WSLIP (West Sacramento Levee Improvement Plan) is complete and the required flood protection for development protected by the levee system is obtained."*

## THE PLANNING COMMISSION BUCKLES

The inexperienced planning commission's response to this disastrous Final EIR was, as is almost always the case, to follow the Staff, City Attorney and City Manager's recommendations to adopt a Statement of Overriding Concern and just build in the flood hazard zone anyway (ignoring the preclusive building warnings of the LSP Final EIR's ominous, FEMA Hazardous Flood Zone pending remapping). The young Commission approved 1500 more housing units at the foot of a setback levee that does not protect this development, their previously approved nearby Yarbrough 3000 housing unit development, or the LSP contiguous 1500 more houses planned for the River Point Housing Development. There are few better cases for CEQA Section 15088.5 Recirculation than the total reversal of the Liberty flood risk analysis. For substantial new and more significant impacts, of unforeseen changed circumstances, the Liberty EIR stands out, but here are two similarly defective EIR cases, completely on point: **We Advocate Thorough Environmental Review v County of Siskiyou (2022) 78 Cal app 5th 683**, and **Save our Capitol! v Department of General Services (2023) 87 Cal.App. 5th, 655**. In both of these cases, our **3rd District Court of Appeals** ordered the EIRs recirculated for unforeseen impacts of less significance than the significantly increased health and safety impacts of the Liberty flooding analysis reversal. In **We Advocate**, carbon emissions doubled over the time between draft and final EIR. In **Save Our Capitol!**, a changed project description

over aesthetic design issues forced a recirculation. In neither of these cases was there so significant an impact as the increased risk of property damage, injury and death by flooding, from a changed risk analysis of less than significant, to unavoidable, due to 8 years of deteriorating, unmaintainable levees.

## **EMERGENCY EVACUATION IMPACTS**

Furthermore, and in no way less significant, as West Sacramento flood risks have grown over time, so also have **emergency exit issues** become more severely impacted. With the increased traffic and still only one way out of the community to the South, and four ways out to the North, all leading to the same freeway interchange area, the Liberty development's, "Walking Village" concept severely underestimates the risks associated with emergency evacuation. Neither the Draft nor the Final Liberty EIR properly analyzes what every West Sacramento resident already knows; if there's a flood, people may die as we all rush to gridlock for the same sparse evacuation routes.

West Sacramento has all but given up on a bridge across the Sacramento River to connect with Interstate 5 from the Southport area East. Such a bridge was always planned to ameliorate the very evacuation risk that this development increases. **In Banta v County of Lake, (2024) 105 Cal.App 4th, 1222**, the court overturned an EIR, holding that the increased risk to fire evacuation routes was a significant environmental health and safety impact that required proper analysis under CEQA. Exacerbating emergency exit risks was held to create increased hazards (regardless of the specific type of hazard being fire or flood), necessitating a new EIR.

## **PREMATURE NOD ISSUE**

Although not an appealable matter, this Appellant notes that a draft Notice of Determination (NOD) is attached as an exhibit to the staff report in this matter, to be filed immediately after the Planning Commission's approval of this project. Under CEQA, such a NOD normally triggers a 30-day statute of limitations from the project approval date, to file an action against the EIR. However, to avoid confusion, this Appellant points out the statutory tolling effect when an administrative appeal is available and necessary prior to the exhaustion of administrative remedies. In **California Clean Energy Committee v City of San Jose (2013) 220 Cal.App 4th, 1325**, the Court of Appeal addressed the issue of whether the filing of a NOD by a Planning Commission triggers the 30-day statute. The court concluded that the statute of limitations does not commence until the administrative appeal process is exhausted and a final decision is rendered by the City Council.



## **EXHIBIT B LIBERTY APPEAL**

TRUTH UNFOLDS Part 6  
THE FLOOD GAME BUSTED!!

The Liberty Development: 1500 more homes in a flood zone unanimously approved last night!

1/30/25 Notice to Planning Commissioners, opinion by Kimber Goddard, local attorney and 45-year resident

(If you can't tolerate the length of these articles, scroll down to: READ FROM HERE DOWN CAREFULLY! We all need to know this).

### **# NOTICE OF INTENT TO APPEAL**

Please be advised that should the Planning Commission approve the Liberty Specific Plan this evening, without a more full Recirculation analysis of the impacts and inadequacies of the environmental impact report (EIR), particularly as it pertains to flooding and emergency exit issues, that it may be necessary to file an appeal to the City Council, exhaust all administrative remedies there, and, like the 3000 housing unit YARBROUGH development, if this matter is not given appropriate consideration and analysis, file yet another Yolo County Superior Court Writ of Mandate, under Code of Civil Procedure Section 1094.5, Public Resources Code Section 21168, and Section 15162, et seq, of The California Environmental Quality Act (CEQA), to obtain judicial review. First off, let's quickly look at the structure of tonight's Public Hearing:

### **CONFLICTS AND PUBLIC HEARING TIME FRAMES**

This evening we will not see our Community Development Director, Andrea Ouse, because she is conflicted out as living within the project. Instead we will see Mr Lagamarsino, a DEVELOPER PAID substitute Community Development Director allegedly acting on our behalf. I disclose this obvious apparent conflict of interest, because it has not been clearly disclosed to the public. This is how it's done in West Sacramento.

Additionally, we are once again dealing with an aged EIR, in this case, apparently 8 years from inception, fraught with recent flood risk changes, and not recirculated or augmented thereafter, for further public scrutiny, as required under CEQA. This City is becoming famous for initiating projects, holding one, long ago, Public Workshop, having the project sit for years, then pushing it forward for approval, full bore, through a purposefully weak Planning Commission, all of whom are appointed by the Mayor.

There will be no new public workshops to inform the public of increased and changing flood risks that, despite the din of developer opinion otherwise, can never as fully contemplate present circumstances as a contemporaneous, or at least close in time EIR. Raising this concern will be met with the City's ubiquitous claim that you should have been at the first public workshop, long ago. At least in this case, there is some public participation for density, zoning inconsistency, aesthetics, NO SCHOOLS, and other environmental reasons, that are all valid, although they pale in significance to the flood and emergency exit risks into which everyone is entering with this project.

**EXHIBIT B**



INTERESTING SCHOOL POINT: The draft EIR included a school, but studies raised the risk of getting school children out in the event of a flood, so as a mitigation measure, the school was just removed, saying it was unnecessary.

## THE UNMITIGATED GALL OF UNMITIGABLE RISK

For far too long, developers have contributed next to nothing with respect to flood levy improvements concerning which their residential developments are highly impacted. "Since we can't fix it we will pay some money," type of, "In Leiu of," developer fees are a PITTANCE compared with the enormity of the cost of repairing our 50 miles of bad levees. With at least \$1.2 TRILLION dollars needed over what appears to be decades more of improvement efforts, the West Sacramento levys do not all have 100 year, let alone the required 200-year, flood certification level required by FEMA, and SB 5, to allow development in a floodplain. \*

We are not going to have the required flood protection unless we come up with some very big money and a lot of work over a long period of time. In the low bath tub in which we sit, surrounded by Levys on all sides, in a flat flood plain, independent engineering analysis has yielded the conclusion that:

"A significant break anywhere in the 50 miles of Levee would inundate to up to 20 ft of water throughout the community within 2 hours." \*\* That is the Salient point to keep in mind with respect to development in West Sacramento.

Although anyone can see that we keep dumping dirt and making setback Levy's, if a significant break anywhere can flood the whole place everywhere in 2 hours, the improvements, although necessary and good, are really Multi-Million dollar "Make-work," creating pretty spots in a bad Levee. If you don't understand this, you might buy a home at the foot of the beautiful new setback Levy alongside this development and be lulled into complacency.

Allowing the developers, as here, to put a little money in our coffers to go ahead and build, despite the risks, if they will put warnings in home buyers Deeds that they might be flooded and have a hard time getting flood insurance, is about all that is being offered in this development by way mitigating the risk to the public. However, a common sense person might realize that mortgage lenders require flood insurance in a flood zone and if you can't get it, you won't build or sell houses. That's where this gets tricky so here we go:

## READ FROM HERE DOWN CAREFULLY!

First the draft EIR said flooding was a significant risk but could be mitigated. Then, with public pressure of the obvious, the final EIR announced (without necessary CEQA legal recirculation of the document) that the flood risk of this project is "Significant And Unavoidable," and adopted a "Statement of Overriding Concern." This is a legal way of saying, "We're just going to do it anyway."

THINK ABOUT THIS: With millions just spent on a beautiful setback Levy, to allegedly protect housing developments, why did it go from a mitigated risk BEFORE construction, to a risk impossible to mitigate AFTER construction? And with that, once again, the developer, the City of West Sacramento and The West Sacramento Area Flood Control Board (WSAFCA), jeopardize

citizen health and safety for profit and tax revenue.

Let's take a look at how they get around the 200 yr FEMA and SB 5 law requiring 200 yr flood protection certification before building.

## THE FLOOD GAME THE PUBLIC KNOWS NOTHING ABOUT

Because, to be honest, it does not look like we can obtain 200-year flood certification with these levees within most of our lifetimes, the City sought and obtained a special law, just for us, called SB 901 in 2022. That law allowed the City until 2030 to achieve the required protection. When it quickly became clear that this still wasn't enough time, a year later, the City went, hat in hand, and got another new law, just for us, called SB 586 (oh, to know what we traded for in the politics behind this one). That's the one we're now operating under which gets us exempt from the required FEMA flood safety standards, all the way until 2040! But, there is something we must do each year to continue to qualify to fail to meet the required standards (Yes, qualify to fail!). Enter the WSAFCA Board. Here's how it works:

Two members of the City Council, Alcalá and Orozco, and civilian Tom Ramos (Ramos/Ramco Development--think about that--see PS below), meet regularly with the engineers, listen to reports, and send the crews out to fix it here and shore it up there so we can keep development rolling. Yes, of course I'm oversimplifying, there are independent engineer reviews and some of these improvements are magnificent in terms of quality and expense, but that's largely cosmetic under the circumstances. The federal government pays multi-millions for these improvements, and local and state government only pays a small part of the bill. Developer "In Lieu of," fees are absolute peanuts here.

The purpose of WSAFCA is to adopt annual "Findings" and send them off to the Central Valley Flood Control Board (CVFCB) that we are basically doing our best, we have a plan, we're getting money for our plan, and we are working hard to get the 100 and 200 Year flood protection required. And we now have until 2040 to do it! A majority of two development oriented members of a three person board are all that stands between every home sought to be built here and a FEMA building moratorium. Fortunately, or unfortunately, depending upon the future of flooding, WSAFCA has never failed to adopt the same findings every year, that we are on track and good to go with more and more housing developments.

## CONCLUSION, DRAW ONE, I HAVE

I've seen Hurricane Katrina and the Paradise, and now LA wildfire devastations, and drawn my own conclusions regarding face-value trust in government health and safety protections, and I'm willing to do something about the problems in our own Community. You can draw your own conclusions, but I hope these facts will help you want to get involved also. There will be a way to help. It's coming.

No matter how much Noah yelled, no one wanted to get on the ark until it started raining. By then it was too late.

Kimber B Goddard  
Attorney At Law

45 year resident

PS. Quote of the night by Developer Dan Ramos (Flood Reclamation District 900 Board member and brother of WS flood board chairman), just before unanimous project approval: We need to build these houses to get the developer fees to fix the levees to provide the safety for these houses.

FOOD FOR THOUGHT: Why does the city appoint developers to control flood boards? You know.

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# edited and updated for clarity and length.

\* CVFPB 2023 Annual Report from West Sacramento Flood Board.

\*\* Casandra Nobriga, pg 4 , Deputy Executive officer, Delta stewardship Council, Hydrology and Water Quality Report, June 2016.

\*\*\*HDR National Engineering Excellence Review, pg1, pp1, "Flood Protection for Residents of and Businesses in West Sacramento."

1 **KIMBER B. GODDARD SBN: 125160**  
2 **LAW OFFICES OF KIMBER B. GODDARD**

3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 KIMBER B GODDARD, Attorney in Pro Per

7  
8 **SUPERIOR COURT OF CALIFORNIA**  
9 **COUNTY OF YOLO**

10 The Matter Of:

11 KIMBER B GODDARD

12 Petitioner,

13 CITY OF WEST SACRAMENTO

14 and DOES 1-10, Respondents,

15 also,

16 THE PAIK SURVIVORS TRUST, PAIK  
17 PROPERTIES, PACO STEEL &  
18 ENGINEERING CORP, PROCESS  
19 ENGINEERING COMPANY, INC.,  
20 NELSON S PAIK, DAVID PAIK,  
21 PACIFIC-TEAL DEVELOPMENT, LLC,

and DOES 1-X, Real Parties In Interest

**CASE NUMBER:**

**GODDARD V CITY OF**

**WEST SACRAMENTO, et al.**

**WRIT OF MANDATE under California  
Code of Civil Procedure Section 1094.5,  
1021.5 and Public Resources Code  
Section 21168, et seq.**

Date:

Time:

Dept:

**EXHIBIT C**