



W16c

ARROYO GRANDE  
GROVER BEACH

CHAMBER OF COMMERCE

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CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

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May 29, 2014

Board of Directors  
California Coastal Commission  
North Central Coast District Office  
725 Front Street, Ste. 300  
Santa Cruz, CA 95060

Dear Members of the Board of Directors:

On behalf of the Arroyo Grande & Grover Beach Chamber of Commerce, we urge you to support the construction of the Grover Beach Lodge. We strongly believe the project is a good fit for our community.

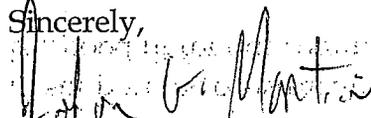
Without hesitation the majority of South County residents support the Grover Beach Lodge. The project will enhance both the coastal experience and the surrounding area and bring much needed jobs to our community.

The City of Grover Beach has done an admirable job in creating a plan that works for a wide variety of visitors while protecting the natural beauty of the coastline.

We are proud to be hosts of one of the most beautiful stretches of beach in California and feel confident the beach access routes and outdoor amenities will be a wonderful addition for both resort guests and locals. Change is hard for a lot of people, but we feel confident that this change will be a healthy one for our community.

Thank you for your consideration.

Sincerely,

  
Joshua W. Martin  
Chairman of the Board



Judith Bean  
President/CEO

W16c



# City of Grover Beach

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Mayor Pro Tem Jeff Lee  
Council Member Karen Bright, Council Member Glenn Marshall, Council Member Bill Nicolls

JUN 03 2014

Robert Perrault  
City Manager

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

June 3, 2014

Chair Steven Kinsey and Commissioners  
California Coastal Commission  
Central Coast District Office  
725 Front Street, Suite 300  
Santa Cruz, CA 95060

Ref. Item 16 C

**SUBJECT: GROVER BEACH LODGE - COMMISSION APPEAL NO. A-3-GRB-14-0024**

Dear Chair Kinsey and Commissioners:

The Coastal Development Permit approved by the Grover Beach City Council for the Grover Beach Lodge project has been appealed to the California Coastal Commission. This is a unique project located in the City of Grover Beach and within Pismo State Beach. The City and California Department of Parks and Recreation (State Parks) have partnered in a Joint Powers Agreement approved in 2006 to develop the site with a 150-room lodge and conference center. As the result of a public selection process, Pacifica Companies, the applicant, was selected as the Concessionaire to develop and operate the lodge and conference center and subsequently entered into a 50-year lease with the Joint Authority (City and State Parks).

On April 7, 2014, the Grover Beach City Council voted 5-0 to approve the Coastal Development Permit for the proposed project. This culminated a public review process that included eight public hearings before the Planning Commission, City Council, and California Coastal Commission spanning three years.

The Joint Authority would like to reiterate how this recently approved project envisioned for over 30 years is consistent with the City's certified Local Coastal Program. The original certified LCP in January 1982 identifies the site for development of a 150-room lodge and conference center. In January 2000, the Coastal Commission approved a major LCP Amendment that revised development standards related to the development of the site. In June 2013, the Coastal Commission again approved a major LCP Amendment related to the project site. The proposed project is consistent with the intended use contained in the original LCP adopted in 1982 and, as approved, is in conformance with the currently adopted LCP policies and development standards.

In response to assertions made by the appellants, the Joint Authority would like to reiterate its position with regard to matters addressed by the appeals.

**Use of Property**

Friends of Oceano Dunes raise an issue that the site is not available for development of the project because it has previously been dedicated to the public recreational use of off-highway vehicles (OHV) and equestrian staging. The property is owned by the State of California. State Parks' legal counsel has

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Administrative Services/Water (805) 473-4550 ♦ City Council/City Manager (805) 473-4567 ♦ City Clerk (805) 473-4568  
Community Development - Building, Planning & Economic Development (805) 473-4520 ♦ Human Resources (805) 473-4564  
Parks & Recreation (805) 473-4580 ♦ Police/Non-Emergency (805) 473-4511 ♦ Public Works (805) 473-4520

researched the issue raised by the appellant and found that there is no legal precedent for an implied dedication on this property.

The appellants also assert that the loss of parking on the vacant dirt lot is inconsistent with the LCP. The LCP does require that the existing 160 parking spaces be maintained as part of the development of the site with the intended land use of a hotel and conference center. The project meets this requirement.

**Traffic and Access**

The appellants also allege that the development of the project would significantly and adversely affect local traffic and impede public access to the beach, shoreline, and dunes. In regards to traffic generated by the project, the Final Environmental Impact Report (EIR) analyzed the potential traffic impacts of the proposed project, including the intersection of Highway 1 and West Grand Avenue which is the key public access point to the beach. The Final EIR concluded that Level of Service (LOS) C would be maintained in the cumulative plus project scenario as shown in the table below.

**Level of Service for the Signalized Intersection - Highway 1 and West Grand Avenue**

Condition	AM Peak Hour		PM Peak Hour		Saturday Peak Hour	
	Delay*	LOS	Delay*	LOS	Delay*	LOS
Existing	13.3	B	18.8	B	19.0	B
Existing Plus Project	13.8	B	15.2	B	19.5	B
Cumulative (Build-out)	14.5	B	19.4	B	27.9	C
Cumulative Plus Project	14.6	B	20.4	C	31.0	C

\* Delay in seconds

The Level of Service (LOS) C is the City's targeted LOS and is not considered an adverse impact based on the California Environmental Quality Act (CEQA) thresholds. The net increase in delay at the intersection in the cumulative (build-out) condition as a result of the project at the Saturday peak hour is an average of 3.1 seconds (31.0 - 27.9 seconds). Although this is a technical analysis regarding traffic impacts, it clearly demonstrates that this project will have an insignificant affect on vehicular access to the beach and in no way will impede vehicular access to the beach.

The appellant also contends that this project would reduce public access to the beach and recreational opportunities. The City's LCP Policy 5.7.F.1.a states the following:

*"The City shall ensure that visitors to the Pismo State Beach are provided with easily accessible, visitor-serving commercial and public recreational access services, particularly those relating to provision of food and lodging and beach related uses, in any new development in the Coastal Planned Commercial area west of Highway 1..... The area west of Highway 1 shall be developed with visitor serving uses, including a lodge and conference center within the portion of Pismo State Beach....."*

Consistent with the above policy, the project will provide visitor serving uses consisting of a 150-room lodge, conference center, and restaurant. The project was designed to enhance public access by improving the existing public amenities (e.g., enlarged public plaza, new walkways, etc.) and providing new public amenities such as the second story viewing area. The Lodge project is the first hotel and conference center in Grover Beach within the Coastal Zone and will provide new visitor-serving uses that are currently absent in Grover Beach.

### Relocation of Sewer Dump Station

The appellant raises the issue of relocating the sanitary dump station. Although the State's General Development Plan for Pismo State Beach is not part of the City's LCP, it should be noted that page 10 of the adopted amendment in 1982 states the following:

*"It will be necessary to relocate the RV dump station from LeSage to some other location. This station was recently constructed in conformance with the GDP, but the lodge will need this space, as shown in this amendment."*

The Joint Authority evaluated several locations, including Pismo State Beach, Oceano Dunes State Vehicular Recreation Area, and other publicly- and privately-owned locations. Several of these locations were evaluated in the Final EIR. However, all other alternative locations on State Park lands were located within or adjacent to environmentally sensitive habitat areas (ESHA) and therefore, were not feasible alternatives.

The Joint Authority determined that the most appropriate and easily accessible site in the vicinity would be to expand the existing RV sewer dump station located in the North Beach Campground, approximately a half mile north of the current location.

Although the frequency of use of the dump station is not an issue related to the appeal, it should be noted that State Parks did conduct a survey that was included in the Final EIR as follows:

*"Traffic counts at the existing RV sewer dump station were taken by the State Parks from August 5, 2010 through September 12, 2010, including numerous weekend days including Labor Day weekend. Counts were taken during mid-day peaks and afternoon peaks. The highest reported average number of dump station users in the traffic count period was found to be 9.5 trailers and RVs per hour between 1:30 and 3:30 PM on Sunday, September 12, 2010. On Labor Day weekend, the peak number of users was found to be 6 trailers and RVs per hour between 1:30 and 3:30 PM on Monday, September 6, 2010.*

*This traffic would be rerouted to the North Beach Campground and would use the entrance off of Highway 1. This entrance features about 600 feet of storage for northbound left turns into the park entrance which is sufficient for 20 25-foot RVs including 5 feet between each vehicle. This storage will be more than enough to handle the current RV and trailer users and the displaced users from the Grover Beach state park area."*

State Parks is preparing a Coastal Development Permit application for submission to the City of Pismo Beach for approval of the expansion of the existing sewer dump station. Condition of approval No. CDD-5 of the CDP states:

*"Prior to demolition of the existing RV sewer dump station, the expansion of the North Beach Campground RV dump station shall be operational....."*

As a result, at no time will campers be without additional sewer dump capacity.

**Conclusion**

In conclusion, the Joint Authority (City of Grover Beach and California Department of Parks and Recreation) strongly believes that the information in the record clearly demonstrates that the Grover Beach Lodge and Conference Center Project, as approved by the Grover Beach City Council, is consistent with the City's certified Local Coastal Program and with the public access requirements of the California Coastal Act. The issues raised by the appellants have been reviewed and evaluated during the approval process, as set forth above.

Sincerely,



DEBBIE PETERSON  
Mayor, City of Grover Beach



BRENT MARSHALL  
District Superintendent, Oceano Dunes District,  
California State Parks

W16c

RE: Grover Beach Lodge & Conference center W16c.

Dear Mr. Buhr,

Earlier this week, I checked with Pismo Beach City Engineer, Ben Fine, about whether or not the city has agreed to take the sewage waste historically dumped at the Grand Ave. site. Your staff report suggests the matter is resolved. According to this quick email exchange I had on June 3, that does not appear to be the case. The cities of Grover Beach and Pismo Beach would have to have had a public hearing and a Memorandum of Understanding adopted in public at both cities for this agreement to have taken place. To date, no such hearing has taken place. To assert that there is an arrangement is misleading to the Commission.

I don't know if you know, that material dumped at this location is of very high strength, it has a chemical component that the Pismo Beach wastewater facility may not be able to treat as designed.

Additionally, there has been opposition from North Beach/Pismo Beach neighbors regarding sending the additional RV/ATV traffic into their city to accommodate the GB Lodge project in perpetuity.

Feel free to contact me if you have any questions,  
Thanks,

Julie Tacker  
Administrative Assistant

J.H. Edwards Company  
P.O. Box 6070  
Los Osos, CA 93412  
805.235.0873 - Jeff  
805.235-8262 - Julie  
805-528-3569 - Office

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JUN 06 2014

CALIFORNIA  
COASTAL COMMISSION  
GENERAL COAST AREA

**LAW OFFICES OF THOMAS D. ROTH  
ONE MARKET, SPEAR TOWER, SUITE 3600  
SAN FRANCISCO, CALIFORNIA 94105  
(415) 293-7684  
(415) 435-2086 (Fax)  
[rothlaw1@comcast.net](mailto:rothlaw1@comcast.net)**

June 6, 2014

**By E-MAIL:**

**[Justin.Buhr@coastal.ca.gov](mailto:Justin.Buhr@coastal.ca.gov)**

California Coastal Commission  
Central Coast District Office  
Dan Carl, Deputy Director  
Madeline Cavalieri, District Manager  
725 Front Street, Suite 300  
Santa Cruz, CA 95060-4508

**RE: Friends of Oceano Dunes' Points re Appeal No. A-3-GRB-14-0024  
(Grover Beach Lodge & Conference Center), Request for Continuance of  
Substantial Issue Hearing, Request for Commission Investigation of Implied  
Dedicated OHV Staging Area, and Response to Commission Staff Report**

Dear Mr. Carl, Ms Cavalieri and Commissioners:

This firm represents Friends of Oceano Dunes, a California not-for-profit corporation and watchdog association (Friends), representing approximately 28,000 members and users of the Oceano Dunes State Vehicular Recreation Area (SVRA). Friends represents businesses, environmentalists, equestrians, campers, fishermen, families and off-road enthusiasts who enjoy the benefits of public access to the coastal zone through responsible recreation at the Oceano Dunes SVRA.

**Friends:**

**(1) files these response comments to the Commission staff report;**

**(2) requests a continuance of this hearing so that public agencies have sufficient time to respond to Friends' Public Records Act requests regarding the historical use of the project site; and**

**(3) asks that the Commission direct staff to follow standard Commission practice and policy and conduct its own investigation of the project site to document that the site is subject to an implied-in-law dedication to the public for the recreational purpose of off-highway vehicle (OHV) staging for members of the public using Oceano Dunes SVRA.**

Friends respectfully requests a continuance of this hearing scheduled for June 11, 2014 because Friends has not yet received documents in response to Public Records Act ("PRA") requests to the City of Grover Beach ("City") and California Department of Parks and Recreation ("State Parks") related to the implied dedication area. Documents responsive to these requests may provide additional information and evidence regarding the long-term use of the proposed project site as a staging area for off-highway vehicles (OHV) entering and exiting Oceano Dunes.

In addition, the Commission needs the time to conduct a study/investigation of the OHV implied dedication area, in accordance with the Commission's policy of conducting an investigation when there is a possible or potential implied dedication on the relevant project site.

Friends has presented evidence that a large portion (or the entire project site) for the proposed Grover Beach Lodge and Conference Center (the "Project") has been impliedly dedicated as an OHV staging area for OHV recreating at Oceano Dunes SVRA. As the California Supreme Court articulated in *Gion v. Santa Cruz* (1970) 2 Cal.3d 29, the land in question is often dedicated decades or more before a judicial determination of implied dedication is rendered. As a result, the dedication may pre-date, and survive, transfers of title over time.

On May 12, 2014, Friends sent a Public Records Act (PRA) request to City to obtain records for this project site, including but not limited to maps, photographs, videotapes and other records showing the historical use of the area as well as ownership of the site and public use and enjoyment of the land. Friends also submitted a PRA request to State Parks on April 20, 2014 to obtain records regarding its acquisition of parcels for the SVRA and the project site. The City advised Friends that it would not produce documents until after June 15, 2014. State Parks, while producing some documents, has not produced any documents regarding the use of the proposed Project site.

Friends has acted with good faith and due diligence to obtain additional evidence prior to this hearing but has not yet received critical documents in

response to these PRA requests. Additional time is needed to ensure that the "commission's public hearing on a permit matter shall be conducted in a manner deemed most suitable to ensure fundamental fairness to all parties concerned, and with a view toward securing all relevant information and material necessary to render a decision without unnecessary delay." (14 C.C.R. § 13064) The courts have recognized that § 13064 is one of the Commission's regulations designed to enable a "fair opportunity to be heard and to place sufficient written material in the administrative record." *Rossco Holdings Inc. v. California* (1989) 212 Cal. App. 3d 642, 658, n.8. Friends thus requests that the Commission continue the hearing for 60 days. (14 C.C.R. § 13070 ("A public hearing on an application may be completed in one commission meeting. However, the commission may vote to continue the hearing to a subsequent meeting."))

In addition, the Appeal Staff Report Substantial Issue Determination (<http://documents.coastal.ca.gov/reports/2014/6/W16c-6-2014.pdf>) for this Project states that the Commission needs more information to "determine whether an implied dedication has been established on the project site." (Staff Report, p.2) Friends disagrees with this assessment. However, since staff's position is that it needs additional information, and that information may be located in State Parks' or the City's files, it is essential that the Commission continue the hearing so that the information may come to light.

While the courts determine whether there is an implied dedication, Public Resources Code Section 30211 mandates that the Commission protect public implied dedication areas and is one of the public access policies that must be met in order for the Commission to find this Project is consistent with the Coastal Act policies. The Commission's *Interpretive Guidelines* state that a project cannot be found consistent with the access provisions if it interferes with implied dedication in Section 30211. According to the Commission's own policies, the Commission must protect and not diminish a dedication even if the status is a possible or potential implied dedication. Where there is evidence of historic public use that is documented with photographs or statements by users of the area, as here, the Commission's policies compel it to conduct an investigation/study in order to obtain the information necessary to protect constitutional public access and to determine Section 30211 compliance. The Commission followed this process of continuance to enable the investigation in a prior similar case of implied dedication in 2003. Friends is simply requesting similar treatment and fairness.

Friends is also submitting the following points regarding the Staff Report for this substantial issue hearing:

**Point #1: The Commission is Required to Protect, and Therefore Investigate/Study, Any Possible OHV Implied Dedication Area.**

The Commission is mandated to *protect* public access established by implied dedication, such as the OHV Staging area. Section 30211 mandates that "[d]evelopment shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization... ." The Commission's *Statewide Interpretive Guidelines on Public Access ("Interpretive Guidelines")*<sup>1</sup> (available at this link <http://www.gpo.gov/fdsys/pkg/CZIC-ht391-u5-1980/xml/CZIC-ht391-u5-1980.xml> and [http://docs.lib.noaa.gov/noaa\\_documents/NOS/CZIC/93E552.pdf](http://docs.lib.noaa.gov/noaa_documents/NOS/CZIC/93E552.pdf) in Appendix A of *Proceedings of a forum on recreational access to the coastal zone*, and is incorporated herein by this reference) make clear that public right of access "acquired through use" means implied public dedication or public trust lands, as Friends has stated in these proceedings.

Section 30211 is also one of the provisions of the Coastal Act that sets forth a requirement for the provision of public access that must be met in order for the Commission to find a project is consistent with the provisions and policies of the Coastal Act. (*Interpretive Guidelines*, p. 141) ("Additional provisions of Chapter 3 of the Coastal Act (Sections 30211 - 30214) set forth requirements for the provision of public access which must be met in order for the Commission to find a project consistent with the provisions and policies of the Act... . In addition to setting forth the Constitutional provision mandating that access to the public tidelands be maximized (Section 30210), Sections 30211 and 30212 provide specific requirements to be met prior to finding a project consistent with the access provisions.") The *Interpretive Guidelines* also state that a project cannot be found consistent with the access provisions if it interferes with implied dedication in Section 30211: "To meet the provisions of Section 30211 of the Act, development as defined above cannot interfere with the public right to use the sea where acquired through historical use or legislative authorization." (*Interpretive Guidelines*, p. 142)

The Commission must protect and not diminish dedicated lands even if the status is a possible or potential implied dedication rights that are shown by evidence of either photographs or statements by users. In this Project, both photographs and a declaration regarding the elements of implied dedication have been submitted as evidence by Friends or are part of the administrative record:

"To meet the provisions of Section 30211 of the Act, development as defined above cannot interfere with the public right to use the

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<sup>1</sup> The *Interpretive Guidelines* have been cited by the courts. (See, e.g., *Grupe v. California Coastal Commission* (1985) 166 Cal. App. 3d 148); see also *Georgia-Pacific Corp. v. California Coastal Commission* (1982) 132 Cal. App. 3d 678 (Commission asked the trial court to take judicial notice of the guidelines).

sea where acquired through historical use or legislative authorization. **Public prescriptive rights must, therefore, be protected wherever they exist. Where there is evidence of historic public use which has been documented through photographs or statements by users of the shoreline area, where a proposed development could interfere with the asserted historic use, the Commission should protect the possible prescriptive rights. Such rights can be preserved through recordation of access agreements acknowledging the existence of public rights on the site or by siting and designing the proposed development in a manner which does not interfere with the public rights. The actions taken by the Commission should not diminish the potential prescriptive rights in any way. The Commission may, however, allow development to be sited in an area of historic public use where equivalent areas for public access are provided;<sup>2</sup> such compromise dedication areas should provide for equivalent area and use of the accessways. Where appropriate, the Commission should investigate the factual basis of the prescriptive rights and claim and include, in the permit file, any information available to document the historic public use of the subject site.** Photographs of the site showing public use and affidavits of those claiming to have used the area in question should be included. The Commission, upon compiling such preliminary data, should request the Attorney General's office<sup>3</sup> to advise the Commission on what actions, such as litigation to quiet title in the public, should be taken. Evidence of prescriptive use also indicates the need for dedication areas required under Section 30212 of the Act. Requiring dedications of historic use areas under Section 30212 would protect any public rights while avoiding public and private litigation costs over the issue of prescriptive rights in a quiet title action." (*Interpretive Guidelines*, p. 142) (Emphasis added)

In order to protect constitutional public access and to determine Section 30211 compliance, the Commission should conduct a study and investigation

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<sup>2</sup> Friends disagrees with the Commission's interpretation that it has legal authority to allow development to be sited in an implied dedication area. In any event, even if the Commission did have such authority, the proposed parking area fails the Coastal Act and Commission standard of equivalent area and use since it does not guarantee staging for any OHV, and certainly not for the historical level of use.

<sup>3</sup> California Attorney General's Office, *Implied Dedication and Prescriptive Rights Manual Relating to California Coastal Commission Matters* (1989) and incorporated herein by this reference.

into the OHV implied dedication area. (Gregory Taylor, Assistant Attorney General, "Public Trust and Prescriptive Rights" (1980) (available at this link: <http://www.gpo.gov/fdsys/pkg/CZIC-ht391-u5-1980/xml/CZIC-ht391-u5-1980.xml>), incorporated herein by this reference) This investigation should precede staff trying to first determine in a surface and conclusionary perspective whether the elements of implied dedication have been established:

"Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. California Public Resources Code § 30211. **Therefore, it is important to resolve the question of whether public prescriptive rights exist over property involved in a permit request. Before examining the elements necessary to establish public prescriptive rights in property, it is most necessary to emphasize the importance of a thorough factual investigation. Without such a study, it is impossible to make a determination regarding the existence of such public rights.**" (p. 20) (Emphasis added)

As discussed in more detail in Point #3, Friends has submitted evidence documenting an implied dedication OHV Staging Area on the Project site. There is evidence of historic public use documented in photographs provided by Friends and the Project applicant, there are two declarations of Joel Suty establishing the legal elements of implied dedication, and there is no disagreement by State Parks or the City that the staging area does exist now and has existed for decades. The Project is proposed to be constructed on the implied dedication area and thus would destroy its use dedicated to the public. This is more than sufficient evidence to trigger the Commission's duty to ensure protection of the implied dedication rights by at the very least commencing an investigation/study.

A 2003 Staff Report on the potential implied dedication of the Cloyden Road trail is instructive on a few issues. (Cloyden Staff Report available at this link: <http://www.coastal.ca.gov/lb/T16b-10-2003.pdf> and is incorporated herein by this reference)

(1) In terms of the Commission's duty to protect implied dedication areas, it is irrelevant if other public access is provided by the project. A familiar refrain in the Grover Beach Lodge case is that the applicant is providing new access to the coast with bike paths and trails. Those efforts by the applicant are not legally adequate. For instance, even Commission staff has rejected such efforts by other applicants in other permit applications: "If public prescriptive rights of access have accrued over trails in areas near other public access, Section 30211 still requires that development not be allowed to interfere with those

rights. As such, despite the presence of nearby formal public access, the potential for public rights on the subject site is not precluded, and the Commission's duty to ensure that any development it approves does not interfere with any such rights continues to exist... . Whether there are alternate trails is ultimately irrelevant to the question of whether approval of this project is consistent with Section 30211." (Cloyden Staff Report, p. 16)

It is also irrelevant in terms of the existence of an implied dedication. Whether or not the project provides alternative means of access to a public beach does not forgive the interference with an implied dedication of the OHV staging area. *City of Long Beach v. Daugherty* (1977) 75 Cal.App.3d 972 ("First, appellants point out that there are means of access to the public beach in question other than access by going over the subject properties, whereas in *Gion* and in *Dietz*, which were bounded by the high tideline, there were no means of access beyond the public tidelands. However, it does not appear from *Gion-Dietz* that the public is entitled to a recreational easement only in situations where that easement is the only means of access. *Gion-Dietz* is not so limited.")

(2) Evidence in the 2003 Cloyden case is similar to the evidence presented by Friends, yet the Commission staff here has taken the inconsistent position that the evidence here is insufficient to establish a potential or possible implied dedication: In both cases, evidence included photos of the implied dedication area on the project property, and declarations that explained how long and for what purpose the area was used, use extended back to the 1960's, and the area provided public access to the coastline for recreational and beach activities. (Cloyden Staff Report, p. 19) There is no legal requirement that more than one declaration be presented because establishment is not accomplished by a head count. In order to "more fully investigate potential public use of the subject site, Commission staff provided a number of 'Prescriptive Rights Study Public Use Questionnaire and Declarations' to the appellant for distribution and questionnaires were sent to members of the Fathomiers Dive Club . . . . In addition, aerial photographs from the years 1972-2001 were reviewed to determine if trails were present historically." (Cloyden Staff Report, p. 17) By contrast, here, the Commission staff did not provide similar or any questionnaires or draft declarations to the members of Friends or others or review aerial photographs for the OHV staging area implied dedication. This is important because the Staff Report in the 2003 Cloyden case stated that a "full assessment of the degree to which the criteria for implied dedication has been met in this case *could only be made after* a more intensive investigation of the issue has been performed. A more broad survey of potential users of the site would provide very helpful information to augment the information gathered between the May Substantial Issue hearing and the date of this staff report." (Cloyden Staff Report, p. 21) (Emphasis added) Indeed, the Commission made its determination in Cloyden as to whether there was an implied dedication only after a multi-month staff investigation, the mailing of questionnaires to

individuals with potential knowledge, a staff site visit and other investigative activity. Thus, here, the Commission staff is using a different legal and evidentiary standard in order to recommend a finding of no substantial issue – a standard that is inconsistent with its past policy and practice and the law.

(3) In the Cloyden case, staff initiated a prescriptive rights investigation in July 2003 (after the substantial issue hearing in May), and as of September 2003, substantial evidence existed that indicated potential prescriptive rights at the site. The Staff Report indicates that the substantial issue hearing was in May 2003 and the Staff Report was dated September 2003 after the investigation. (Cloyden Staff Report, pp. 1, 19, 21) The Staff Report concluded that "Substantial evidence has been presented to indicate that prescriptive rights of access to the ocean may have been acquired at this site and may be adversely impacted by development at this location." (Cloyden Staff Report, p. 22) However, here, Commission staff failed to undertake any implied dedication investigation.

(4) Where there is "substantial evidence of the existence of a public access right acquired through use, and a proposed development would interfere with that right, the Commission may deny a permit application under Public Resources Code Section 30211. As an alternative to denial, the Commission may condition its approval on the development being modified or relocated in order to preclude the interference or adverse effect." (Cloyden Staff Report, p. 21)

Here, the Commission staff is recommending the inverse of this standard: Instead of requiring the development be modified or relocated to protect the implied dedicated public OHV area, the staff is recommending that the dedicated area be relocated to protect the private commercial hotel where the new area for staging is not equivalent or functional.

(5) When the implied dedicated area is located within 1,000 yards of the sea (as with the OHV staging area), then the 5- year period of use does not have to occur before March 1972 in order to establish public rights in the property. Civil Code Section 1009 provides that if lands are located more than 1,000 yards from the Pacific Ocean, its bays, and inlets, unless there has been a written, irrevocable offer of dedication or unless a government entity has improved, cleaned, maintained the lands, the five years of continual public use must have occurred prior to March 4, 1972. In this case, the subject site is within 1,000 yards of the sea; therefore the required five-year period of use need not have occurred prior to March of 1972 in order to establish public rights in the property." (Cloyden Staff Report, p. 20)

Extinguishing and relocating the implied dedicated OHV Staging Area is also contrary to the Commission's policies set forth in its *Public Access Action Plan* (1999) (available at this link:

<http://www.coastal.ca.gov/access/accesspl.pdf> and incorporated herein by this reference). The *Public Access Action Plan* was prepared by the Commission to identify key issues and make recommendations for addressing problem areas and to provide an overview of the Commission's public access program. (p. i) The Commission notes that it is "one of several agencies in California charged with protecting and providing public coastal access." (p. i)

One of the three "key issues that affect the public's ability to use and enjoy the coast for recreation" and an issue that the Commission identified as one of the "three priority areas of concern" is the identification, prioritizing, and protection or preservation of implied dedication lands, which are also referred to as public prescriptive rights as well as commencing studies to document the level of public use:

- Identifying all known historic trails, public use areas, etc.
- Prioritizing those areas and initiating prescriptive rights studies to document the level of public use.
- Working in concert with the Attorney General's Office to ensure that any access rights that the public may have acquired are preserved." (p. iii)

When discussing the "threats to prescriptive rights," the Commission gives examples of implied dedication that are similar to the OHV Staging Area:

"Prescriptive rights refer to public rights that are acquired over private lands. These rights occur as the *public uses the land for recreational purposes* . . . If the use meets certain legal criteria, then these *historically used areas must be kept open for public use in perpetuity*." (p. 38) (Emphasis added)

One recommendation to protect public implied dedication lands is for the Commission to "initiate prescriptive rights studies and, where appropriate, commence proceedings to legally establish public prescriptive rights. " (p. 40)

**Point #2: Staff Report Describes the Issue as “Prescriptive Rights,” but this is a Case of Implied Dedication Under the *Gion* Standard, Which Is a Different Standard.**

The Staff Report indicates that implied dedication is based upon prescriptive rights. (Staff Report, p. 9) The Staff Report uses the heading of "Prescriptive Rights." (Staff Report, pp. 1, 2, 5, 7, 9) The Staff Report also

states that this OHV implied dedication is an easement rather than a fee interest when that status has not been determined yet. (Staff Report, p. 9)

This case involves a *Gion* implied dedication of the OHV Staging area. *Gion v. City of Santa Cruz* (1970) 2 Cal. 3d 29 noted that "[i]n determining the adverse use necessary to raise a conclusive presumption of dedication, analogies from the law of adverse possession and easement by prescriptive rights can be misleading." As stated in *Friends of the Trails v. Blasius* (2000) 78 Cal. App. 4th 810, the fee or easement interest is based on the "doctrine of implied-in-law dedication."

This case involves an implied in law public dedication of the OHV Staging area. The general rule under *Gion* is that five years of continual, substantial use of an area by public groups for recreational purposes prior to 1972 with knowledge of the property owner constitutes an implied in law public dedication. As demonstrated throughout these proceedings and below, Friends has met this legal standard.

**Point #3: Friends has Provided Sufficient Evidence that Establishes More than a "Possible" or "Potential" Implied Dedication of the OHV Staging Area.**

**Point #3.1: It is the Courts, Not the Commission, that Determine the Existence of an Implied Dedication.**

Staff Report maintains "legalities of establishing an implied dedication" have not been established:

"An Appellant contends that through adverse use of a portion of the project site as an informal staging area for OHV/RV access to the beach and dunes, dating back to the 1960's, an implied dedication of this land as a recreation staging area has been perfected. The legalities of establishing an implied dedication in this instance are complicated and have not been established by the Appellant." (Staff Report, p. 9)

As noted in a prior staff report involving the implied dedication of the Cloyden Road trail (Staff Report available at this link: <http://www.coastal.ca.gov/lb/T16b-10-2003.pdf>, incorporated herein by this reference), the authority to make a final determination on whether an implied dedication exists lies with the courts. (Cloyden Staff Report, p. 17)

**Point #3.2: There is No Legal Requirement That More Than One Witness Is Needed to Establish Implied Dedication When That Witness**

**States in a Declaration the Elements of Implied Dedication and Has Witnessed Many People Over the Years Using the Implied Dedication Area.**

The Staff Report states that one declaration stating that the OHV Staging Area has been used for recreational purposes since the 1960's is not sufficient to establish an implied dedication:

"Evidence supplied by the Appellant in support of this contention consists of a single declaration stating that the staging area "on Grand Avenue near the entrance to the beach" has consistently been used for staging purposes since the 1960's (See page 1 of Exhibit 5, First Supplemental Declaration of Joel Suty.) This lone declaration does not provide sufficient evidence to discern the use of the land almost 50 years ago nor does it establish that there has been an implied dedication of an easement or the potential scope of that easement." (Staff Report, p. 9)

First, given the Commission staff's concern that Friends only provided the two declarations by Joel Suty (part of the record of these proceedings and incorporated herein by this reference), Friends now adds two more declarations by persons who are not members of Friends and thus provides 3 witnesses, similar to *Burch v. Gombos* discussed below: Lauren Locker and David Cottrell. (Both declarations are attached to this submission and incorporated herein by this reference.)

While Friends has augmented the evidence, there is no legal requirement to do so. The courts focus on the substantive content of the requisite elements to establish sufficient evidence, not the number of people submitting testimony. *Gion* did not hold that a head count of how many declarations or witnesses provided evidence is the basis for determining implied dedication. *Gion v. City of Santa Cruz* (1970) 2 Cal. 3d 29. In fact, in *Burch v. Gombos* (2000) 82 Cal. App. 4th 352, only 3 witnesses testified about public recreational use prior to 1972 on a road that was the area in question for implied dedication: "Dean offered no evidence controverting the testimony of Metzger, Nelson, and Cornick regarding public recreational usage of the roadway. Dean instead made various legal arguments that no public dedication could be found based on the evidence. The trial court disagreed and found that the road had been impliedly dedicated to the public prior to 1972." The Court of Appeal found that "while substantial evidence supports the finding of an implied dedication, we conclude that an issue remains as to the scope of the implied dedication" for the public recreational use. *Burch v. Gombos* (2000) 82 Cal. App. 4th 352.

Second, it is common for implied dedications to be determined by the courts decades, even 100 years, after the dedication occurred. See, e.g., *Gion v. City of Santa Cruz* (1970) 2 Cal. 3d 29. The courts do not require "the same

exactitude and certainty of proof ... as is properly required in a case of more recent events. The courts must go upon probabilities and presumptions. To do otherwise would be to destroy valid titles, not to sustain them.'" *Cherokee Valley Farms, Inc. v. Summerville Elementary School District* (1973) 30 Cal. App. 3d 579.

**Point #3.3: Friends has Provided Sufficient Evidence to Establish More Than a Potential or Possible Implied Dedication.**

First, the Staff Report's contention that the only evidence provided by Friends is a single declaration stating that the area was used for OHV staging since the 1960's is simply not true. In Friends' appeal and the proceedings held by the City, it incorporated by reference (and does so again here) its prior comments, declarations, exhibits and attached documents and photographs including but not limited to prior comments in this administrative process that support our claims as well as documents filed in our appeal.

Evidence provided by Friends, including three declarations, and additional evidence in the record establish the substantive elements of implied dedication:

*"Litigants, therefore, seeking to show that land has been dedicated to the public need only produce evidence that persons have used the land as they would have used public land. If the land involved is a beach or shoreline area, they should show that the land was used as if it were a public recreation area. If a road is involved, the litigants must show that it was used as if it were a public road. Evidence that the users looked to a governmental agency for maintenance of the land is significant in establishing an implied dedication to the public. (Washington Blvd. Beach Co. v. City of Los Angeles (1940) 38 Cal.App.2d 135, 137-138 [100 P.2d 828]; Seaway Co. v. Attorney General (Tex.Civ.App. 1964) 375 S.W.2d 923, 936-937.)"*

*"[The] thing of significance is that whoever wanted to use [the land] did so . . . when they wished to do so without asking permission and without protest from the land owners." (Seaway Co. v. Attorney General, supra, (Tex.Civ.App.) 375 S.W.2d 923, 936.)"*  
*Gion v. City of Santa Cruz* (1970) 2 Cal. 3d 29.

The declarations, photographs and additional evidence submitted by Friends is adequate evidence to establish more than a potential or possible implied dedication; it is in fact sufficient to establish that an implied public dedication for OHV recreational staging exists. The substantive content of the three Friends' declarations is very close to the nature of the testimony offered in

*Burch v. Gombos* (2000) 82 Cal.App.4<sup>th</sup> 352. The witnesses in *Burch* testified about their public recreational use of the implied dedicated road: using the road numerous times, seeing other people using the road, describing the road as a common place for users to enjoy, and using the road with groups of 2-15 or more friends or fellow motorcycle riders. "Dean offered no evidence controverting the testimony of Metzger, Nelson, and Cornick regarding public recreational usage of the roadway. Dean instead made various legal arguments that no public dedication could be found based on the evidence. The trial court disagreed and found that the road had been impliedly dedicated to the public prior to 1972." The Court of Appeal similarly found that "substantial evidence supports the finding of an implied dedication."

Moreover, the existence and use of the OHV staging area is not a secret; its use has been continuous for 50 years. Many implied dedication areas are hidden from public view, like a trail or path over property that is not in plain view. This OHV staging area is on the beach, adjacent to a local restaurant, and at the entrance of the Oceano Dunes SVRA that is visited by millions of tourists each year. Neither the applicant, State Parks, the Commission nor the City of Grover Beach deny that the area has been used for OHV staging for all of those decades. No person or entity has submitted any testimony or evidence contradicting or disputing the testimony of Friends or the independent witnesses.

The Revised Final EIR (2012) includes Figures of aerial photographs showing the OHV Staging Area, complete with vehicles using the area. (See, FEIR, Chapter 2, Project Description, pp. 2-5 and 2-6, <http://www.grover.org/DocumentCenter/Home/View/2194>, incorporated herein by this reference) The record also includes photographs submitted by Friends from 1972 and 1982.

Figure 2-2. Project Location Map



The FEIR discussed the existence of the OHV Staging area and the need to remove it in order to make room for the private lodge and conference center. State Parks has "allowed use of the project site" for an equestrian/OHV staging area since at least 1982. (FEIR, Executive Summary, p. ES-11,

<http://www.grover.org/DocumentCenter/Home/View/2191> incorporated herein by this reference) The "project site is being used as an unofficial staging area" for which a survey was conducted in 2010 regarding usage. (FEIR, Chapter 2, Project Description, p. 2-20.

<http://www.grover.org/DocumentCenter/Home/View/2194>) Development plan objectives for this Project included "relocat[ing] the existing equestrian staging area." (FEIR, Chapter 2, Project Description, p. 2-3

<http://www.grover.org/DocumentCenter/Home/View/2194> ) The entire FEIR is incorporated herein by this reference.

**Point #3.4: The Applicant has Presented No Evidence to Contradict Friends' Evidence of an Implied Dedication.**

The applicant, State Parks, the City and the Commission have not presented any evidence that there is not an implied dedication of the OHV Staging area. They have presented no evidence that the property owner between 1965-1971 allowed OHV staging by permission. They have presented no evidence that the owner during 1965-1971 took steps to halt the public recreational use of the OHV staging. The fact that the property owner sold the property to State Parks, as shown in the attached deed (incorporated herein by this reference), is further evidence that the property was being used for recreational purposes.

**Point #4: Merger Doctrine Does Not Apply to Public Trust Lands, such as the Implied Dedication OHV Staging Area.**

The Staff Report states that the "it is unclear what the status of such an implied dedication for public access would be, given that the land is publicly owned." (Staff Report, p. 2) The Staff Report continues that Friends cannot establish an implied dedication because the property is currently publicly owned:

"Regardless, even if the Appellant were to provide more substantial evidence of prior adverse use of the land, the legalities of establishing an implied dedication of an easement under the facts in this case are unclear, given that the easement would have been in favor of the public, and the property is currently publicly owned." (Staff Report, p. 9)

The Staff Report implies that merger occurred if State became fee owner of land that included implied dedicated OHV area, but merger doctrine does not apply to such public trust lands. In *People v. County of Marin* (1894) 103 Cal. 223, a road dedicated to the public in 1856 was located on State prison land that the State owned in fee since 1869. The California Supreme Court

characterized the argument that the State prison board had authority to authorize the closing of the dedicated road an "extraordinary" point. It was argued that when the State became fee owner of the land on which the implied dedication easement road existed, then the public easement merged in the estate acquired by the State for a prison. However, the merger doctrine applied generally to real property does not apply to land in trust for the public; instead, the implied dedication continues in trust for the objects and purposes for which the land was dedicated:

"In the present case if it can be said the state holds the easement to all the highways within its boundaries, which under our statutes cannot, we think, be upheld, still, if it does so hold, it is as the representative of the people, and in trust for the objects of their creation, viz., to enable the people to pass and repass over such roads at will, and such easements are not held in the same right as the title of the state to lands which it has purchased.

*To attempt to apply the doctrine of merger to such a case is to wrest it from the objects of its creation and existence. In strictness all public highways belong to the state, which holds them for public use, subject to legislative control. In this commonwealth their custody and control outside of municipalities is confided to the supervisors of the several counties in which they are located."*  
*People v. County of Marin* (1894) 103 Cal. 223 (Emphasis added)

**Point #5: Public Resources Code Section 30214 Does Not Provide the Commission with an Exception to Override an Implied Dedication or Limit Public Trust Rights by Destroying the OHV Staging Dedicated Area based on Claims of Equivalency in a General Public Parking Lot.**

The Staff Report maintains that Public Resources Code Section 30214 provides the Commission with authority to override an implied dedication area and thus, there is no substantial issue on implied OHV dedication. Commission staff argue that Section 30214 authorizes the Commission to "implement the public access policies of the coastal act to regulate the time, place and manner of access, depending on the facts of the case. Thus, even if there has been an implied public access dedication on this site, the project may be conditioned, consistent with the Coastal Act, to regulate the time, place and manner of that access . . . . Particularly relevant to the Appellant's contentions here, the project will retain 160 parking spots for public use, some of which will be dedicated for use by elongated vehicles such as RV and equestrian vehicles typically used to support OHV and equestrian recreation. Thus, this contention does not raise a substantial issue." (Staff Report, pp. 9-10)

The Coastal Act contains specific policies relating to public access in Sections 30210-30214. *Yost v. Thomas* (1984) 36 Cal. 3d 561. The Commission must find that these public access requirements are met in order for it to find that this Project is consistent with the Coastal Act public access policies. Three of these statutory provisions mandate protection of public trust rights. Section 30210 mandates that "[i]n carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the *need to protect public rights*, rights of private property owners, and natural resource areas from overuse." (Emphasis added) *Carstens v. California Coastal Commission* (1986) 182 Cal. App. 3d 277 ("Public Resources Code section 30210 makes specific reference to the public trust doctrine and emphasizes the need to consider public safety and private property interests. (See also Pub. Resources Code, §§ 30212, 30214.)") Section 30211 mandates "[d]evelopment shall not interfere with the public's right of access to the sea *where acquired through use* or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation." (Emphasis added) And, Section 30214(b) expressly states that it can not be used to limit public trust rights: "Nothing in this section or any amendment thereto shall be construed as a limitation on the *rights guaranteed to the public* under Section 4 of Article X of the California Constitution." (Emphasis added)

Section 30212 "empowers the Coastal Commission to exact access dedications as a condition of approval for "new development projects" along the coast." *Grube v. California Coastal Commission* (1985) 166 Cal. App. 3d 148. The Commission's *Statewide Interpretive Guidelines on Public Access* ("*Interpretive Guidelines*") (available at this link <http://www.gpo.gov/fdsys/pkg/CZIC-ht391-u5-1980/xml/CZIC-ht391-u5-1980.xml> and [http://docs.lib.noaa.gov/noaa\\_documents/NOS/CZIC/93E552.pdf](http://docs.lib.noaa.gov/noaa_documents/NOS/CZIC/93E552.pdf) in Appendix A of *Proceedings of a forum on recreational access to the coastal zone*) explain that Section 30214 analysis governs how dedicated accessways should be accomplished for Section 30212 new developments, not implied public dedications like the OHV staging area:

"The language of Public Resources Code Section 30212 makes clear that the Legislature concurred with the Commission's view, and concluded that all new development resulting in any intensification of land use generates sufficient burdens on public access to require access conditions in conjunction with that development. ...In other words, Section 30212 of the Coastal Act indicates that all new development generates access burdens and that the only situations where access is not required are where

access itself would be inappropriate for public policy reasons."  
(*Interpretive Guidelines*, p. 143)

The time, place and manner criteria in Section 30214 are the basis for determining the type and extent of special conditions for Section 30212 access requirements:

*"The Legislature has recently enacted criteria to be considered in establishing access requirements that related to the "time, place and manner of public access .. ." (PRC 30214). These criteria provide the basis for determining the type and extent of any special condition for access requirements under Section 30212. As in the case of the Section 30212(a) tests, the criteria set forth in Section 30214 focus on the appropriateness of access itself ("time, place and manner") and not on the particular impact of any proposed development. In every permit action, the commissions must therefore consider the criteria specified in Section 30214 and make findings where such criteria are applicable. These criteria focus on the physical aspects of the areas under consideration and on the type of access appropriate to the fragility of natural resources and the nature of development in the vicinity. The criteria also focus on the management aspects of providing public access.*

Thus, based on the historical evidence that development along the California coast results in many different ways in the preclusion of public use of the state-owned tidelands, based on the same conclusions by the Commission in adopting the Coastal Plan, and based upon the legislative expressions in both the 1972 and 1976 Coastal Acts, the Commission concludes that all new development projects cause a sufficient burden on public access to warrant the imposition of access conditions as a condition to development, subject only to the exceptions specified by the Legislature. A finding of consistency with the public access policies of the Coastal Act accordingly can be made only if there are sufficient provisions for mitigating the burdens on impacts which the Legislature has found to be inherent in new development projects; unless one of the three stated exceptions is applicable, all new development located between the first public roadway and the shoreline must provide public access. *Section 30212(a) and 30214 of the Act set the framework for determining when access is required and under what conditions. Section 30212(a) states where access is required - in developments located between the first public road and shoreline and both to and along the coast - and establishing the three categories where access is not required. Section 30214 established criteria to be considered when*

determining the "time, place and manner" of providing public access." (*Interpretive Guidelines*, p. 144) (Emphasis added)

Evidence of Section 30211 implied dedication or public prescriptive use "also indicates the need for dedication areas required under Section 30212 of the Act. Requiring dedications of historic use areas under Section 30212 would protect any public rights while avoiding public and private litigation costs over the issue of prescriptive rights in a quiet title action." (*Interpretive Guidelines*, p. 142) In other words, public implied dedication is created from public use and is not created in the Section 30212 permit process.

The Staff Report maintains that Section 30214 also provides the Commission with authority to override an implied dedication area. The Staff's interpretation of Section 30214 for this Project is not only inconsistent with the Commission's own *Interpretive Guidelines*, but contrary to judicial decisions that the dedicated land is restricted to the uses for which the land was originally dedicated: For instance, in *Burch v. Gombos* (2000) 82 Cal.App.4<sup>th</sup> 352, the Court ruled: "We will reverse the denial of injunctive relief to appellants and remand for a *determination of the scope of the public dedication. If the court concludes the dedication was too limited to permit commercial logging operations on the roadway, appellants will then be entitled to injunctive relief.*" *Burch v. Gombos* (2000) 82 Cal. App. 4th 352 (Emphasis added)

Courts have likewise ruled similarly in other cases.

The Staff's interpretation that Section 30214 provides the Commission with authority to override an implied dedication area is contrary to judicial decisions that the government agencies do not have such authority to divert or withdraw the public trust lands from the dedicated uses:

"[Land] which has been dedicated as a public park must be used in conformity with the terms of the dedication, and it is without the power of a municipality to divert or withdraw the land from use for park purposes." (*Slavich v. Hamilton*, 201 Cal. 299, 302 [257 P. 60]; *City of Hermosa Beach v. Superior Court*, 231 Cal.App.2d 295, 300 [41 Cal.Rptr. 796].) Such land is held upon what is loosely referred to as a "public trust," and any attempt to divert the use of the property from its dedicated purposes or uses incidental thereto is an ultra vires act. (*City of Hermosa Beach, supra*, 231 Cal.App.2d at pp. 299-300.)" *Big Sur Properties v. Mott* (1976) 62 Cal. App. 3d 99 (Emphasis added). Thus, injunctive relief is available to enforce obligations flowing from the public trust and to prevent ultra vires actions. *Save the Welwood Murray Memorial Library Committee v. City Council* (1989) 215 Cal. App. 3d 1003.

If the Legislature intended to change the doctrine that governmental agencies do not have legal authority to transfer, lease or change the implied

dedication or divert public trust lands, then the Legislature would have made such intention clear by expressly stating so in Section 30214. *Big Sur Properties v. Mott* (1976) 62 Cal. App. 3d 99 ("[It] is not to be presumed that the legislature in the enactment of statutes intends to overthrow long-established principles of law unless such intention is made clearly to appear either by express declaration or by necessary implication." (*County of Los Angeles v. Frisbie*, 19 Cal.2d 634, 644 [122 P.2d 526]; *Theodor v. Superior Court*, 8 Cal.3d 77, 92 [104 Cal.Rptr. 226, 501 P.2d 234].) No such expression or necessity appears in section 5003.5.") Thus, the public trust and implied dedication doctrine limits agency discretion such that staff's interpretation that Section 30214 authorizes the Commission to use time, place and manner restrictions and equivalency standards is not sufficiently explicit in Section 30214 to permit the interpretation presented by staff.

Moreover, as noted in *Big Sur Properties v. Mott* (1976) 62 Cal. App. 3d 99, consideration must be provided to the consequences flowing from an interpretation of a statute to defeat the public trust doctrine:

"Further, where uncertainty exists consideration may be given to the consequences that will flow from a particular interpretation." (*Jaynes v. Stockton*, 193 Cal.App.2d 47, 56 [14 Cal.Rptr. 49].) *Clearly, the consequences of the application of section 5003.5, and other similar regulations, to defeat the public trust doctrine would result in a policy discouraging such gifts to the state for park purposes. Such an unwise intended result is not to be readily implied where another construction is possible. (City of El Monte v. City of Industry*, 188 Cal.App.2d 774, 782 [10 Cal.Rptr. 802].) The provision of section 5003.5 granting a right-of-way to any person, firm or corporation is thus inapplicable to property donated to the state exclusively for use as a park." (Emphasis added)

For these reasons, the argument in the Staff Report that the Commission can eliminate the OHV implied dedicated Staging Area and replace it with a few parking spaces in a general public parking lot as permissible equivalency under Section 30214 is contrary to law.

Even if public trust lands could be legally transferred to a private commercial lodge with a CDP and lease, the proposed plan fails the test that access conditions must be reasonable. Public Resources Code, § 30607 ("Any permit that is issued or any development or action approved on appeal, pursuant to this chapter, shall be subject to reasonable terms and conditions in order to ensure that such development or action will be in accordance with the provisions of this division.")

The Project provides for the construction of a 150-room lodge and conference center, and provides for parking for the public and the lodge as the Project has amenities for the public who are not guests of the lodge, such as public viewing areas, picnic areas, golf course clubhouse, public access paths and boardwalks. (Staff Report, pp. 1, 5) In fact, "[o]nce completed, the entire project site will be open to the general public, except for the pool and private hotel rooms, which will only be accessible to hotel guests." (Staff Report, p. 5)

The Project "will retain 160 parking spots for public use, some of which will be dedicated for use by elongated vehicles such as RV and equestrian vehicles typically used to support OHV and equestrian recreation. Thus, this contention does not raise a substantial issue... even if there has been an implied public access dedication on this site." (Staff Report, pp. 9-10) Recreational opportunities are not a substantial issue according to staff because "State Parks has required that the area of public parking at the southeast corner of the site include diagonal pull-through parking spaces to accommodate over-sized vehicles. In addition, the beach provides ample space for RV vehicles associated with OHV use." (Staff Report, p. 11)

The Staff Report is confusing but discusses an equestrian staging area that appears to be the same as the "replacement staging area" for OHV staging that will provide space for 12 equestrian trailers:

"The approved project includes an equestrian parking area north of West Grand Avenue that will provide space for 12 equestrian trailers (see Exhibit 1). Condition CDD-4 of the approval requires that the equestrian parking area is available for use prior to the start of construction.

Furthermore, the City conducted a survey of the use by equestrians of the current unpaved staging lot. The results of this survey showed that no more than six trailers were present at any one time and there was only an average of 1.5 equestrian trailers at the project site at any given time during the month-long survey period. Thus, the approved project is expected to provide sufficient parking for equestrians that will meet more than this average level of demand. Thus, the project can be found consistent with Coastal Act Sections 30211 and 30252 and this contention does not raise a substantial issue." (Staff Report, pp. 12-13)

There is no equivalency or reasonableness of access terms when the "replacement" staging area is a general parking lot in which a few spaces are provided to try to accommodate over-sized vehicles. Looking at the existing dedicated staging area in the figure photograph above shows that the space allowed for OHV staging is diminished considerably. Moreover, this "equivalency" plan does not even dedicate or reserve any of the pull-through

spaces to only OHV staging uses. The conference center and the general public can use those spaces as well.

In addition, if the equestrian staging area and the OHV staging area are the same "staging area" that will be provided in the public parking lot, 12 spaces are "reserved" for equestrian and OHV use, and the survey shows 6 used by equestrian, leaving 6 spaces for OHV use. However, the FEIR indicates that is not adequate because "Current use is estimated to be an average of five horse trailers at any one time on the property, although as many as 12 horse trailers at any one time have been counted on the site," leaving no spaces for OHV staging. (FEIR, Executive Summary, p. ES-11, <http://www.grover.org/DocumentCenter/Home/View/2191> and is incorporated herein by this reference)

There is nothing in Section 30214 that indicates it was meant to apply to implied-in-law dedication, and, such an interpretation violates *Gion* and its progeny. In fact, Section 30214 states exactly the opposite under subsection (b), directing how Section 30214 can be interpreted, by mandating that the statute can not be construed to limit rights guaranteed to the public: "*Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public* under Section 4 of Article X of the California Constitution." (Emphasis added)

**Point #6: Traffic Analysis Does Not Show Congestion and Public Access Impacts Because Traffic Analysis Excluded High Traffic Times for SVRA of Weekends and Holidays and Did Not Adequately Consider Impact of the West Grand Avenue Master Plan.**

To counter Friends' issue that the project will result in increased traffic that reduces beach access, the Staff Report states that traffic studies show traffic will not be substantially impacted:

"Furthermore, traffic studies have shown that traffic will not be substantially impacted and the same level of service will be maintained after the project is constructed, as is currently experienced in the project area." (Staff Report, p. 2)

The traffic studies prepared by the applicant and the City are flawed because they expressly exclude the busiest holiday weekends from the analysis.

For example, one of the traffic studies reported in the FEIR was conducted on July 15-17, 2010, or on a Thursday, Friday and Saturday, not on complete weekends or any holiday weekends. (FEIR, Chapter 4.8 Transportation/Traffic, p. 4-151, and is incorporated herein by this reference) The FEIR recognizes that weekends and holidays is the busy time for SVRA:

"West Grand Avenue is heavily used by recreational vehicles during busy summer weekends and holidays as this is one of the main entrances to the Oceano Dunes State Vehicular Recreation Area. For this reason, traffic counts were taken on Thursday, Friday, and Saturday in July during the peak summer period. These traffic counts therefore account for increased recreational uses at targeted intersections and road segments, such as West Grand Avenue and Highway 1. Using peak season counts will provide a reasonable worst-case scenario analysis. While holiday weekends may experience slightly higher traffic than non-holiday summer weekends, these represent specific special events. It would not be appropriate to analyze this project and size roadway and intersection facilities to account for special events such as holiday weekends." (FEIR, Chapter 4.8 Transportation/Traffic, p. 4-155)

In addition, the Project did not adequately consider the impacts of the *West Grand Avenue Master Plan* (available at this link: <http://www.grover.org/DocumentCenter/Home/View/1836> and is incorporated herein by this reference) on this Project. The *West Grand Avenue Master Plan* changed the traffic situation by reducing lanes and adding roundabouts at "key intersections" that cause flow restriction and congestion to an already congested beach area. (West Grand Avenue Master Plan, p. 103) The *Grand Avenue Master Plan* reduces the ability of users and visitors of Oceano Dunes SVRA to maneuver the large RVs down Grand Avenue since the plan contains many flow restrictions, including street width reduction and roundabouts.

The revised FEIR (dated January 2012 (<http://www.grover.org/DocumentCenter/Home/View/2192>) states that the "the draft Grand Avenue Master Plan, *currently in review by the City*, proposes a roundabout at this intersection" of Highway 1/Grand Avenue." (FEIR, Chapter 4.8 Transportation/Traffic, p. 4-156, <http://www.grover.org/DocumentCenter/Home/View/2204>) However, the *West Grand Avenue Master Plan* was actually adopted by the City of Grover Beach on January 18, 2011 (<http://www.grover.org/DocumentCenter/Home/View/2192>) and thus an analysis of the Master Plan's impact on traffic could have been included in the 2012 revised FEIR.

The City has never officially changed the West Grand Avenue Master Plan.

It is not credible for the applicant to assert there will be minimal traffic impacts when it did not study the busiest times of the year, when a large percentage of overall traffic occurs, or the impacts of the *West Grand Avenue Master Plan*.

**Point #7: The Commission's Criteria Show That Friends has Raised Substantial Issues in this Appeal.**

The Commission evaluates five factors (set forth in footnote 3 of the Staff Report) for substantial issue determinations, and each weighs in favor of Friends. This appeal raises significant questions under Section 30625(b) regarding conformity with the City's LCP and the public access and public recreation policies of the Coastal Act. The public's substantial interest in access to the beach and SVRA will continue to be burdened with unlawful limitations by the City, limitations that are not consistent with its LCP, the Constitution, and the Coastal Act policies for public access and public recreation.

In determining whether an appeal raises a "significant question" as to conformity with the certified LCP, the Commission is guided by the following five factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent with its LCP and with the public access policies of the Coastal Act.

The law and facts do not support the City's decision that the development is consistent with its LCP and with the public access and recreation policies of the Coastal Act and the California Constitution. On the issue of implied dedicated OHV staging land, the California courts have made it clear that a government agency – whether the City, State Parks, or this Commission – does not have the legal authority to destroy the implied dedication public use OHV recreational staging area by issuing a CDP or executing a lease. Issuance or approval of this CDP would be in violation of implied dedication law, the California Constitution, Coastal Act, City's LCP and the Commission's public trust duties. Government agencies, including the Commission do not have legal authority to lease, transfer, relocate, terminate, extinguish, or change the location or uses of the implied dedication by issuing a CDP to the Project applicant.

In addition, the CDP would not conform to the Coastal Act's public access policies expressly protecting public use dedication, such as Sections 30211, 30210 and 30214(b). The City maintains that if the applicant provides bike paths and trails, then the applicant can extinguish the public access provided by the OHV dedicated area, which is contrary to law and Commission policy. It is also contrary to Commission policy and public trust doctrine to extinguish such public trust lands rather than modifying or relocating the project to prevent interference or impacts on the dedicated land.

Moreover, the Legislature made it clear that "Nothing in this division shall be construed to authorize any local government, or to authorize the commission to require any local government, to exercise any power it does not already have under the Constitution and laws of this state or that is not specifically delegated pursuant to Section 30519." Public Resources Code § 30005.5. And, to achieve and protect the public's rights, "This division shall be liberally construed to accomplish its purposes and objectives." Public Resources Code § 30009.

Even if there were no implied dedication, the public also has a constitutional right of public access and recreational opportunities at Oceano Dunes SVRA, and these constitutional rights include maximizing, not reducing or eliminating, the recreational facilities of the OHV Staging Area and the RV Dump Station. The Staff Report recognizes what Friends has been saying in this case from the beginning: The OHV Staging Area and the RV dump stations constitute "recreational facilities." (Staff Report, p. 2 ("Although some recreational facilities, such as the RV dump stations, will be moved, adequate and available facilities will still be provided.") Significant issues arise based on inconsistency with the public access and recreation policies of the Coastal Act. The Coastal Act recognizes that our Constitutional mandate of public access requires maximizing public access to the coast and recreational opportunities (§ 30210) by maximizing "public recreational opportunities" (§30001.5 (c)).

The Coastal Act's public access policies are designed to protect and preserve existing recreational facilities, which are part of the constitutional right of public access and recreational opportunities. (§ 30213. "Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.") Relocation and reduction in size and functionality of the existing recreational facilities does not "protect" or "encourage" public access.

The small space provided at the "new" OHV staging area in the parking lot also violates public access policy § 30212.5. "Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area." The City plans to replace the dedicated OHV staging area by providing inadequate space at a parking lot that is generally for the public. The Staff Report indicates that only 12 spaces will be provided at this "new staging area" when current use estimated at as many as 12 horse trailers at one time, leaving no spaces for OHV staging. This violates public access mandates in two ways. First, the space provided for the OHV staging is not functional or adequate. Two, the OHV staging area is in a public parking lot and so the general public will face the frustration, delays and inconvenience of trying to maneuver in an area where their own visibility could be impaired by the large trailers and recreational vehicles entering and exiting the parking lot to use the so-called new OHV staging area. The upshot is that for

both OHV users and the general public, a good day at the beach was impaired and obstructed by not complying with public access mandates. In *Surfrider Foundation v. California Coastal Commission* (1994) 26 Cal. App. 4th 151, the Court of Appeal addressed whether the installation of parking fee devices was consistent with the public access and recreational policies of the Coastal Act. The Court held that the public access policies included both physically impeding coastal access and also indirect effects: "[W]e conclude the public access and recreational policies of the Coastal Act should be broadly construed to encompass all impediments to access, whether direct or indirect, physical or nonphysical."

There is no factual or legal support for the City's consistency determination. No evidence has been proffered by the City, Applicant, or State Parks to controvert the documentary, photographic, or declaratory evidence provided by Friends. They have presented no evidence that the property owner between 1965-1971 allowed OHV staging by permission. They have presented no evidence that the owner during 1965-1971 took steps to halt the public recreational use of the OHV staging. In fact, the applicant, City and State Parks have acknowledged the existence and use of the OHV staging area for decades.

Therefore, a substantial issue exists as to whether the attempted "withdrawal" of the implied dedication OHV area and replacement with a section of the general public parking lot is consistent with the public access and recreation policies of the Coastal Act and with the policies of the City's LCP as well as California's judicial decisions and our Constitution.

A substantial issue also arises with the private use of public beach recreational facilities as this development provides for the exclusive use of a public dedication OHV area for a private commercial lodge.

## 2. The extent and scope of the development as approved by the local government.

The Commission earlier stated in this process that the scope of the development needed to be reduced to protect coastal resources. The issues raised by Friends (e.g., implied dedicated OHV staging area, recreational support facilities needed to use the SVRA and traffic congestion/circulation) show that the size and scale of the Project is not consistent with the Coastal Act, the City's LCP and the California law, e.g., the requirement that "[d]evelopment will not impact the resources or the public's use of the state park." Public Resources Code § 5003.02.1(b)(3). Traffic analysis for this project excluded the busiest holiday weekends, leaving a false conclusion about traffic impacts for the SVRA that receives millions of visitors each year.

The extent and scope of this development is to try to extinguish and relocate public trust lands, or implied dedicated OHV staging area, that is one of the public rights that the Commission is charged with protecting as a cherished coastal resource.

In order to make room for the Project's lodge and conference center, the recreational support facilities of the implied dedicated OHV staging area and the RV Dump Station currently used by visitors to access the Oceano Dunes SVRA will be relocated from the project site to a new location off site. The result is that in terms of the coastal resource constraints of existing and future public access and recreation, this Project does not provide for maximum access, but frustrates, obstructs and impedes public access and recreational opportunities. If the Project cannot accommodate these public access and recreational resource constraints, then the size and scale of the Project should be decreased to preserve and protect the existing and future public access and recreational opportunities. However, the City has approved a CDP that does just the inverse: Removes existing recreational facilities and implied dedicated lands in order to provide space for the private lodge.

Coastal resource constraints include not only environmental constraints, but also protection of public access and recreation. In this case, the City plans to eliminate OHV implied dedication recreation use area by removing off-site to provide space for the private, commercial lodge. The City also plans to relocate the recreational facility of the RV Dump Station. The size and scope of the development obviously needs to be reduced when the City needs to remove two recreational facilities (one which is implied dedicated land) that have been historically used for years to provide public access to the SVRA in order to provide space for the private lodge. Both recreational facilities are the means by which the public obtains functional access to this SVRA that is designed as one of the few beach areas for OHV recreational activities.

### 3. The significance of the coastal resources affected by the decision.

There might be no more significant coastal resource than public trust lands held in trust for the benefit of the public. The California Legislature deemed such dedicated lands as so significant that there are three key provisions in the Coastal Act public access policies covering public's rights to public dedicated/trust lands: Sections 30211, 30210 and 30214(b). The Commission's own *Interpretive Guidelines* and *Public Access Action Plan* mandate it to protect public access established by implied dedication.

Coastal resources include environmental resources, public access, recreational resources and parking lots. The Commission has stated in this administrative record that the constraint of public access and recreation as applied to this case needs to be evaluated to determine how the Project impacts

existing public access and recreation. The Commission's *Draft Sea-Level Rise Policy Guidance* (incorporated herein by this reference) sets forth how the "Coastal Act requires that development avoid impacts to coastal resources," including recreational areas: "*Public access and recreation resources include lateral and vertical public accessways, public access easements, beaches, recreation areas, public trust lands, and trails, including the California Coastal Trail.*" The City's plan includes the attempted elimination of a vital coastal resource of the public use implied dedication of the OHV staging area.

The City's answer of relocating the OHV staging area to a parking lot with less space impairs the southeastern parking lot, which is an important coastal resource to support beach visitation by the public and OHV users too. The LCP recognizes that traffic is already an issue. Further traffic impacts are related to the relocation of the RV Dump Station. Thus, the recreational facilities would not be protected as required by the implied dedication law, LCP, and Coastal Act.

4. The precedential value of the local government's decision for future interpretations of its LCP.

This case sets a dangerous precedential value for the City's decision for future interpretations of its LCP and public trust lands.

One, the City believes that it has the right to extinguish or withdraw an implied dedication OHV staging area from public use. California courts recognize the existence of such implied dedication lands for the public, and thus the City is setting this case for litigation to protect implied dedications here and across California. The Implied OHV Recreational Use Public Dedication Staging Area provides the public with the legal right to use the dedicated land for its dedicated uses. The only authority that public entities have is in their role of trustees for the public to maintain the staging area in a proper and convenient manner for the exercise of the dedicated use by the public. The intended use of the dedicated area by the Project proponent for a hotel or lodge is not for uses incidental to or within the scope of the Implied OHV Recreational Use Public Dedication Staging Area but solely for the private commercial purposes of the proposed lodge, a use inconsistent with the dedication. The scope of the implied dedication is limited to OHV recreational uses and incidental uses thereto and does not include the commercial hotel and lodge interests of a private company. The dedicated staging area must be maintained for the benefit of the public without obstruction or limitations imposed for the benefit of a private commercial project.

Two, the City takes the view that public access is provided and thus consistent with its LCP when evaluating only the provision of transportation infrastructure by the development, such as bike paths, trails or roads. However, the City's LCP recognizes that public access infrastructure has two primary

components of (1) transportation (e.g., roads, paths, trails) and (2) interrelated recreational facilities – OHV staging area and RV Dump Station - which are required for SVRA's unique recreational opportunities, such as OHV riding and horse riding.

5. Whether the appeal raises only local issues, or those of regional or statewide significance.

This appeal raises issues of regional and statewide significance, not only local issues because this appeal involves the public issue of how our public trust lands are protected from development as intended by our Legislature and mandated by our Courts. Two key issues include whether a City can ignore judicial decisions that dedicated land is restricted to the uses for which the land was originally dedicated. A private resort is clearly not within the scope of an OHV Staging area dedicated land. Another key issue is whether a City can ignore judicial decisions that it does not have legal authority to divert or withdraw the public trust land from its dedicated OHV recreational use.

The proper siting of a private, commercial resort is an important statewide and regional issue when construction of the resort needs to destroy a public use dedication of recreational OHV staging area for a SVRA that is used by millions of visitors and users statewide and nationally. There are also issues of regional and statewide significance due to the public access resources at stake and the maximizing of public recreational opportunities. Another issue of statewide significance is can a City use different standards when analyzing whether recreational facilities are provided, maintained and protected, tilting the scales in favor of a private, commercial resort that is expected to yield significant financial benefits to the City. If the Constitutional mandate of public access and recreational opportunities and related recreational facilities is to maintain any significance in California, there cannot be one standard for the private, commercial interests and another standard for the general public.

In short, all the issues in this case raise a substantial issue because the issues involve implied dedicated land/public trust lands that have almost a sacred air about them because they are cherished public rights that the legislative and judicial branches of government have recognized and mandated be protected for the public and future generations.

For these reasons, the Commission should find there are substantial issues that must be heard on appeal regarding conformity with the LCP, the public access and public recreational policies of the Coastal Act, and implied dedicated land. Alternatively, the substantial issue hearing should be continued to provide Friends with time to obtain documents sought under the Public Records Act and likewise to allow the Commission time to conduct its required investigation regarding the OHV Staging Area Implied Dedication.

Sincerely,  
/s/  
Tom Roth

## **DECLARATION OF LAUREN LOCKER**

I, Lauren Locker, declare that the following declaration is true and accurate. The following is based on my personal knowledge and if called upon, I can competently testify as to the truthfulness of this declaration.

1. I am not a member of the Friends of Oceano Dunes (Friends).
2. I have visited Oceano Dunes SVRA and used the OHV Staging Area twice a year on the average during 1968-1976 when I lived in California and thereafter continued visiting in occasional trips with family and friends over the years until around 2008, and plan to continue visiting SVRA and using the OHV Staging Area.
3. The proposed project for the Grover Beach Lodge & Conference Center (Project) is seeking to relocate the long-standing staging area (on Grand Avenue near the entrance to the beach) for OHV that has currently and historically been used by the public and users of Oceano Dunes as a recreational staging area.
4. I used the OHV Staging Area for the typical preparation work needed before entering the SVRA for recreational activities such as changing tires, making sure tires were prepared for sand use, and to take dune buggies and OHV off trailers.
5. The OHV Staging Area is a wonderful community. It was always open and I enjoyed using it as a recreational facility. There is such a nice feeling of community there, with local businesses welcoming us and even allowing us to use their hoses or spigots to fill our water containers. The local businesses were also very nice, welcomed us to their city and were helpful to newcomers, providing information, tips, tide tables, etc. I usually saw a lot of other people at the Staging Area. We often travel with 2-5 families, meeting at the OHV Staging Area before proceeding to our shared beach site. I usually observed many other people at the staging area, particularly on weekends and holidays, with people

constantly coming and going and engaging in staging activities or uses, such as loading and unloading recreational vehicles from trucks or trailers, changing tires for sand or highway use and other preparatory actions on their vehicles so that the staging area allowed or enabled the public access to the OHV riding areas of SVRA. It is a very open area with the space needed to do the prep work necessary for using the SVRA for recreational activities.

6. Over the years, there has been wide-spread use of the staging area by members of the public for staging and vehicle prep for recreational use at Oceano Dunes. I have witnessed many other people using the OHV Staging Area for the loading and unloading of vehicles from trailers, changing tires, and meeting and greeting other users. Use of the staging area is a routine practice before proceeding with entering the SVRA. My observations of people using the staging area are not limited to friends and family. Rather, various different groups of people used the staging area, young and old, families, and tourists who had out-of-state license plates. Prior to becoming state land, and when the area was in private ownership, I used and observed others using the staging area for public recreational uses for more than 5 years without permission, objection, protest or interference by anyone, including the private property owner. My use of the staging area has been continuous, open, public and uninterrupted during 1968-1976 for public recreational purposes and uses of the SVRA.

7. I used the staging area in public ways, and observed many other people using the staging area, as we would use any public recreational area, people entering and exiting as they pleased. My family and I used the staging area believing that the public has a right to such use. My family and I used the staging area whenever we wished to do so – it was continuous, regular, open and public use. I never experienced any restrictions or warnings from the property owner, and never asked or received permission or saw anyone asking permission to use the staging area. I never saw any signs or restrictions that use of the staging area was prohibited, never saw any "No Trespassing" signs, and never saw any structures, fencing or barricades preventing access to the staging area. We entered and used the staging area freely as we pleased and without any thought or worry just as you would use any recreational support facility or area that was open and available to the public. I never even saw any attempts to prevent, obstruct, object or interfere with public use of the staging area and never saw anyone being asked to leave the Staging Area or their vehicles ejected from the staging area.

I declare under penalty of perjury under the laws of the State of California that the forgoing is true and correct.

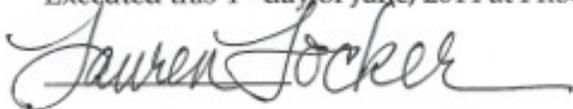
Executed this 4<sup>th</sup> day of June, 2014 at Phoenix, Arizona.

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Lauren Locker

I declare under penalty of perjury under the laws of the State of California that the forgoing is true and correct.

Executed this 4<sup>th</sup> day of June, 2014 at Phoenix, Arizona.

A handwritten signature in black ink that reads "Lauren Locker". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Lauren Locker

## DECLARATION OF DAVID COTTRELL

I, David Cottrell, declare that the following declaration is true and accurate. The following is based on my personal knowledge and if called upon, I can competently testify as to the truthfulness of this declaration.

1. I am not a member nor have I ever been a member of the Friends of Oceano Dunes (Friends).
2. It is my understanding that the proposed project for the Grover Beach Lodge & Conference Center (Project) is seeking to relocate the long-standing staging area (on Grand Avenue near the entrance to the beach) for off-highway vehicles (OHV) that is currently and has historically been used freely by the public and users of Oceano Dunes as a recreational vehicle staging area.
3. During the years 1968-1975 when I lived in California, my family, friends, and I used the OHV Staging Area near the Oceano Dunes SVRA at least 2-3 times each year. When at the OHV Staging Area over the years, I have witnessed at least 50 other members of the public using this important site for staging activities or uses, such as loading and unloading recreational vehicles from trucks or trailers, changing tires for sand or highway use and other preparatory actions on their vehicles so that the staging area allowed or enabled the public access to the OHV riding areas of SVRA.
4. We used the OHV Staging Area for a variety of recreational purposes that were necessary before entering the Oceano Dunes SVRA, and later upon exiting the park. The OHV Staging Area is not just a matter of convenience, but a necessity and a matter of safety to the users and visitors of the SVRA. We used the OHV Staging Area to unload vehicles and motorcycles off of a trailer for use in the SVRA and afterward to reload the trailer safely. We needed the area to change tires needed for the SVRA, changing from street tires to sand tires and then back again for highway safety. The site has been the only place to perform such preparation activities safely separate from the flow of traffic and with a sufficiently large open space needed to perform preparation activities. A 40'

motor home towing a trailer that needs additional room to drive a dune buggy off its trailer requires a large amount of space. We purchased all this equipment solely for the purpose of recreational activities in Oceano Dunes.

5. The OHV Staging Area is also a historic area of unusually friendly shared activity. There is a great sense of community shared by the users and visitors to the area. We all shared tools, laughed, interacted, and we gave assistance to each other, whether inexperienced or experienced users. I always considered this community and spirit of cooperation and friendship as one of the joys of visiting the SVRA. This was only possible because we all stopped first in the Staging Area to accomplish the work that needed to be done, and there were always others there with us who were quick to assist in any way possible. Without this large area directly before the SVRA, traveling families would be on their own dealing with numerous problems that occur when entering an unusual environment with equipment that is not utilized in their daily activities.

6. Prior to becoming state land, and when the area was in private ownership, we used and observed numerous others using the Staging Area for public recreational uses for more than 6 years during 1968-1975.

7. We used the OHV Staging Area during 1968-1975 without permission, objection, protest or interference by anyone, including the private property owner. We did not even know whether there was a private property owner! Our use of the Staging Area has been continuous, open, public, unimpeded, and uninterrupted during those years for public recreational purposes and uses of the SVRA. There was no informal or official signage whatsoever, no signs showing restrictions or "No Trespassing", no gates and no fences to try to keep the public out of the OHV Staging Area. I considered the OHV Staging Area to be a public recreational area where we had a public right to use it. We used the staging area in public ways as we would use any public recreational area, people entering and exiting as they pleased. My family and I used the staging area believing that the public has a right to such use. My family and I used the staging area whenever we wished to do so - it was continuous, regular, open and public use. I never experienced any restrictions or warnings from the property owner, and never asked or received permission or saw anyone asking permission to use the Staging Area. We entered and used the Staging Area freely as we pleased and without any thought or worry, just as you would use any recreational support facility or area that was open and available to the public. Nobody ever requested payment for use of the land. I never even saw any attempts to prevent, obstruct,

object or interfere with public use of the Staging Area and never saw anyone or their vehicles ejected from the Staging Area.

8. The public users of the Staging Area also respected the public use of the land, never loitering there beyond the time required to perform their necessary activities prior to entering or upon exiting the SVRA. Every time we used the area, we witnessed users entering the Staging Area, working on their equipment, and then immediately departing so that others could use the area. I never witnessed an unattended vehicle or heard from anyone else using the SVRA that anyone had misused the Staging Area for parking or camping. We all understood the important proper use of the Staging Area and were self-enforcing of its public use.

I declare under penalty of perjury under the laws of the State of California that the forgoing is true and correct.

Executed this 4th day of June, 2014 at Phoenix, Arizona.

A handwritten signature in cursive script that reads "David Cottrell". The signature is written in dark ink and is positioned above a horizontal line.

David Cottrell

RECORDING REQUESTED BY  
TITLE INSURANCE & TRUST CO.

DOC. NO. **34847**  
OFFICIAL RECORDS  
SAN LUIS OBISPO CO., CALIF.  
WILLIAM E. ZIMARIK,  
COUNTY RECORDER

02612810F 800000.00 RECR  
02612810F 800000.00 T.I.

WHEN RECORDED MAIL TO

STATE OF CALIFORNIA  
DEPARTMENT OF GENERAL SERVICES  
PROPERTY ACQUISITION SERVICE  
915 Capitol Mall, Room 110  
Sacramento, California 95814

DEC 10 1971

TIME 10:10 A.M.

CITY OF GROVER CITY

SPACE ABOVE THIS LINE FOR RECORDER'S USE

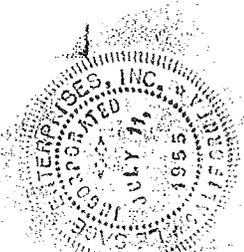
**Corporation Grant Deed**

Agency: Parks and Recreation  
Project: Pismo State Beach  
Parcel: 1780

LE SAGE ENTERPRISES, INC., a Corporation,

a corporation organized under the laws of the state of  
hereby GRANTS to THE STATE OF CALIFORNIA, the following described real property  
in the County of \_\_\_\_\_, State of California: As shown on  
attached Exhibit "A" consisting of 3 pages.

STATE OF CALIFORNIA - OFFICIAL BUSINESS  
Document entitled to free recordation  
pursuant to Gov't. Code Sec. 6103



In Witness Whereof, said corporation has caused its corporate name and seal to be affixed  
hereto and this instrument to be executed by its Vice President and  
Secretary thereunto duly authorized.

Affix IRS

Dated: 11-22-71

LE SAGE ENTERPRISES, INC.,  
a Corporation  
By [Signature] Vice President  
By [Signature] Secretary

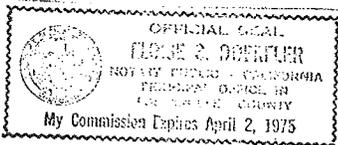
34847

STATE OF CALIFORNIA

COUNTY OF Los Angeles } SS.

On November 22, 1971 before me, the undersigned, a Notary Public in and for said County and State, personally appeared James F. LeSage, known to me to be the VICE President, and

known to me to be \_\_\_\_\_ Secretary of the Corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument on behalf of the Corporation therein named, and acknowledged to me that such Corporation executed the within Instrument pursuant to its by-laws or a resolution of its board of directors.



WITNESS my hand and official seal.

(Seal)

Signature Eloise S. Doerflinger

Eloise S. Doerflinger

Name (Typed or Printed)

Notary Public in and for said County and State

TO 449 C  
(Corporation)

STATE OF CALIFORNIA } SS.  
COUNTY OF SAN LUIS OBISPO

On NOVEMBER 23, 1971 before me, the undersigned, a Notary Public in and for said State, personally appeared DOUGLAS M. LE SAGE

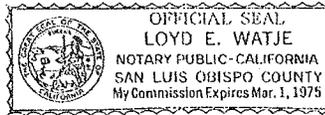
known to me to be the XXXXXXXXXX

known to me to be \_\_\_\_\_ Secretary of the corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

Signature Loyd E. Watje

Name (Typed or Printed)



1141 Chorro St., San Luis Obispo, Calif. 93401

(This area for official notarial seal)

STAPLE HERE

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100586-LEW

DESCRIPTION

PARCEL 1:

A PARCEL OF LAND IN THE CITY OF GROVER CITY, COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, AS SHOWN ON THE MAP OF GROVER AND GATES TRACT, FILED IN BOOK A, PAGE 114 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF LOT 1 IN BLOCK 166 OF SAID GROVER AND GATES TRACT;  
THENCE ALONG THE NORTHERLY LINE OF SAID LOT 1 AND ITS WESTERLY PROLONGATION, NORTH 85° 53' WEST 533.92 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE SOUTH 15° 08' 36" EAST, 75.39 FEET;  
THENCE SOUTH 31° 28' 24" EAST 136.10 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 240.00 FEET;  
THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16° 51' 30", AN ARC DISTANCE OF 70.62 FEET;  
THENCE TANGENT TO SAID CURVE, SOUTH 48° 19' 54" EAST 46.23 FEET;  
THENCE SOUTH 45° 53' 56" EAST 40.95 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 400.00 FEET;  
THENCE SOUTHEASTERLY ALONG SAID LAST MENTIONED CURVE THROUGH A CENTRAL ANGLE OF 16° 19' 18", AN ARC DISTANCE OF 113.95 FEET;  
THENCE TANGENT TO SAID LAST MENTIONED CURVE, SOUTH 21° 16' 27" EAST 97.29 FEET;  
THENCE SOUTH 12° 18' 18" EAST 81.01 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 2962.78 FEET, A RADIAL LINE OF SAID CURVE TO SAID POINT BEARS SOUTH 86° 02' 32" WEST;  
THENCE SOUTHERLY ALONG SAID LAST MENTIONED CURVE THROUGH A CENTRAL ANGLE OF 16° 54' 00" AN ARC DISTANCE OF 873.90 FEET;  
THENCE TANGENT TO SAID LAST MENTIONED CURVE, SOUTH 20° 51' 28" EAST 241.18 FEET;  
THENCE SOUTH 1° 34' 14" EAST 43.34 FEET;  
THENCE SOUTH 20° 50' 43" EAST 60.00 FEET;  
THENCE SOUTH 22° 57' 59" EAST 54.04 FEET;  
THENCE NORTH 69° 09' 17" EAST 28.00 FEET;  
THENCE SOUTH 20° 50' 43" EAST 25.00 FEET;  
THENCE SOUTH 69° 09' 17" WEST 28.00 FEET;  
THENCE SOUTH 23° 07' 01" EAST 48.69 FEET;  
THENCE SOUTH 24° 44' 54" EAST 69.90 FEET;  
THENCE SOUTH 30° 24' 07" EAST 52.68 FEET;  
THENCE SOUTH 32° 40' 04" EAST 145.19 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 520.00 FEET;  
THENCE SOUTHERLY ALONG SAID LAST MENTIONED CURVE, THROUGH A CENTRAL ANGLE OF 22° 20' 10" AN ARC DISTANCE OF 202.72 FEET;  
THENCE TANGENT TO SAID LAST MENTIONED CURVE, SOUTH 10° 19' 54" EAST 77.26 FEET TO THE NORTHERLY LINE OF GRAND AVENUE, AS SHOWN ON SAID MAP;  
THENCE ALONG THE NORTHERLY LINE OF SAID GRAND AVENUE AND ITS WESTERLY PROLONGATION, NORTH 86° 36' 22" WEST 1654.49 FEET TO THE LINE OF

EXHIBIT "A"

34847

100586-LEW

ORDINARY HIGH WATER OF THE PACIFIC OCEAN;  
THENCE ALONG SAID LINE OF ORDINARY HIGH WATER AS FOLLOWS:  
NORTH 16° 25' 10" WEST 896.31 FEET;  
NORTH 17° 37' 30" WEST 1134.66 FEET AND  
NORTH 22° 22' 50" WEST 454.82 FEET TO THE WESTERLY PROLONGATION OF  
THE NORTHERLY LINE OF SAID LOT 1 IN BLOCK 166 OF GROVER AND GATES  
TRACT;  
THENCE ALONG SAID WESTERLY PROLONGATION SOUTH 85° 53' EAST  
1537.18 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 2:

AN EASEMENT FOR INGRESS AND EGRESS, SEWER, WATER AND GAS LINES AND  
INCIDENTAL PURPOSES

OVER A PARCEL OF LAND IN THE CITY OF GROVER CITY, COUNTY OF SAN LUIS  
OBISPO, STATE OF CALIFORNIA, AS SHOWN ON THE MAP OF GROVER AND GATES  
TRACT, FILED IN BOOK A, PAGE 114 OF MAPS, IN THE OFFICE OF THE  
COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF LOT 1 IN BLOCK 166 OF SAID  
GROVER AND GATES TRACT;  
THENCE ALONG THE NORTHERLY LINE OF SAID LOT 1 AND ITS WESTERLY  
PROLONGATION, NORTH 85° 53' WEST 533.92 FEET;  
THENCE SOUTH 15° 08' 36" EAST, 75.39 FEET;  
THENCE SOUTH 31° 28' 24" EAST 136.10 FEET TO THE BEGINNING OF A  
TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 240.00 FEET;  
THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF  
16° 51' 30", AN ARC DISTANCE OF 70.62 FEET;  
THENCE TANGENT TO SAID CURVE, SOUTH 48° 19' 54" EAST 46.23 FEET;  
THENCE SOUTH 45° 53' 56" EAST 40.95 FEET TO THE BEGINNING OF A  
TANGENT CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 400.00  
FEET;  
THENCE SOUTHEASTERLY ALONG SAID LAST MENTIONED CURVE THROUGH A  
CENTRAL ANGLE OF 16° 19' 18", AN ARC DISTANCE OF 113.95 FEET;  
THENCE TANGENT TO SAID LAST MENTIONED CURVE, SOUTH 21° 16' 27"  
EAST 97.29 FEET;  
THENCE SOUTH 12° 18' 18" EAST 81.01 FEET TO A POINT ON A NON-TANGENT  
CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 2962.78 FEET, A RADIAL  
LINE OF SAID CURVE TO SAID POINT BEARS SOUTH 86° 02' 32" WEST;  
THENCE SOUTHERLY ALONG SAID LAST MENTIONED CURVE THROUGH A CENTRAL  
ANGLE OF 16° 54' 00" AN ARC DISTANCE OF 873.90 FEET;  
THENCE TANGENT TO SAID LAST MENTIONED CURVE, SOUTH 20° 51' 28"  
EAST 241.18 FEET;  
THENCE SOUTH 1° 34' 14" EAST 43.34 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE SOUTH 20° 50' 43" EAST 60.00 FEET;  
THENCE NORTH 69° 09' 17" EAST TO THE NORTHEASTERLY LINE OF BLOCK  
167 OF SAID GROVER AND GATES TRACT;  
THENCE NORTHWESTERLY ALONG SAID NORTHEASTERLY LINE, TO A LINE BEARING  
NORTH 69° 09' 17" EAST WHICH PASSES THROUGH THE TRUE POINT OF  
BEGINNING;  
THENCE SOUTH 69° 09' 17" WEST TO THE TRUE POINT OF BEGINNING.

RESERVING TO THE GRANTOR THE NON-EXCLUSIVE USE OF SEWER, WATER, GAS LINES AND  
INCIDENTAL PURPOSES.

34847

100586-LEW

PARCEL 3:

AN EASEMENT FOR SEWER LINES AND INCIDENTAL PURPOSES

OVER A PARCEL OF LAND IN THE CITY OF GROVER CITY, COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, AS SHOWN ON THE MAP OF THE GROVER AND GATES TRACT, FILED IN BOOK A, PAGE 114 OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF LOT 1 IN BLOCK 166 OF SAID GROVER AND GATES TRACT;  
THENCE ALONG THE NORTHERLY LINE OF SAID LOT 1 AND ITS WESTERLY PROLONGATION, NORTH 85° 53' WEST 533.92 FEET;  
THENCE SOUTH 15° 08' 36" EAST, 75.39 FEET;  
THENCE SOUTH 31° 28' 24" EAST 136.10 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 240.00 FEET;  
THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16° 51' 30", AN ARC DISTANCE OF 70.62 FEET;  
THENCE TANGENT TO SAID CURVE, SOUTH 48° 19' 54" EAST 46.23 FEET;  
THENCE SOUTH 45° 53' 56" EAST 40.95 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 400.00 FEET;  
THENCE SOUTHEASTERLY ALONG SAID LAST MENTIONED CURVE THROUGH A CENTRAL ANGLE OF 16° 19' 18", AN ARC DISTANCE OF 113.95 FEET;  
THENCE TANGENT TO SAID LAST MENTIONED CURVE, SOUTH 21° 16' 27" EAST 97.29 FEET;  
THENCE SOUTH 12° 18' 18" EAST 81.01 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 2962.78 FEET, A RADIAL LINE OF SAID CURVE TO SAID POINT BEARS SOUTH 86° 02' 32" WEST;  
THENCE SOUTHERLY ALONG SAID LAST MENTIONED CURVE THROUGH A CENTRAL ANGLE OF 16° 54' 00" AN ARC DISTANCE OF 873.90 FEET;  
THENCE TANGENT TO SAID LAST MENTIONED CURVE, SOUTH 20° 51' 28" EAST 241.18 FEET;  
THENCE SOUTH 1° 34' 14" EAST 43.34 FEET;  
THENCE SOUTH 20° 50' 43" EAST 60.00 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE SOUTH 22° 57' 59" EAST 54.04 FEET;  
THENCE NORTH 69° 09' 17" EAST 70.00 FEET;  
THENCE NORTH 22° 57' 59" WEST 54.04 FEET;  
THENCE SOUTH 69° 09' 17" WEST 70.00 FEET TO THE TRUE POINT OF BEGINNING.

~~XXXXXXXXXXXXXXXXXXXX~~

RESERVING TO THE GRANTOR THE NON-EXCLUSIVE USE OF SEWER, WATER, GAS LINES AND INCIDENTAL PURPOSES.

RED  
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Exhibit "G"  
of minutes  
State Public Works Board  
November 29, 1971

RESOLUTION OF STATE PUBLIC WORKS BOARD SELECTING  
SITE AND AUTHORIZING ACQUISITION OF REAL PROPERTY  
UNDER THE PROPERTY ACQUISITION LAW IN THE COUNTY  
OF SAN LUIS OBISPO, STATE OF CALIFORNIA, FOR THE  
DEPARTMENT OF PARKS AND RECREATION

(Parcel 1780 - Pismo State Beach)

WHEREAS, the Property Acquisition Law (Part 11, Division 3, Title 2 of the Government Code of the State of California) empowers the State Public Works Board to select and acquire in the name of the State of California suitable and adequate real property for such purposes as may be specified in legislation making funds available for such acquisition; and

WHEREAS, Item 313i of the Budget Act of 1971 makes an appropriation for expenditure under the provisions of the Property Acquisition Law for the acquisition of real property for use of Pismo State Beach, Department of Parks and Recreation; and

WHEREAS, it appears that the owner of the following described real property has agreed to sell said property to the State for the total purchase price of \$1,600,000, subject to the terms and conditions of an agreement dated November 22, 1971, in which Le Sage Enterprises, Inc., a corporation, is the Grantor and the State of California is the Grantee.

NOW, THEREFORE, BE IT RESOLVED, that the hereinafter described real property be, and the same is, hereby selected for acquisition by negotiation under said Property Acquisition Law, as specified and for the use set forth in Item 313i of the Budget Act of 1971; and

BE IT FURTHER RESOLVED, that the State Public Works Board, by unanimous vote, hereby determines that such purchase price of \$1,600,000 is fair and reasonable and acquisition by condemnation is not necessary; and

BE IT FURTHER RESOLVED, that the State Public Works Board hereby accepts, on behalf of the State of California, the conveyance dated November 22, 1971, from Le Sage Enterprises, Inc., a corporation, to the State of California, of the hereinafter described real property in the County of San Luis Obispo, State of California, and consents to the recordation thereof; and

BE IT FURTHER RESOLVED, that either the Chairman or the Administrative Secretary of this Board be, and he hereby is, authorized and directed to execute said agreement and approve such instruments as may be necessary to complete the acquisition of said real property.

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Exhibit "G" continued

The real property hereinabove referred to, which is authorized to be acquired by this resolution, is situate in the County of San Luis Obispo, State of California, and described as follows:

PARCEL 1780

Parcel 1: A parcel of land in the City of Grover City, County of San Luis Obispo, State of California, as shown on the map of Grover and Gates Tract, filed in Book A, page 114 of Maps, in the office of the County Recorder of said County, described as follows:

Beginning at the Northeasterly corner of Lot 1 in Block 166 of said Grover and Gates Tract; thence along the Northerly line of said Lot 1 and its Westerly prolongation, North  $85^{\circ} 53'$  West 533.92 feet to the true point of beginning; thence South  $15^{\circ} 08' 36''$  East, 75.39 feet; thence South  $31^{\circ} 28' 24''$  East 136.10 feet to the beginning of a tangent curve, concave Northeasterly, having a radius of 240.00 feet; thence Southeasterly along said curve through a central angle of  $16^{\circ} 51' 30''$ , an arc distance of 70.62 feet; thence tangent to said curve, South  $48^{\circ} 19' 54''$  East 46.23 feet; thence South  $45^{\circ} 53' 56''$  East 40.95 feet to the beginning of a tangent curve, concave Southwesterly, having a radius of 400.00 feet; thence Southeasterly along said last mentioned curve through a central angle of  $16^{\circ} 19' 18''$ , an arc distance of 113.95 feet; thence tangent to said last mentioned curve, South  $21^{\circ} 16' 27''$  East 97.29 feet; thence South  $12^{\circ} 18' 18''$  East 81.01 feet to a point on a non-tangent curve concave Easterly, having a radius of 2962.78 feet, a radial line of said curve to said point bears South  $86^{\circ} 02' 32''$  West; thence Southerly along said last mentioned curve through a central angle of  $16^{\circ} 54' 00''$  an arc distance of 873.90 feet; thence tangent to said last mentioned curve, South  $20^{\circ} 51' 28''$  East 241.18 feet; thence South  $1^{\circ} 34' 14''$  East 43.34 feet; thence South  $20^{\circ} 50' 43''$  East 60.00 feet; thence South  $22^{\circ} 57' 59''$  East 54.04 feet; thence North  $69^{\circ} 09' 17''$  East 28.00 feet; thence South  $20^{\circ} 50' 43''$  East 25.00 feet; thence South  $69^{\circ} 09' 17''$  West 28.00 feet; thence South  $23^{\circ} 07' 01''$  East 48.69 feet; thence South  $24^{\circ} 44' 54''$  East 69.90 feet; thence South  $30^{\circ} 24' 07''$  East 52.68 feet; thence South  $32^{\circ} 40' 04''$  East 145.19 feet to the beginning of a tangent curve concave Southwesterly, having a radius of 520.00 feet; thence Southerly along said last mentioned curve, through a central angle of  $22^{\circ} 20' 10''$  an arc distance of 202.72 feet; thence tangent to said last mentioned curve, South  $10^{\circ} 19' 54''$  East 77.26 feet to the Northerly line of Grand Avenue, as shown on said map; thence along the Northerly line of said Grand Avenue and its Westerly prolongation, North  $86^{\circ} 36' 22''$  West 1654.49 feet to the line of ordinary high water of the Pacific Ocean; thence along said line of ordinary high water as follows: North  $16^{\circ} 25' 10''$  West 896.31 feet; North  $17^{\circ} 37' 30''$  West 1134.66 feet and North  $22^{\circ} 22' 50''$  West 454.82 feet to the Westerly prolongation of the Northerly line of said Lot 1 in Block 166 of Grover and Gates Tract; thence along said Westerly prolongation South  $85^{\circ} 53'$  East 1537.18 feet to the true point of beginning.

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Exhibit "G" continued

Parcel 2: An easement for ingress and egress, sewer, water and gas lines and incidental purposes over a parcel of land in the City of Grover City, County of San Luis Obispo, State of California, as shown on the map of Grover and Gates Tract, filed in Book A, page 114 of Maps, in the office of the County Recorder of said County, described as follows:

Beginning at the Northeasterly corner of Lot 1 in Block 166 of said Grover and Gates Tract; thence along the Northerly line of said Lot 1 and its Westerly prolongation, North  $85^{\circ} 53'$  West 533.92 feet; thence South  $15^{\circ} 08' 36''$  East, 75.39 feet; thence South  $31^{\circ} 28' 24''$  East 136.10 feet to the beginning of a tangent curve, concave northeasterly, having a radius of 240.00 feet; thence Southeasterly along said curve through a central angle of  $16^{\circ} 51' 30''$ , an arc distance of 70.62 feet; thence tangent to said curve, South  $48^{\circ} 19' 54''$  East 46.23 feet; thence South  $45^{\circ} 53' 56''$  East 40.95 feet to the beginning of a tangent curve, concave Southwesterly, having a radius of 400.00 feet; thence southeasterly along said last mentioned curve through a central angle of  $16^{\circ} 19' 18''$ , an arc distance of 113.95 feet; thence tangent to said last mentioned curve, South  $21^{\circ} 16' 27''$  East 97.29 feet; thence South  $12^{\circ} 13' 13''$  East 81.01 feet to a point on a non-tangent curve concave Easterly, having a radius of 2962.78 feet, a radial line of said curve to said point bears South  $86^{\circ} 02' 32''$  West; thence Southerly along said last mentioned curve through a central angle of  $16^{\circ} 54' 00''$  an arc distance of 873.90 feet; thence tangent to said last mentioned curve, South  $20^{\circ} 51' 28''$  East 241.18 feet; thence South  $1^{\circ} 34' 14''$  East 43.34 feet to the true point of beginning; thence South  $20^{\circ} 50' 43''$  East 60.00 feet; thence North  $69^{\circ} 09' 17''$  East to the Northeasterly line of Block 167 of said Grover and Gates Tract; thence Northwesterly along said Northeasterly line, to a line bearing North  $69^{\circ} 09' 17''$  East which passes through the true point of beginning; thence South  $69^{\circ} 09' 17''$  West to the true point of beginning.

Parcel 3: An easement for sewer lines and incidental purposes over a parcel of land in the City of Grover City, County of San Luis Obispo, State of California, as shown on the map of the Grover and Gates Tract, filed in Book A, page 114 of Maps in the office of the County Recorder of said County, described as follows:

Beginning at the Northeasterly corner of Lot 1 in Block 166 of said Grover and Gates tract; thence along the Northerly line of said Lot 1 and its Westerly prolongation, North  $85^{\circ} 53'$  West 533.92 feet; thence South  $15^{\circ} 08' 36''$  East, 75.39 feet; thence South  $31^{\circ} 28' 24''$  East 136.10 feet to the beginning of a tangent curve, concave Northeasterly, having a radius of 240.00 feet; thence Southeasterly along said curve through a central angle of  $16^{\circ} 51' 30''$ , an arc distance of 70.62 feet; thence tangent to said curve, South  $48^{\circ} 19' 54''$  East 46.23 feet; thence South  $45^{\circ}$

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Exhibit "G" continued

53' 56" East 40.95 feet to the beginning of a tangent curve, concave Southwesterly, having a radius of 400.00 feet; thence Southeasterly along said last mentioned curve through a central angle of 16° 19' 18", an arc distance of 113.95 feet; thence tangent to said last mentioned curve, South 21° 16' 27" East 97.29 feet; thence South 12° 18' 18" East 81.01 feet to a point on a non-tangent curve concave Easterly, having a radius of 2962.78 feet, a radial line of said curve to said point bears South 86° 02' 32" West; thence Southerly along said last mentioned curve through a central angle of 16° 54' 00" an arc distance of 873.90 feet; thence tangent to said last mentioned curve, South 20° 51' 28" East 241.18 feet; thence South 1° 34' 14" East 43.34 feet; thence South 20° 50' 43" East 60.00 feet to the true point of beginning; thence South 22° 57' 59" East 54.04 feet; thence North 69° 09' 17" East 70.00 feet; thence North 22° 57' 59" West 54.04 feet; thence South 69° 09' 17" West 70.00 feet to the true point of beginning.

END RESOLUTION

I HEREBY CERTIFY the foregoing to be a full, true, and correct copy of a resolution adopted by unanimous vote of the State Public Works Board on November 29, 1971.

WITNESS my hand this 29th day of November, 1971.

  
Administrative Secretary  
State Public Works Board

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**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
PHONE: (831) 427-4863  
FAX: (831) 427-4877  
WEB: WWW.COASTAL.CA.GOV



# W16c

Filed: 4/25/2014  
Action Deadline: 6/13/2014  
Staff: J. Buhr - SC  
Staff Report: 5/23/2014  
Hearing Date: 6/11/2014

## APPEAL STAFF REPORT SUBSTANTIAL ISSUE DETERMINATION

**Appeal Number:** A-3-GRB-14-0024 (Grover Beach Lodge & Conference Center)

**Applicant:** Pacifica Companies

**Appellants:** Deah Rudd; Friends of Oceano Dunes, Inc. by Jim Suty (President)

**Local Government:** City of Grover Beach

**Local Decision:** Approved with Conditions

**Location:** 55 West Grand Avenue

**Project Description:** Construction of a 150 room hotel, meeting space, restaurant, bar and conference center in four buildings, and associated parking.

**Staff Recommendation:** No Substantial Issue

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### SUMMARY OF STAFF RECOMMENDATION

The City of Grover Beach approved a coastal development permit (CDP) for the construction of a 150 room lodge and conference center facility. The project also includes improvements to existing State Park facilities that are located within the project area. Some of the amenities the project will include are: boardwalks, picnic areas, public viewing areas, gift shops, public restrooms and showers, a restaurant, a bar, beach access, beach concessions and parking for both the public and the lodge. It should be noted that the issues surrounding this project were thoroughly considered when the Commission certified the project-driven LCP amendments

related to this project (LCPA GRB-1-12 Part 1).

Two appeals were submitted in regards to the City-approved project. The Appellants' main contentions are that: 1) a portion of the project site is subject to an implied dedication for the use of off-highway vehicle and equestrian staging; 2) the project will limit public beach access and recreational opportunities; 3) the project will result in the removal or relocation of recreational facilities; 4) the project will result in increased traffic which will reduce beach access; 5) the project will negatively impact visual resources; 6) the development does not properly minimize adverse impacts due to sea level rise and potential tsunami events; and 7) the project will have an adverse impact on water quality.

The approved project is an allowed use at this location. The evidence presented to date has not provided enough information to determine whether an implied dedication has been established on the project site, and it is unclear what the status of such an implied dedication for public access would be, given that the land is publicly owned. In fact, the project will result in increased public access in this area. Although some recreational facilities, such as the RV dump stations, will be moved, adequate and available facilities will still be provided. Furthermore, traffic studies have shown that traffic will not be substantially impacted and the same level of service will be maintained after the project is constructed, as is currently experienced in the project area. The project has been sufficiently conditioned to limit negative impacts on visual resources. Finally, appropriate measures have been implemented to reduce potential water quality issues and to address the impacts of future sea level rise or tsunami events.

As a result, staff recommends that the Commission determine that the appeal contentions do not raise a substantial LCP conformance issue, and that the Commission decline to take jurisdiction over the CDP for this project. The single motion necessary to implement this recommendation is found on page 4 below.

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- Exhibit 1 – Project Location and Project Plans
- Exhibit 2 – Final Local Action Notice
- Exhibit 3 – Friends of Oceano Dunes Appeal
- Exhibit 4 – Deah Rudd Appeal
- Exhibit 5 – Joel Suty Supplemental Declaration
- Exhibit 6 – Applicable Coastal Act and LCP Policies

## I. MOTION AND RESOLUTION

Staff recommends a **YES** vote on the following motion. Passage of this motion would result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission would not hear the application de novo and the local action would become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

***Motion:** I move that the Commission determine that Appeal Number A-3-GRB-14-0024 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603. I recommend a yes vote.*

***Resolution to Find No Substantial Issue.** The Commission finds that Appeal Number A-3-GRB-14-0024 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.*

## II. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

### A. PROJECT LOCATION, BACKGROUND, AND DESCRIPTION

The City-approved Grover Beach Lodge site is located in the City of Grover Beach in San Luis Obispo County. The project site is located within the California Department of Parks and Recreation's (State Park's) Pismo State Beach unit at the terminus of West Grand Avenue where it meets the beach, in an area bounded by Le Sage Drive to the north, West Grand Avenue to the south, Meadow Creek to the east, and a back beach/dune area to the west. The area is bounded by Pismo State Beach to the west, the Pismo State Beach Restaurant and Golf Course to the north, the Le Sage RV Park to the east, and West Grand Avenue and Pismo State Beach dunes to the south. See Exhibit 1 for the project location map and project plans.

Currently, although there are a significant number of overnight accommodations in the City outside of the coastal zone, there are no overnight accommodations within the City's coastal zone area. The City and State Parks have envisioned a lodge and conference center facility at this location for some time, including through the City's existing LCP, which was adopted in 1982 and amended in 2000<sup>1</sup> specific to this site, and which was further amended in 2013<sup>2</sup> to provide for the lodge and conference center project that is the subject of this appeal. The 2013 LCP amendment included specific policies and implementation measures to accommodate a large-

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<sup>1</sup> Grover Beach LCP Major Amendment 1-98, adopted January 12, 2000.

<sup>2</sup> Grover Beach LCP Major Amendment 1-12 Part 1, adopted April 11, 2013.

scale visitor-serving development on the site while protecting visual resources, public access, dune habitat and water quality, and assuring that hazards are avoided and minimized.

The City-approved project permits the construction of a 150 room lodge and conference center facility. The lodge complex will consist of four major buildings. Building one will contain the lodge entry and lobby, check-in, restaurant and bar/lounge with outdoor seating, a second story public viewing area, gift shop, swimming pool, lodge maintenance facilities, and offices. Buildings two and three will contain guest rooms. Building four will contain the conference center, restroom facilities, outdoor observation deck and pre-function areas. Other improvements to existing facilities will include the Fin's restaurant complex, boardwalks, picnic areas, and the golf course clubhouse. Once completed, the entire project site will be open to the general public, except for the pool and private hotel rooms, which will only be accessible to hotel guests. Multiple public access paths will be maintained throughout the site including a connection to the existing boardwalk which extends upcoast to the Pismo Beach pier and a trail along Meadow Creek.

The project will provide 160 public parking spaces which will be distributed into three areas. A minimum of 40% of the site will remain landscaped open areas, which will consist entirely of native dune and riparian species. Extensive areas of pervious paving and on site runoff retention will allow for treatment of runoff prior to infiltration or discharge from the site. A 50-foot buffer zone will be established from Meadow Creek and a Habitat Restoration Plan will be implemented to ensure that all adjacent sensitive habitat areas are protected. The project has been designed to retain the public view corridors of the shoreline from West Grand Avenue, Highway 1 and Le Sage Drive and the four buildings are designed to be compatible with the dune environment. Public paths on the west side of all buildings will ensure uninterrupted views of the dunes and shoreline, while a second story public viewing area will provide the public with additional views of the shoreline and dunes. Landscaping will include bermed sand dunes and shallow detention basins to emulate the dunes and slack ponds. A comprehensive lighting plan using best management practices will reduce lighting to the lowest levels allowed within public safety standards and the RV dump station will be relocated to the North Beach Campground with directional signage to aid in directing users to the new location.

## **B. CITY OF GROVER BEACH CDP APPROVAL**

The City of Grover Beach City Council held a public hearing for the project on April 7, 2014. At the hearing, two parties raised objections to the proposed project. Ms. Deah Rudd raised concerns regarding public access, visual impacts and hazard mitigation impacts. Mr. Jim Suty, representing the Friends of Oceano Dunes, submitted correspondence that raised concerns regarding public access and indicated that there is potentially an implied dedication of an OHV recreational staging area within the project site. The City of Grover Beach approved the project with conditions at the April 7, 2014 hearing. Notice of the City Council's action on the CDP was received in the Coastal Commission's Central Coast District Office on April 14, 2014 (see **Exhibit 2**). The Coastal Commission's ten-working day appeal period for this action began on April 15, 2014 and concluded at 5pm on April 28, 2014. Two valid appeals were received during the appeal period; the first from Ms. Deah Rudd (see **Exhibit 4**); and the second from Mr. Jim Suty on behalf of the Friends of Oceano Dunes (see **Exhibit 3**).

### **C. APPEAL PROCEDURES**

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. This project is appealable because it is located between the sea and the first public road paralleling the sea, within 300 feet of the beach and within 100 feet of a stream (Meadow Creek).

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the certified LCP or to the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo CDP hearing on an appealed project unless a majority of the Commission finds that “no substantial issue” is raised by such allegations.<sup>3</sup> Under Section 30604(b), if the Commission conducts a de novo hearing and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. This project includes components that are located between the nearest public road and the sea and thus this additional finding would need to be made if the Commission were to approve the project following a de novo hearing.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo CDP determination stage of an appeal.

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<sup>3</sup> The term “substantial issue” is not defined in the Coastal Act or in its implementing regulations. In previous decisions on appeals, the Commission has generally been guided by the following factors in making substantial issue determinations: the degree of factual and legal support for the local government’s decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government’s decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance. Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of a local government’s CDP decision by filing a petition for a writ of mandate pursuant to the Code of Civil Procedure, Section 1094.5. In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the County does not raise a substantial issue with regard to the Appellants’ contentions.

## **D. SUMMARY OF APPEAL CONTENTIONS**

Two appeals of the City-approved project were received.

The Friends of Oceano Dunes cite numerous Coastal Act and LCP policies and contend that: 1) a portion of the project site is subject to an implied dedication for the use of off-highway vehicles (OHVs) and equestrian staging; 2) the project will limit public beach access and recreational opportunities; 3) the project will result in the removal or relocation of recreational facilities; and 4) the project will result in increased traffic which will reduce beach access. Please see **Exhibit 3** for the full appeal document and Exhibit 5 for the Appellant's supplemental declarations.

The Appellant Deah Rudd does not cite any LCP policies but does cite Coastal Act sections 30211, 30251, 30252, 30253, and contends that: 1) the project will limit public beach access and recreational opportunities; 2) the project will negatively impact visual resources; 3) the development does not properly minimize adverse impacts due to sea level rise and potential tsunami events; and 4) the project will have an adverse impact on water quality. Please see **Exhibit 4** for the full appeal document.

## **E. SUBSTANTIAL ISSUE DETERMINATION**

### **Public Access**

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." The proposed project is located seaward of the first through public road (Highway One). Coastal Act Sections 30210 through 30213, 30221 and 30223 specifically protect public access and recreation. In addition, an Appellant has cited Coastal Act Section 30252, which requires that new development should maintain and enhance public access to the coast. In particular:

***Section 30210.** In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

***Section 30211.** Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

***Section 30212.5. Public facilities; distribution.** Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social or otherwise, of overcrowding or overuse by the public of any single area.*

***30213.** Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*

**30214.** (a) *The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:*

(1) *Topographic and geologic site characteristics.*

(2) *The capacity of the site to sustain use and at what level of intensity.*

(3) *The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*

(4) *The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*

(b) *It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution.*

*Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.*

**30221.** *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

**30223.** *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

**Section 30252. Maintenance and enhancement of public access.** *The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreation needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.*

The City of Grover Beach's LCP contains a number of policies specific to the project site that require public access to be provided, maintained and maximized, including the following:

## **5.7 Recommendations**

### **A. Maximum Access**

*Ensure that maximum public coastal access be provided through:*

#### *1. Policies*

- a. No future development shall be permitted which obstructs access to the dunes, beach and shoreline from Highway 1 within City limits. New development west of Highway 1 shall provide access to the dunes, beach and shoreline if adequate access does not already exist nearby.*
- b. The City, in cooperation with the California Department of Parks and Recreation and other public agencies and private interests, shall utilize all opportunities to provide additional public access except if it is inconsistent with public safety or the protection of fragile coastal resources or if adequate access exists nearby.*
- c. The provision of vehicular and pedestrian access to the beach from Grand Avenue shall be maintained.*

#### *2. Actions*

- a. The California Department of Parks and Recreation shall provide off-beach, off-road parking in the general vicinity of the existing restaurant and the existing golf course. This area should have about 160 public parking spaces.*

## **Analysis**

### **Public Access and Recreation**

Both Appellants raise several contentions that the development is inconsistent with the Coastal Act and LCP policies related to the provision of public access. See **Exhibits 3 and 4** for the Appellants' contentions.

#### *Prescriptive Rights*

An Appellant contends that through adverse use of a portion of the project site as an informal staging area for OHV/RV access to the beach and dunes, dating back to the 1960's, an implied dedication of this land as a recreation staging area has been perfected. The legalities of establishing an implied dedication in this instance are complicated and have not been established by the Appellant. Evidence supplied by the Appellant in support of this contention consists of a single declaration stating that the staging area "on Grand Avenue near the entrance to the beach" has consistently been used for staging purposes since the 1960's (See page 1 of **Exhibit 5**, First Supplemental Declaration of Joel Suty.) This lone declaration does not provide sufficient evidence to discern the use of the land almost 50 years ago nor does it establish that there has been an implied dedication of an easement or the potential scope of that easement. Regardless, even if the Appellant were to provide more substantial evidence of prior adverse use of the land, the legalities of establishing an implied dedication of an easement under the facts in this case are unclear, given that the easement would have been in favor of the public, and the property is currently publicly owned.

In addition, Coastal Act Section 30214 directs the Commission to implement the public access policies of the coastal act to regulate the time, place and manner of access, depending on the facts of the case. Thus, even if there has been an implied public access dedication on this site, the

project may be conditioned, consistent with the Coastal Act, to regulate the time, place and manner of that access. In prior consideration of the conformity of the Grover Beach LCP amendments with the Coastal Act, the Commission determined that the Grover Beach Lodge project would provide maximum public access, consistent with the Coastal Act. Particularly relevant to the Appellant's contentions here, the project will retain 160 parking spots for public use, some of which will be dedicated for use by elongated vehicles such as RV and equestrian vehicles typically used to support OHV and equestrian recreation. Thus, this contention does not raise a substantial issue.

*Maximum Public Access*

An Appellant contends that the project will limit public access and recreational opportunities that the Coastal Act mandates shall be provided and protected. To support this contention, the Appellant cites numerous provisions of the Coastal Act and LCP sections 5.5 and 5.5.1.A (see Exhibit 6 for these LCP sections). These LCP sections note that the Coastal Act requires that maximum access be provided to the shoreline and provide background information regarding the ramp entrance that lies at the foot of Grand Avenue and is the primary access for visitors to Pismo State Beach. LCP policy 5.7.A provides for maximum coastal access. The policies under this LCP policy state that: future development shall not obstruct access to the dunes, beach and shoreline; all opportunities to provide additional public access shall be utilized; and the provision of vehicular and pedestrian access to the beach shall be maintained.

This issue was considered when the Commission certified the LCP amendments related to the project. The Commission found that the project-driven amendment would maximize public access by providing for considerable public access and recreation enhancements at this site. The City-approved project mirrors the project that was the subject of the previously certified project-driven LCP amendment, and includes several pathways and boardwalks located throughout the lodge and conference center that lead to the beach. As required by LCP Policy 5.7.F.1.12 (Exhibit 6), the project will also provide continuous public access paths that connect Highway One, Grand Avenue, and Le Sage Drive to the shoreline along the perimeter of and through the project site, including connections to the boardwalk which runs north to Pismo Beach. The paths will be sited and designed in a manner that will maximize their public utility and value (including for connectivity, views, etc.). The approved project includes additional recreational facilities that would be publicly available, including renovated picnic areas that would be adjacent to the dune areas, increased access to the Meadow Creek natural area, the addition of interpretive signage explaining habitat values in the area, and public drop off areas. As required by LCP Policy 5.7.F.1.13 (Exhibit 6), the City conditioned the project to require a public access management plan that clearly describes the manner in which general public access associated with the project is to be managed and provided, with the objective of maximizing public access. The approved project will also maintain the existing number of free vehicle parking spaces that are open to the general public and the entrance ramp to Pismo State Beach. The approved project as designed and conditioned will ensure that public recreational access amenities will provide low cost recreational opportunities, in addition to the new visitor-serving uses that the lodge and conference center itself would add. Given all the above, the approved project maximizes recreational opportunities and public access to the shoreline at this location, as required by the Coastal Act and the LCP. Thus, this appeal contention does not raise a substantial issue.

*Recreational Opportunities*

An Appellant contends that the project will result in decreased recreational opportunities through elimination of the existing OHV/RV staging area and loss of functionality of the RV dump station, and is therefore inconsistent with various policies of the City of Grover Beach LCP. The Appellant also contends that the approved project is inconsistent with Coastal Act Section 30212.5, which requires, when feasible, that parking areas be distributed throughout an area so as to mitigate impacts of overcrowding or overuse by the public of any single area.

The Appellant's contention centers around both the staging area and the dump station being redeveloped as part of the project. The Appellant cites LCP policy 5.7.E.1.b (see Exhibit 6), which states that existing public recreational facilities should be preserved.

The existing staging area provides approximately 160 parking spaces and is located in several parking areas near the West Grand Avenue entrance into Pismo State Beach. The existing RV dump station is located in the northeastern part of the project site. Use of the existing the dump station facility is limited to one vehicle at a time.

LCP policy 5.7.A.2.a requires that 160 off-beach and off-road public parking spaces be provided in this area, which is the estimated number of parking spaces that currently exist on the site. The City conditioned the project to include 160 public parking spaces as required by this policy. Furthermore, State Parks has required that the area of public parking at the southeast corner of the site include diagonal pull-through parking spaces to accommodate over-sized vehicles. In addition, the beach provides ample space for RV vehicles associated with OHV use.

As approved by the County, the dump station will be relocated about a ½ mile north of the site, to the Pismo State Beach Campground. Thus, the approved dump station will still be within State Parks' boundaries and will be accessible to OHV and RV visitors. Also, the approved dump station will be an enhancement over the existing dump station because it will be able to serve up to four vehicles at a time, instead of just one.

Once again, these issues were thoroughly considered when the Commission certified the LCP amendments related to this project. Through this consideration, the Commission determined that the development of new and larger dump station facilities and the maintenance of an equivalent amount of public parking resulted in sufficiently adequate and available facilities for public use. Ultimately, the City, through approving the project, is conforming with the City's and the Commission's long-term vision of providing access and recreational opportunities for visitors to the Coast that results in a net benefit to recreational users of this location. Therefore, the approved project can be found consistent with the LCP and the Coastal Act regarding recreational opportunities, and this contention does not raise a substantial issue.

*Traffic*

An Appellant contends that the project will cause increased traffic that will result in obstructed access for OHV/RV users to the coast and the ODSVRA.

The potential traffic impacts of the approved project were analyzed in the Final EIR for the project. An evaluation of the traffic impacts at the intersection of Highway 1 and Grand Avenue concluded that the cumulative plus project scenario would result in Level of Service (LOS) C<sup>4</sup>, which is the current LOS achieved at this intersection. While the LCP does not contain specific LOS standards, the EIR found that, in the cumulative plus project scenario, the project's net impact on traffic would be a net increase in delay, at the Saturday peak hour, of an average of 3.1 seconds, which is not a significant impact that will result in obstructed access to the coast and ODSVRA.

LCP policy 6.7.3.4 (see Exhibit 6) requires that development shall appropriately offset all circulation impacts, with preference given to mitigation measures designed to improve public recreational access and visitor-serving circulation. In order to mitigate circulation impacts and provide improved public recreational access, the City added a condition to improve West Grand Avenue between State Highway 1 and the west end of West Grand Avenue. The improvement project will include: two westbound 13-foot travel lanes and one eastbound 12-foot travel lane with a four foot wide shoulder; an eight-foot wide all weather surface multi-purpose trail with trail fencing to separate the shoulder from the trail on the south side of West Grand Avenue; and a 10-foot wide concrete multipurpose path on the north side of West Grand Avenue. Therefore, as the City-approved project will retain the LOS while improving recreational access and visitor-serving circulation, this contention does not raise a substantial issue.

*Equestrian staging area*

The Appellants contend that the approved project's conversion of an equestrian parking and access area to a shared parking lot is inconsistent with Coastal Act sections 30211 and 30252, which require that development does not interfere with access and the maintenance and enhancement of public access. This issue was raised in the 2013 LCP amendment relating to the Grover Beach Lodge<sup>5</sup>.

The 2013 LCP amendment submittal proposed a one-acre area to the south of West Grand Avenue to be used for equestrian parking and access. However, the Commission determined that the proposed site was an environmentally sensitive habitat, i.e. dune ESHA. The Commission found that the proposal to designate this dune ESHA for non-resource-dependent equestrian facilities was not consistent with Coastal Act Section 30240, so the approved LCP amendment designated another area for equestrian facilities.

The approved project includes an equestrian parking area north of West Grand Avenue that will provide space for 12 equestrian trailers (see **Exhibit 1**). Condition CDD-4 of the approval requires that the equestrian parking area is available for use prior to the start of construction.

Furthermore, the City conducted a survey of the use by equestrians of the current unpaved staging lot. The results of this survey showed that no more than six trailers were present at any

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<sup>4</sup> According to the EIR, Level of Service C is stable flow approaching higher delays and is the approved level in Grover Beach.

<sup>5</sup> Grover Beach Local Coastal Program Major Amendment, 1-12 Part 1, April 11, 2013.

one time and there was only an average of 1.5 equestrian trailers at the project site at any given time during the month-long survey period. Thus, the approved project is expected to provide sufficient parking for equestrians that will meet more than this average level of demand. Thus, the project can be found consistent with Coastal Act Sections 30211 and 30252 and this contention does not raise a substantial issue

It should be noted that the approved equestrian parking area on the north side of West Grand Avenue requires equestrians to cross West Grand Avenue with horses. However, the City of Grover Beach (and San Luis Obispo County) is working to improve this situation. A related project (West Grand Avenue Capital Improvement Project), which was approved by the City in April and is before the Commission concurrently with this project, will create a pedestrian/equestrian crossing of West Grand Avenue that will allow equestrians to cross at a designated and delineated point. This project will also create an equestrian/pedestrian walkway on the south side of the road that will be fenced from traffic to create a physical barrier between horses and traffic on West Grand Avenue.

### **Public Access and Recreation Conclusion**

For all the reasons above, the City-approved project is consistent with the applicable Coastal Act and LCP policies, and the Appellants' contentions have been adequately addressed by the City's conditions of approval. Therefore, the Appellants' public access and recreation contentions do not raise a substantial LCP conformance issue.

### **Visual Resources**

An Appellant contends that the approved project is too large, does not blend in with the natural environment, and will emit too much light and glare, and thus the project is inconsistent with Coastal Act Section 30251, which protects visual and scenic resources. In this instance, Section 30251 is not the standard of review. Although the Appellant did not cite any LCP policies, the LCP contains policies related to the protection of visual and scenic resources, and the size and design of the lodge development, including LCP policies: 5.7.F.1.a.(1) - (4), and (12). (Please see **Exhibit 6** for full LCP policy text.)

The approved project site is located in a highly scenic area along the immediate dune shoreline, and is visible from Highway 1 and other major public view corridors, including from the beach itself, Grand Avenue, and the dune boardwalk that extends from the site to Pismo Beach upcoast. Further, the dunes surrounding the project site on the southern and western edges are described in the City of Grover Beach LCP as "a unique visual resource" and "one of the few areas remaining along the California coast that still offers extensive unobstructed coastal vistas easily accessible to urbanized areas." For these reasons, the Commission required a number of modifications to the 2013 LCP amendment, including a series of requirements to ensure that development at the site is designed to blend with the surrounding environment.

First, in approving the 2013 LCP amendment, the Commission established a viewshed setback line to ensure that the development that is most visible from the significant beach and dune views has a lower profile than the remainder of the development (LCP Policy 5.7.F.1.a.(2)). The viewshed setback line is perpendicular to West Grand Avenue and touches the westernmost corner of Building 1. Development seaward of the setback line is restricted to a maximum height of 24 feet with minor building projections and articulations (e.g., eaves, gables, cupolas)

allowed to extend up to 26 feet. This restriction will help to soften the impact of views of the development from the beach and boardwalk, and ensures visual resources are protected regardless of the specific design of the lodge project, thus avoiding and minimizing impacts to important coastal views. As part of the City's approval, condition CDD-13 requires that before a grading and/or building permit, the plans for the Lodge and Conference Center shall demonstrate compliance with the maximum building heights of LCP policy 5.7.F.1.a.(2) and that a surveyor shall ensure compliance on completion of buildings 1, 2 and 3. This is consistent with the LCP policies regarding height that protect viewshed and scenic resources. Also, as shown on the approved project elevation plans (see **Exhibit 1**), building 2 (which is seaward of the setback line) meets the LCP height limits, i.e. the building is 24 feet high with articulations extending to the maximum height allowance of 26 feet. Inland of the setback line, the remaining buildings of the project are within the specified height limits stipulated in LCP policy 5.7.F.1.a.(2), which limits building height to a maximum of 40 feet. Thus, as approved and conditioned by the City of Grover Beach, the project meets the height limitations of the LCP.

The Appellant contends that the project's buildings do not blend into the surrounding landscape, are too large, and that there will be too much light and glare from the project. LCP policy 5.7.F.1.a.(4) requires the design of the development to blend visually with the surrounding natural environment, including through the use of natural materials, earth tones, and building articulation to decrease perceived massing, as well as limits on lighting to avoid nighttime glare. The approved lodge buildings are a contemporary design and the upper stories are stepped back from the lower stories to create visual interest and help break up the buildings' mass (see **Exhibit 1** for approved project plans). Overhangs, trellises, and balconies provide further visual relief. The materials have a natural appearance and are of muted tones. In addition condition CDD-14 requires that the elevations of buildings 2 and 3 be revised to incorporate additional articulation and visual interest.

In regard to lighting, LCP Policy 5.7.F.1.a.(4) requires lighting to be limited as much as possible to avoid nighttime glare while providing public safety. Mitigation measure AES/mm-4 of the approved project requires a comprehensive lighting plan to be prepared using the best management practices of the International Dark Star Association to minimize lighting while maintaining public safety.

The Appellant also contends that the intent of the LCP in capping the development at 150 rooms was not to have a development of this size and mass. LCP Policy 5.7.F.1.a.(1) limits the project to a maximum room/acre density of 15 rooms/acre. As the site of the development is 12.96 acres and the number of rooms provided is 150, the room/acre density is about 11.5 rooms/acre, which is below the density limit prescribed in the LCP.

For all the reasons above, the approved project is consistent with the LCP policies relating to size, mass, design and visual resource protection. Thus, these contentions do not raise a substantial issue.

### **Hazards**

An Appellant contends that if the approved development is built without a seawall, sea-level rise and tsunamis would endanger the lives of lodge, conference center and park users. The Appellant contends that this is inconsistent with Coastal Act Section 30253, which requires the minimization of adverse impacts. Section 30253 is not a standard of review for the appeal and

thus cannot be considered in this determination. The Commission did, however, consider this, and other Coastal Act policies related to hazards when it approved the project-specific LCP amendment for this project and found the project to be consistent with these Coastal Act policies. The appropriate standard of review on this appeal is the LCP, which contains a number of hazard mitigation policies that are specific to the project site. These policies require, among other things, that development on the site minimize risks to life and property from coastal hazards, and will not rely on future shoreline or bluff protection devices. See **Exhibit 6** for these policies. The project is consistent with these policies.

The Grover Beach coastal zone includes areas subject to significant hazards, such as flooding, tsunamis, erosion and seismic instability. The approved lodge and conference center would be located slightly in and entirely adjacent to the 100-year floodplain (on the inland side, associated with Meadow Creek) adjacent to an erodible dune feature (on the seaward side), in the tsunami inundation zone, and in an area subject to ground shaking and liquefaction.

As shown on page 7 of **Exhibit 1**, the floodplain covers part of the area on the eastern portion of the site, where the approved parking lots and drop-off areas will be located. All of the approved buildings are located outside of the 100-year floodplain. All told, almost three acres of the site (i.e., about 124,000 square feet) are located in the floodplain; however, these areas are proposed for parking, and flood elevations would be in the eight-foot range there.

In the lower-lying areas of the site, grading will ensure all finished floor elevations are at least one foot above the base flood elevation, as required by the City's flood hazard ordinance. The grading for the approved project will be a total of 11,470 cubic yards and would be balanced on site, with no imported fill, and the completed development is not expected to exacerbate flooding in surrounding areas. In addition to buildings located outside of the 100-year floodplain, the approved project includes several retention basins to further alleviate any inland flooding on the eastern portion of the site, and to mimic the existing, pre-project drainage conditions, where appropriate.

As part of its analysis of the project, the City provided information and analysis regarding the potential for coastal flooding at the project site. This included a wave run-up analysis that utilized mean high water levels, added with maximum water levels and sea level rise (SLR) of up to 4.6 feet.<sup>6</sup> This analysis shows that the still water level, combined with the approximate level for storm run-up and SLR of 4.6 feet, would raise worst-case storm run-up levels to an elevation of 16.74 feet. The topography of the site shows that the dunes between the beach and the project site are at an average height of 20 feet, and therefore, the project site is expected to be protected from this worst-case scenario wave run-up. Although there are low points in the dune complex west of the project site, the approximate low elevation within the dunes is 18.2 feet,<sup>7</sup> and therefore, this low spot is higher in elevation than the worst case estimate for coastal flooding elevations, and it is expected to be sufficient to deter wave run-up from entering the site.

Although the regional dune erosion rate at Grover Beach is estimated to be about one meter/year, the City has provided an analysis showing that the dunes at this specific location are rather static

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<sup>6</sup> Final Environmental Impact Report, page 4-116.

<sup>7</sup> Final Environmental Impact Report, page 4-117.

in configuration, and have been for many years. To support this conclusion, the project proponents put together a series of photographs of the dunes over time and performed a qualitative analysis of the dune toe and crest in relation to NGVD data to illustrate the dune's rate of movement. Based on the findings of this report they concluded that (1) the dunes in this location "maintain long-term accretion with short-term erosion;" (2) "major denudation was not readily apparent in the images reviewed," and; (3) the "greatest change in the dunes has been caused by human influence." The Commission's Senior Coastal Engineer, Lesley Ewing, reviewed this report and concurs that the qualitative analysis demonstrates overall site stability, with short periods of erosion. In addition, the analysis shows that human alteration of dunes can compromise dune stability, highlighting the importance of well-maintained dune walkways for long-term dune stability.

The shoreline in the project area is a dynamic environment. However, the buildings will be located outside of the 100-year flood plain, the dunes at the site are stable, and the dune elevation is expected to be sufficient to deter wave run-up from entering the project site. In any event, the City conditioned its approval to prohibit any shoreline or bluff protection being constructed to protect the project. The City also conditioned the project to require recordation of a deed restriction against the property to ensure that the property owner waives any future right to construct such devices. Condition CDD-18 requires the property owner to acknowledge the risks of developing along this shoreline. These conditions provide consistency with LCP policies 5.7.F.1.b and 5.7.F.1.c.

Finally, the project site is shown entirely within the San Luis Obispo County Tsunami Inundation Area.<sup>8</sup> Even so, Grover Beach itself is protected by wide beaches and high coastal dunes, and although San Luis Obispo County has experienced several tsunami events, none have caused major damage in Grover Beach.<sup>9</sup> Though the wide beaches and dunes at Grover Beach can offer protection from tsunami events, modeling indicates that the proposed development site is within the inundation zone for worst-case tsunami conditions. Condition CDD-17 requires the applicant to submit a Tsunami Safety Plan to be approved by the Joint Authority (JA) prior to occupancy of the development, consistent with the requirements of LCP policy 5.7.F.1.c.

In summary, as conditioned by the City, the approved project is consistent with the LCP's coastal hazards policies. Thus, the Appellant's hazards contentions do not raise a substantial LCP conformance issue.

### **Protection of Water Quality**

An Appellant contends that the project contains too much impervious material, which would impact the water quality in Meadow Creek.

LCP policy 5.7.F.1.a.7 (Exhibit 6) requires that coverage of the site be a maximum of 60%, with 40% consisting of landscaping. This policy also requires that all paved areas shall be pervious to the extent feasible in order to prevent channeling runoff from paved areas to pervious areas, and that all runoff from the site shall be filtered and treated prior to discharge to any wetland, stream

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<sup>8</sup> Final Environmental Impact Report, pages 4-109-110.

<sup>9</sup> Final Environmental Impact Report, page 4-110.

and/or coastal waters to minimize contaminated runoff to Meadow Creek and the ocean. Finally, the policy requires that areas of high pollutant generation include pollutant specific best management practices in order to ensure that no highly polluted contaminants enter the waters surrounding the site.

All buildings and parking associated with the development cover 54% of the site; less than the 60% maximum allowed under the LCP. Much of the parking area contributing to this coverage will be constructed of permeable paving material, consistent with the requirement for paved areas to be permeable to the extent feasible. Additionally, the City conditioned its approval to require that the site be designed to retain the 85<sup>th</sup> percentile 24-hour storm event, to provide bio-filtration treatment systems, and provide attenuation systems such that post-construction peak flows do not exceed pre-construction peak flows for the two to ten-year storm events. Thus, as designed and conditioned in the CDP, the project is consistent with the requirements of LCP policy 5.7.F.1.a.7. Therefore, the Appellant's contentions do not raise a substantial issue regarding the protection of water quality.

## **F. CONCLUSION**

When considering a project that has been appealed to it, the Commission must first determine whether the project raises a substantial issue of LCP conformity, such that the Commission should assert jurisdiction over a de novo CDP for such development. The Commission has been guided in its decision of whether the issues raised in a given case are "substantial" by the following five factors: the degree of factual and legal support for the local government's decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government's decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance. In this case, these five factors, considered together, support a conclusion that this project does not raise a substantial issue of LCP conformance.

As described above, the appeal contentions relate to the project's consistency with various policies of the certified LCP. The City's approval appropriately considers the LCP's requirements with respect to these issue areas, the project is an allowed use at this location, and the approved conditions and required mitigations are designed to minimize potential impacts to public access and recreation, water quality, visual resources, and hazards. Thus, there is adequate factual and legal support for the City's decision. The approved project will add an important public visitor-serving facility. Thus, although the extent and scope of the approved project is for a relatively major hotel, the impacts of the development are appropriately addressed, and the use will not have adverse effects on significant coastal resources. Further, because the City followed the policies of the LCP, the project is not expected to set an adverse precedent for future interpretation of the LCP. Finally, the City-approved project raises only local issues as opposed to those of regional or statewide significance.

Therefore, the City-approved project is consistent with the applicable LCP policies, and the Appellants' contentions are adequately addressed by the City's conditions of approval. Based on

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the foregoing, including when all five substantial factors are weighed together, the appeal contentions do not raise a substantial LCP conformance issue and thus the Commission declines to take jurisdiction over the CDP application for this project.

Figure ES-1. Project Vicinity Map





# GROVER BEACH LODGE

55 WEST GRAND AVENUE  
GROVER BEACH, CA

## CONCEPTUAL PLANS SUBMITTAL 11.20.2013

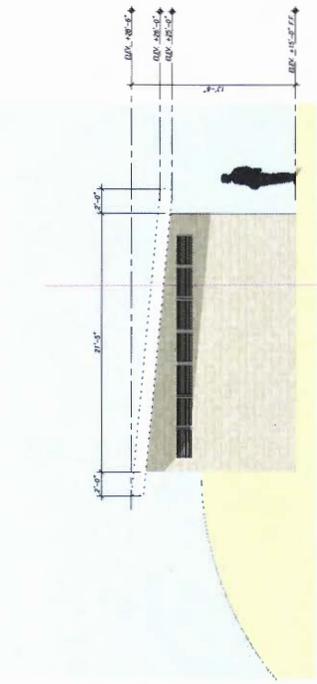
CONCEPTUAL PLANS SUBMITTAL  
11.20.2013



PROJECT DIRECTORY		SHEET INDEX		PROJECT DATA AND CALC. SUMMARY	
<p><b>GENERAL CONTRACTOR:</b> 7785 SANCTUARY DRIVE, SUITE 100 SAN DIEGO, CA 92121 TEL: (619) 594-3000 / FAX: (619) 594-3000 WWW.DELAWARE.COM</p> <p><b>GENERAL CONTRACTOR:</b> 7785 SANCTUARY DRIVE, SUITE 100 SAN DIEGO, CA 92121 TEL: (619) 594-3000 / FAX: (619) 594-3000 WWW.DELAWARE.COM</p>	<p><b>ARCHITECT:</b> 1411 AVENUE 7, SUITE 115 SAN DIEGO, CA 92108 TEL: (619) 594-3000 / FAX: (619) 594-3000 WWW.DELAWARE.COM</p> <p><b>ARCHITECT:</b> 1411 AVENUE 7, SUITE 115 SAN DIEGO, CA 92108 TEL: (619) 594-3000 / FAX: (619) 594-3000 WWW.DELAWARE.COM</p>	<p><b>DATE:</b> 11/20/2013</p> <p><b>PROJECT NO.:</b> 13-001</p> <p><b>PROJECT NAME:</b> GROVER BEACH LODGE</p> <p><b>PROJECT LOCATION:</b> 55 WEST GRAND AVENUE, GROVER BEACH, CA 92038</p>	<p><b>DATE:</b> 11/20/2013</p> <p><b>PROJECT NO.:</b> 13-001</p> <p><b>PROJECT NAME:</b> GROVER BEACH LODGE</p> <p><b>PROJECT LOCATION:</b> 55 WEST GRAND AVENUE, GROVER BEACH, CA 92038</p>	<p><b>DATE:</b> 11/20/2013</p> <p><b>PROJECT NO.:</b> 13-001</p> <p><b>PROJECT NAME:</b> GROVER BEACH LODGE</p> <p><b>PROJECT LOCATION:</b> 55 WEST GRAND AVENUE, GROVER BEACH, CA 92038</p>	<p><b>DATE:</b> 11/20/2013</p> <p><b>PROJECT NO.:</b> 13-001</p> <p><b>PROJECT NAME:</b> GROVER BEACH LODGE</p> <p><b>PROJECT LOCATION:</b> 55 WEST GRAND AVENUE, GROVER BEACH, CA 92038</p>
<p><b>PROJECT SUMMARY:</b> THIS PROJECT INCLUDES AN 11,000 SF CONFERENCE CENTER ADJACENT TO THE MAIN HOTEL BUILDING.</p>		<p><b>PROJECT SUMMARY:</b> THIS PROJECT INCLUDES AN 11,000 SF CONFERENCE CENTER ADJACENT TO THE MAIN HOTEL BUILDING.</p>		<p><b>PROJECT SUMMARY:</b> THIS PROJECT INCLUDES AN 11,000 SF CONFERENCE CENTER ADJACENT TO THE MAIN HOTEL BUILDING.</p>	
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PROPOSED RV SEWER DUMP STATION  
 SCALE: 1/8" = 1'-0"  
 NORTH



PUBLIC RESTROOM - WEST ELEVATION  
 SCALE: 1/8" = 1'-0"

**LEED 2009 for New Construction and Major Renovations**  
 Project Summary

Project Name: Grover Beach Lodge  
 Project Location: Grover Beach, California, USA

Category	Requirement	Points Available	Points Earned	Notes
1.1 SUSTAINABLE DESIGN	1.1.1 Sustainable Sites	5	5	...
	1.1.2 Water Efficiency	5	5	...
	1.1.3 Energy Efficiency	10	10	...
	1.1.4 Materials and Resources	10	10	...
	1.1.5 Indoor Environmental Quality	10	10	...
	1.1.6 Regional Priority	0	0	...
	1.1.7 Innovation	0	0	...
	1.1.8 LEED Accredited Professional	0	0	...
	1.1.9 Green Building Partner	0	0	...
	1.1.10 Green Power	0	0	...
2.0 PERFORMANCE	2.0.1 Energy Use Intensity	10	10	...
	2.0.2 Water Use Intensity	5	5	...
	2.0.3 Carbon Footprint	5	5	...
	2.0.4 Indoor Air Quality	10	10	...
	2.0.5 Environmental Quality	10	10	...
	2.0.6 Greenhouse Gas Intensity	5	5	...
	2.0.7 Water Conservation	5	5	...
	2.0.8 Energy Conservation	10	10	...
	2.0.9 Greenhouse Gas Intensity	5	5	...
	2.0.10 Greenhouse Gas Intensity	5	5	...

**LEED 2009 for New Construction and Major Renovations**  
 Project Summary

Project Name: Grover Beach Lodge  
 Project Location: Grover Beach, California, USA

Category	Requirement	Points Available	Points Earned	Notes
1.1 SUSTAINABLE DESIGN	1.1.1 Sustainable Sites	5	5	...
	1.1.2 Water Efficiency	5	5	...
	1.1.3 Energy Efficiency	10	10	...
	1.1.4 Materials and Resources	10	10	...
	1.1.5 Indoor Environmental Quality	10	10	...
	1.1.6 Regional Priority	0	0	...
	1.1.7 Innovation	0	0	...
	1.1.8 LEED Accredited Professional	0	0	...
	1.1.9 Green Building Partner	0	0	...
	1.1.10 Green Power	0	0	...
2.0 PERFORMANCE	2.0.1 Energy Use Intensity	10	10	...
	2.0.2 Water Use Intensity	5	5	...
	2.0.3 Carbon Footprint	5	5	...
	2.0.4 Indoor Air Quality	10	10	...
	2.0.5 Environmental Quality	10	10	...
	2.0.6 Greenhouse Gas Intensity	5	5	...
	2.0.7 Water Conservation	5	5	...
	2.0.8 Energy Conservation	10	10	...
	2.0.9 Greenhouse Gas Intensity	5	5	...
	2.0.10 Greenhouse Gas Intensity	5	5	...



**EXISTING CONDITION LEGEND**

⊕	WELL	⊕	WATER MAIN LINE
⊙	SEWER	---	ELECTRICAL LINE
⊗	STRUCTURE	---	PHONE MAIN LINE
⊘	FOUNDATION	---	WATER LINE
⊚	POUR FILL	---	SEWER (PROPOSED)
⊛	SEWER	---	ELECTRICAL (PROPOSED)
⊜	SEWER MANHOLE	---	SEWER
⊝	SEWER VALVE	---	WATER MAIN
⊞	POUR FILLMENT	---	PHONE MAIN
⊟	CHECK DAM	---	WATER MAIN
		---	PHONE MAIN
		---	WATER MAIN
		---	PHONE MAIN

**EASEMENT NOTES:**

- EXISTING CONDITIONS ARE SHOWN FOR INFORMATION ONLY. THIS PLAN IS NOT A GUARANTEE OF ANYTHING. THE CLIENT IS RESPONSIBLE FOR VERIFYING ALL INFORMATION.
- PROPERTY LINES AND EASEMENTS ARE SHOWN FOR INFORMATION ONLY. THIS PLAN IS NOT A GUARANTEE OF ANYTHING. THE CLIENT IS RESPONSIBLE FOR VERIFYING ALL INFORMATION.
- PROPOSED UTILITIES ARE SHOWN FOR INFORMATION ONLY. THIS PLAN IS NOT A GUARANTEE OF ANYTHING. THE CLIENT IS RESPONSIBLE FOR VERIFYING ALL INFORMATION.
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**NOTE:**

EXISTING UTILITIES ARE SHOWN FOR INFORMATION ONLY. THIS PLAN IS NOT A GUARANTEE OF ANYTHING. THE CLIENT IS RESPONSIBLE FOR VERIFYING ALL INFORMATION.



DATE: 08/14/11  
 DRAWN: [Name]  
 CHECKED: [Name]  
 DESIGNED: [Name]  
 PROJECT: GROVER BEACH LODGE  
 SHEET: PRELIMINARY GRADING PLAN

Project No. 08-141

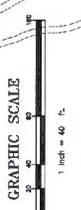
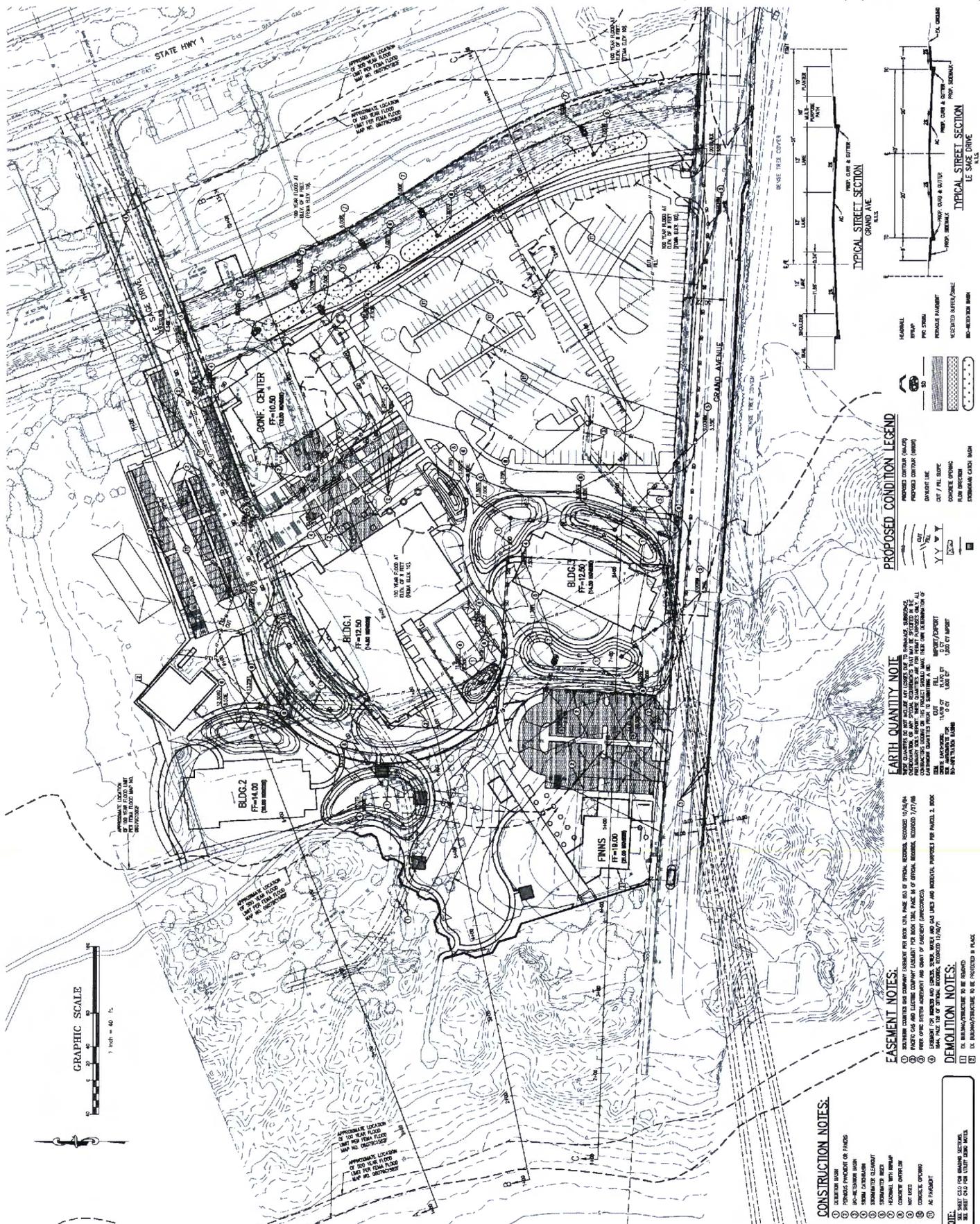
**PACIFICA COMPANIES**

**GROVER BEACH LODGE**

1000 GROVER BEACH AVENUE  
 GROVER BEACH, CALIFORNIA 94945

PRELIMINARY GRADING PLAN

Sheet No. **C2.0**



**PROPOSED CONDITION LEGEND**

- EXISTING CONTOUR (PINK)
- PROPOSED CONTOUR (GREEN)
- EXISTING LOT
- CUT / FILL SLOPE
- CONCRETE OPENING
- DEMOLISH CONCRETE MASONRY
- HEADWALL
- SWAMP
- PROP. CURB
- VEGETATED INTERFERENCE
- NON-VEGETATED MOUND
- EXISTING LOT
- CUT / FILL SLOPE
- CONCRETE OPENING
- DEMOLISH CONCRETE MASONRY

**EARTH QUANTITY NOTE**

1. ALL QUANTITIES ARE BASED ON THE PROPOSED GRADING PLAN AND THE PROPOSED CONTOUR (GREEN). QUANTITIES FOR CUT AND FILL ARE LISTED IN THE TABLES TO THE RIGHT OF THIS SHEET. QUANTITIES FOR CONSTRUCTION SHALL BE THE RESULT OF THE CONSTRUCTION OF THE PROJECT. QUANTITIES FOR CONSTRUCTION SHALL BE THE RESULT OF THE CONSTRUCTION OF THE PROJECT.

**EASEMENT NOTES:**

- 1. EASEMENT FOR WATER AND SEWER MAINS AND GAS LINES AND ELECTRICAL UTILITIES SHALL BE PROVIDED FOR PARCELS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

**DEMOLITION NOTES:**

- 1. ALL DEMOLITION SHALL BE IN ACCORDANCE WITH THE CITY OF GROVER BEACH ORDINANCE 17.04.010.
- 2. ALL DEMOLITION SHALL BE IN ACCORDANCE WITH THE CITY OF GROVER BEACH ORDINANCE 17.04.010.

**CONSTRUCTION NOTES:**

- 1. EXISTING MOUND
- 2. PROPOSED PAVEMENT OR PAVING
- 3. IN-PLACE MOUND
- 4. EXISTING CONTOUR
- 5. EXISTING LOT
- 6. EXISTING WITH SWAMP
- 7. CONCRETE OPENING
- 8. EXISTING LOT
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- 94. EXISTING LOT
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- 100. EXISTING LOT



DATE: 08/14/11  
 DRAWN BY: [Signature]  
 CHECKED BY: [Signature]  
 PROJECT: GROVER BEACH LODGE  
 SHEET: 14-GRB-14-0024

PACIFICA COMPANIES

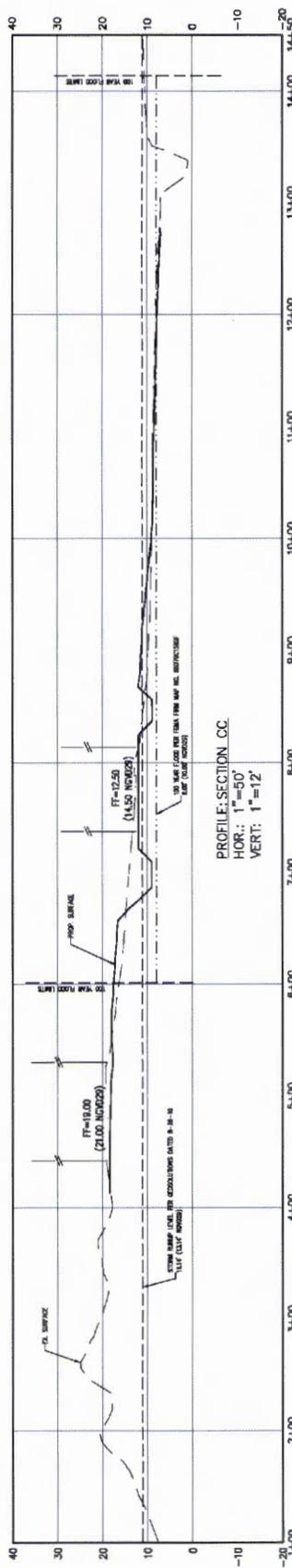
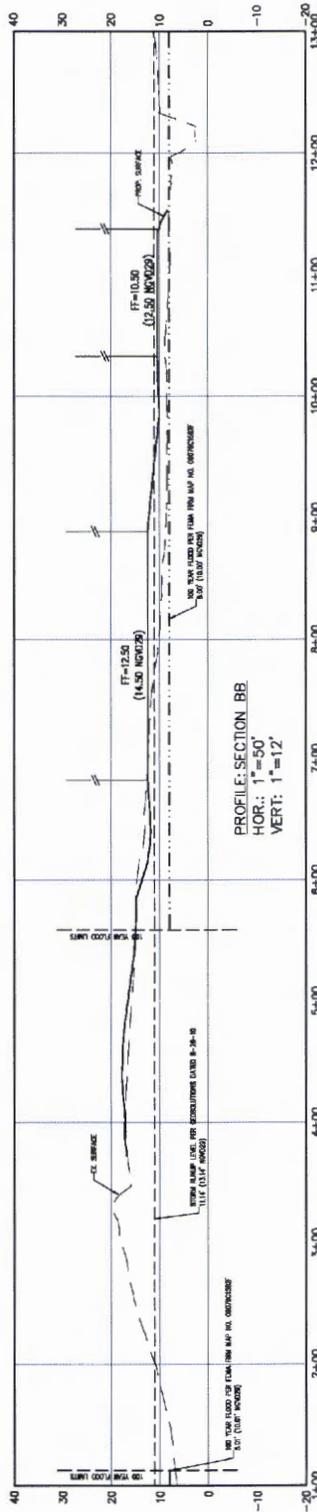
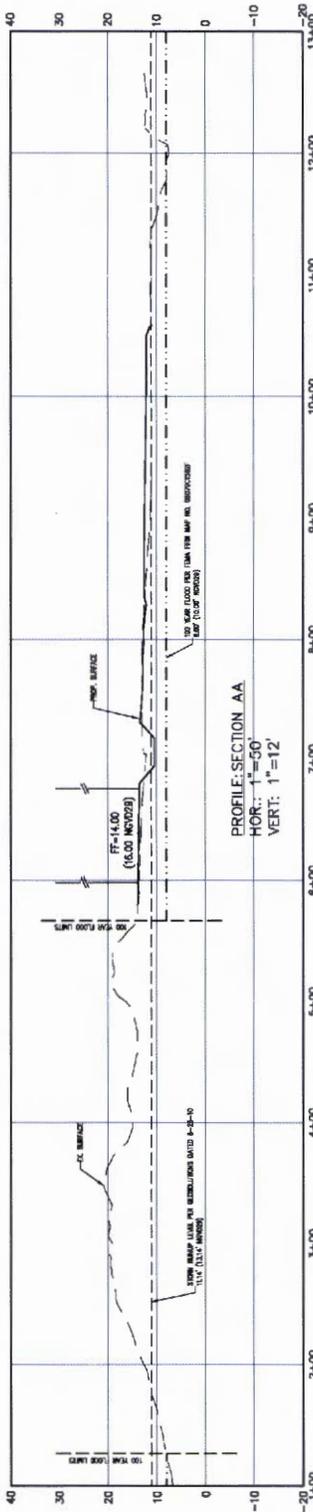


GROVER BEACH LODGE

3006 GRAND AVE  
 GROVER BEACH, CA 94042

PRELIMINARY GRADING SECTIONS

C.3.0





DATE: 11/14/11  
 DRAWN: J. L. BROWN  
 CHECKED: J. L. BROWN  
 PROJECT: GROVER BEACH LODGE  
 SHEET: FIRE ACCESS PLAN

Project No. 08141  
**PACIFICA**  
 COMPANIES

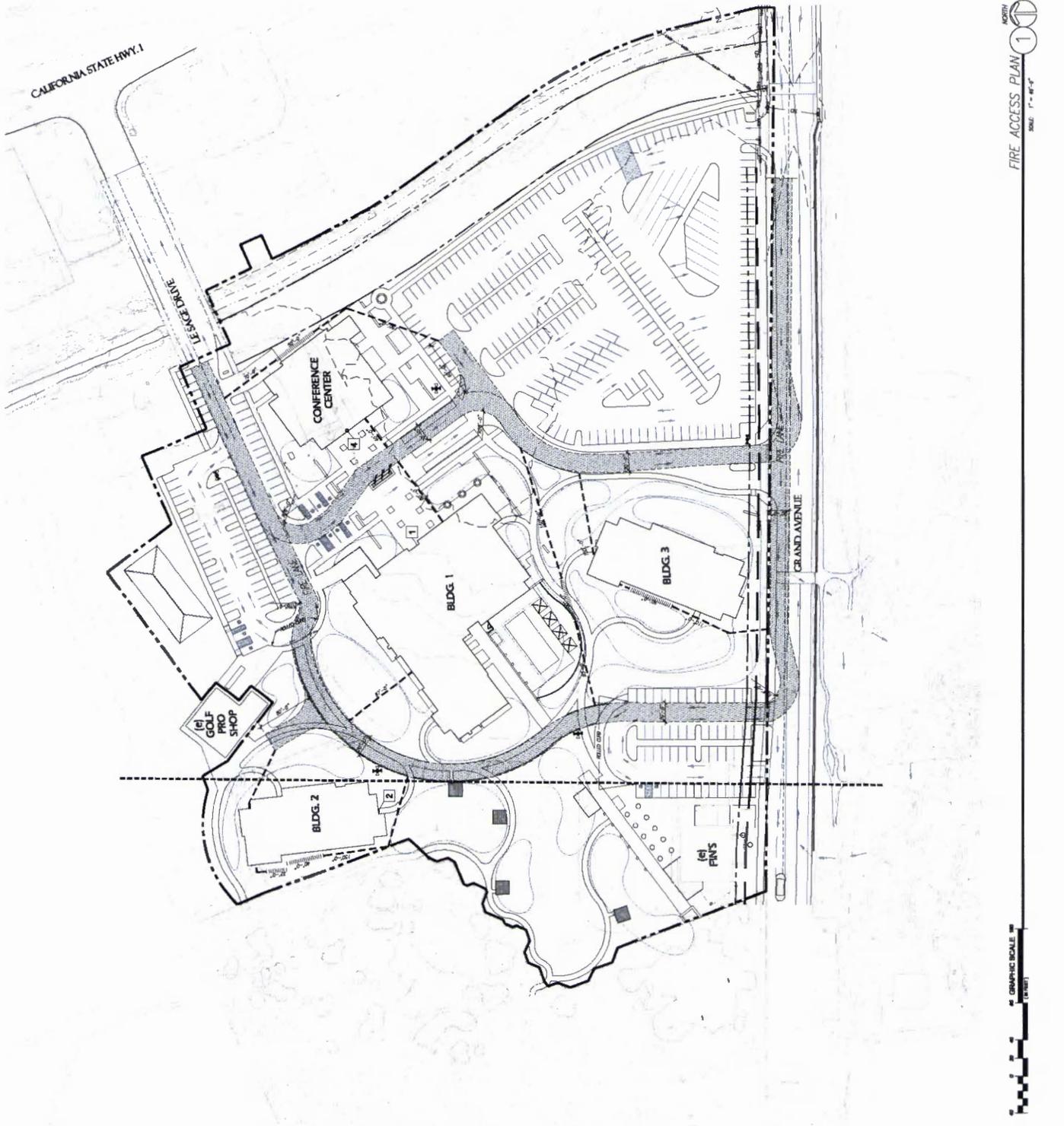
GROVER BEACH  
 LODGE

55 WEST GRAND AVE.  
 GROVER BEACH, CA 93030

DATE: 11/14/11  
 FIRE ACCESS PLAN

Sheet No. **A0.1**

- LEGEND:**
- FIRE LINE
  - FIRE LANE (10'-0" WIDE)
  - FIRE LANE (20'-0" WIDE)
  - FIRE LANE (30'-0" WIDE)
  - FIRE LANE (40'-0" WIDE)
  - FIRE LANE (50'-0" WIDE)
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  - FIRE LANE (1000'-0" WIDE)



GRAPHIC SCALE 1" = 40'-0"  
 NORTH  
 FIRE ACCESS PLAN  
 SCALE: 1" = 40'-0"

**SITE PLAN LEGEND:**

- 1 HABITAT RESTORATION AREA
- 2 EXISTING WALLS TO REMAIN
- 3 PUBLIC BEACH DROP-OFF
- 4 EXISTING "FINN" RESTAURANT
- 5 NEW BEACH CONCESSIONS BUILDING (FUTURE)
- 6 FINN STENO OUTDOOR SEATING (FUTURE)
- 7 OUTDOOR RESTAURANT PATIO SEATING (FUTURE)
- 8 PUBLIC BEACH PLAZA AREA
- 9 STATE PARK PUBLIC PARKING
- 10 PUBLIC RESTROOMS/SHOWERS
- 11 PUBLIC PICK-UP AREAS
- 12 HOTEL PARKING
- 13 PUBLIC BOARDWALK
- 14 PUBLIC PATHWAY
- 15 MEADOW CREEK
- 16 EMERGENCY VEHICLE ACCESS ROUTE
- 17 ENHANCED PAVING
- 18 HOTEL DROP-OFF/ENTRY
- 19 EXISTING GOLF COURSE PRO SHOP
- 20 NEW GOLF COURSE PRACTICE GREEN
- 21 HOTEL SERVICE AREA
- 22 WETLANDS INTERPRETIVE ANCHOR/LOOK
- 23 RELOCATED SPECIAL EVENT TENT
- 24 PROJECT MONUMENT SIGNAGE

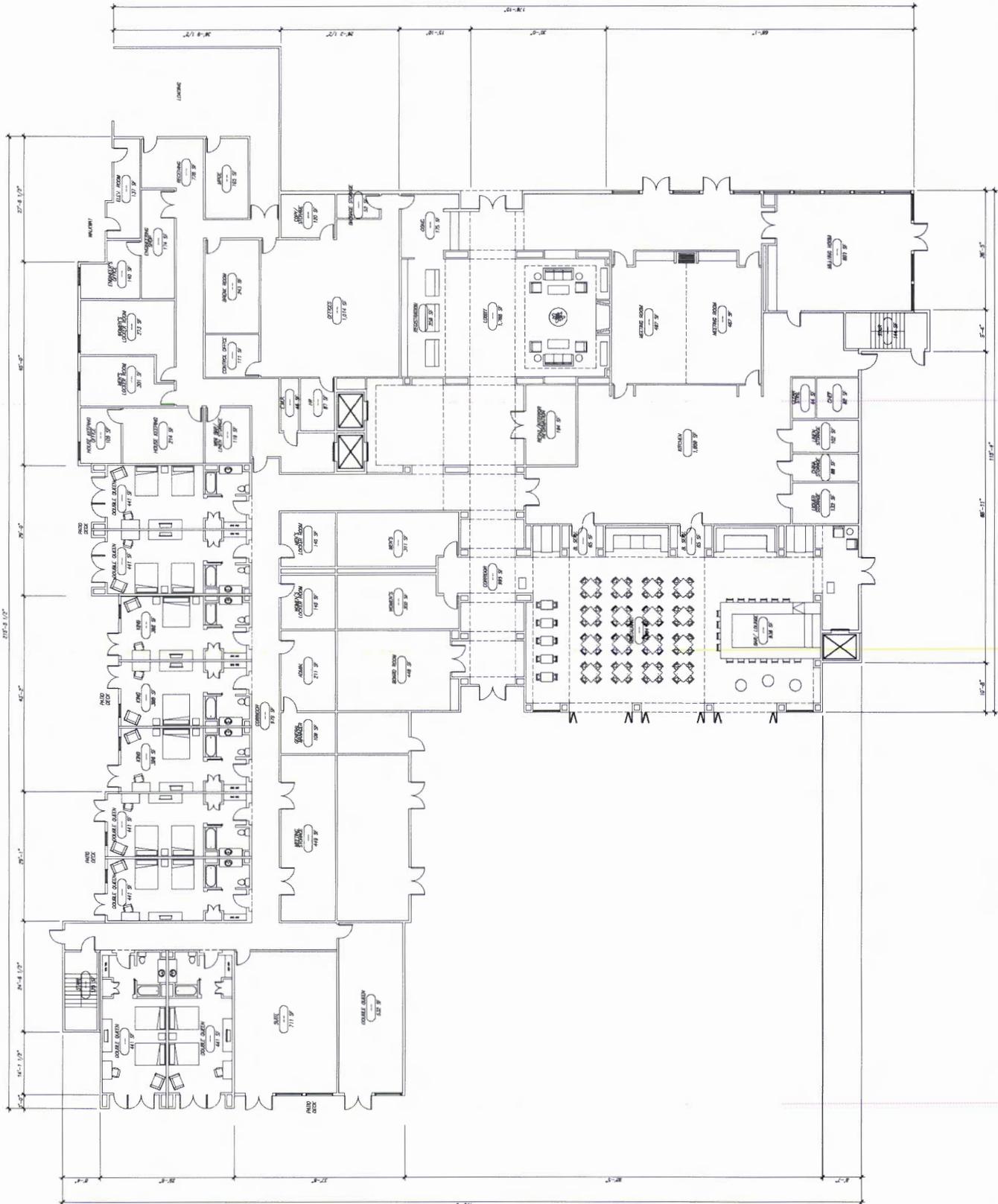
- \* HABITAT RESTORATION PLAN SHALL BE PROVIDED
- RESTORATION PLAN SHALL BE PROVIDED BETWEEN DUNE DRIVE AND GRAND AVENUE
- RESTORATION
- PLANTER AREAS, NATURALIZED PLANT MATERIAL
- OPEN GRASS AREAS, NATIVE TYPE CLEARING GRASSES
- CONCRETE PAVING
- PERMEABLE GRAVEL PAVING
- PERMEABLE DECORATIVE CONCRETE PAVING
- REPAIR/WATER BODIES
- WOOD/COMPOSITE WOOD DECKING/WALKS
- PERMEABLE CONCRETE PAVING
- GRASS PAVES BATED FOR EMERGENCY VEHICLES
- ASPHALTIC CONCRETE PAVING





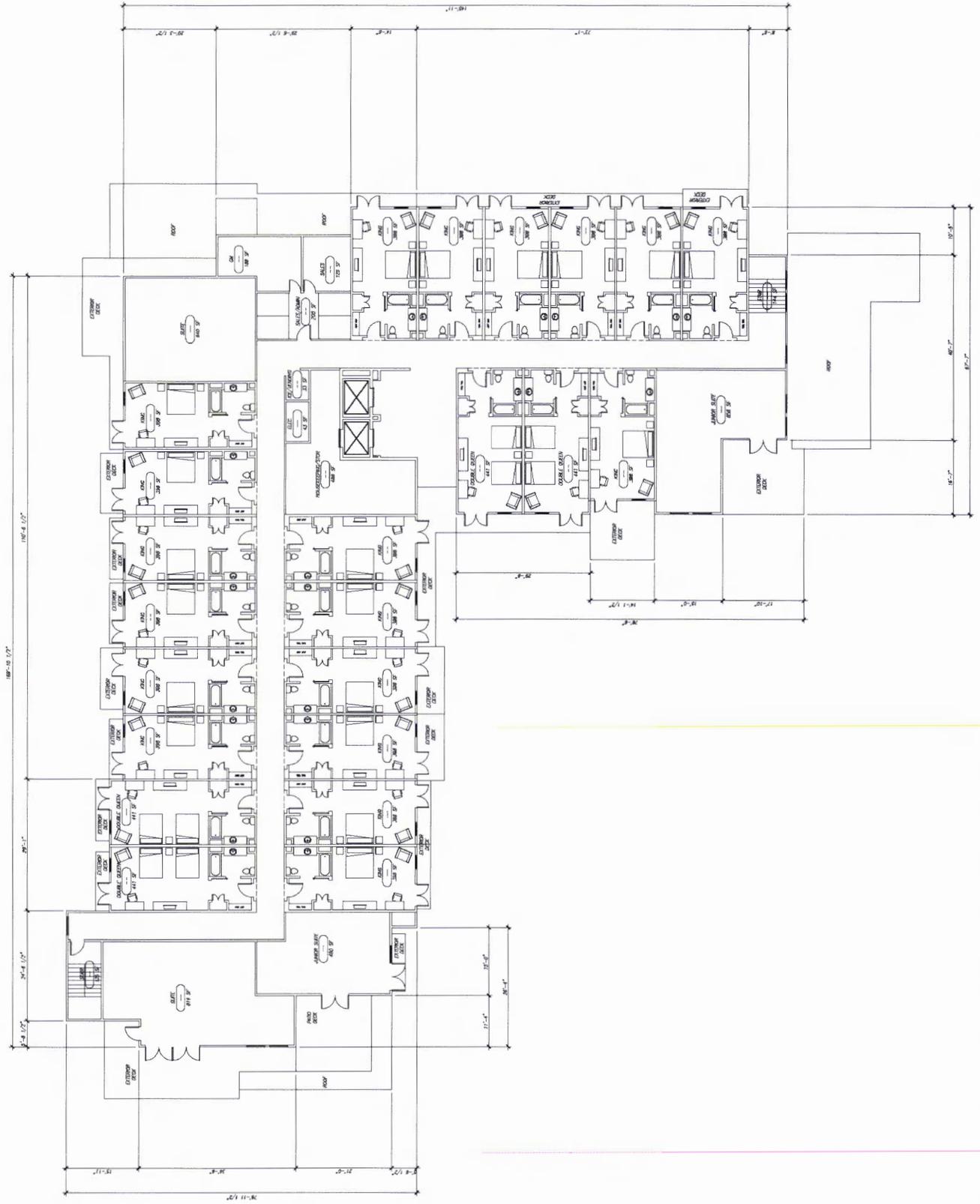




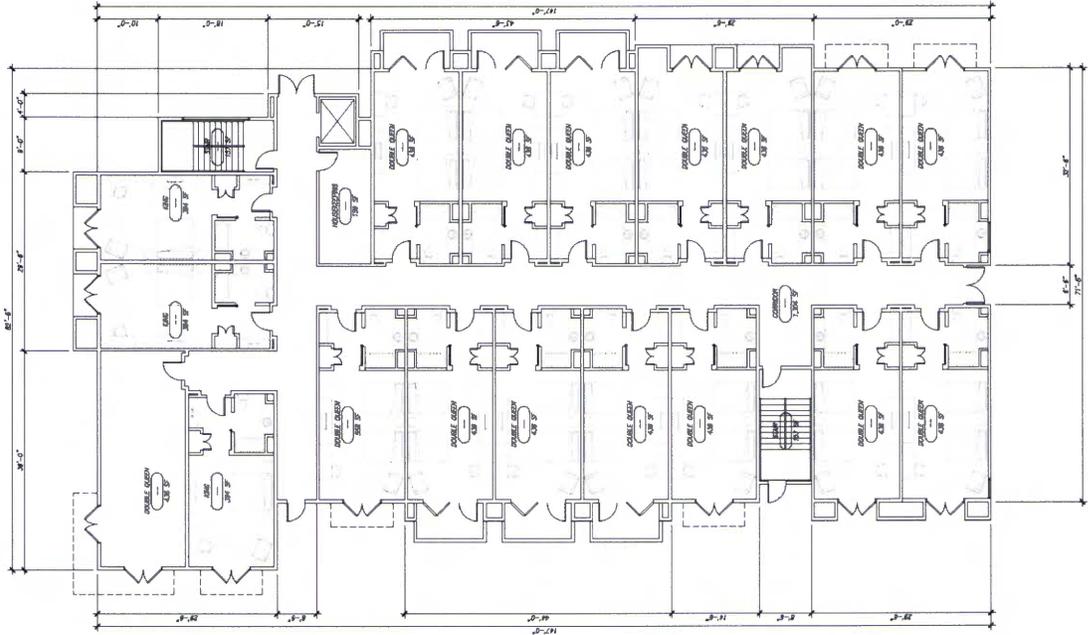


**BUILDING ONE - LEVEL ONE FLOOR PLAN**  
 SCALE: 1/8" = 1'-0"

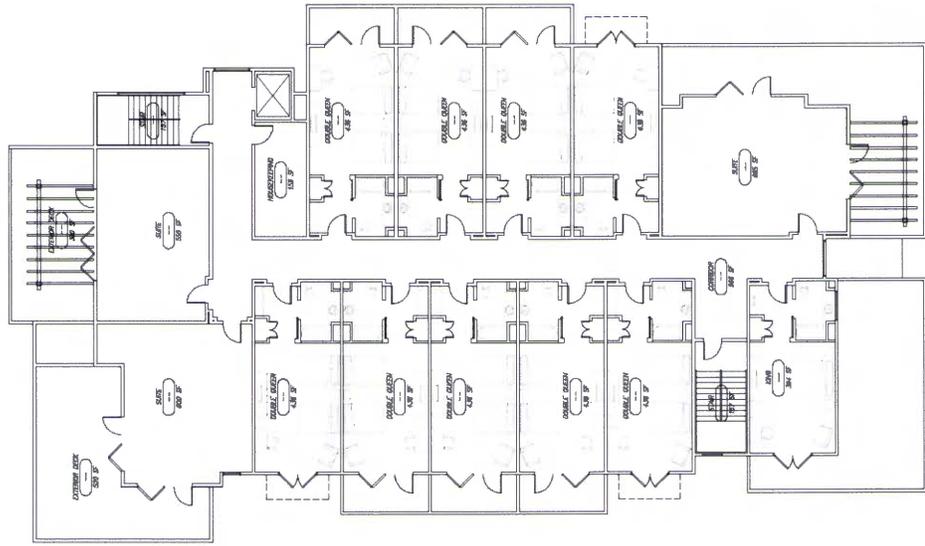




BUILDING ONE - LEVEL THREE FLOOR PLAN  
 SCALE: 1/8" = 1'-0"



TRUE NORTH  
 BUILDING TWO — LEVEL ONE FLOOR PLAN 1  
 SCALE: 1/8" = 1'-0"



TRUE NORTH  
 BUILDING TWO — LEVEL TWO FLOOR PLAN 2  
 SCALE: 1/8" = 1'-0"

ALL RIGHTS RESERVED. NO PART OF THIS DOCUMENT MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE ARCHITECT. THESE PLANS SHALL BE USED ONLY FOR THE PROJECT AND SHALL NOT BE USED FOR ANY OTHER PROJECT AND SHALL NOT BE USED FOR ANY OTHER PROJECT WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE ARCHITECT.

DATE: 11/09/20  
 DRAWN: J. W. BROWN  
 CHECKED: J. W. BROWN  
 PROJECT: 16-14376-101-100-00  
 16-14376-101-100-00

PROJECT NO. 09-441

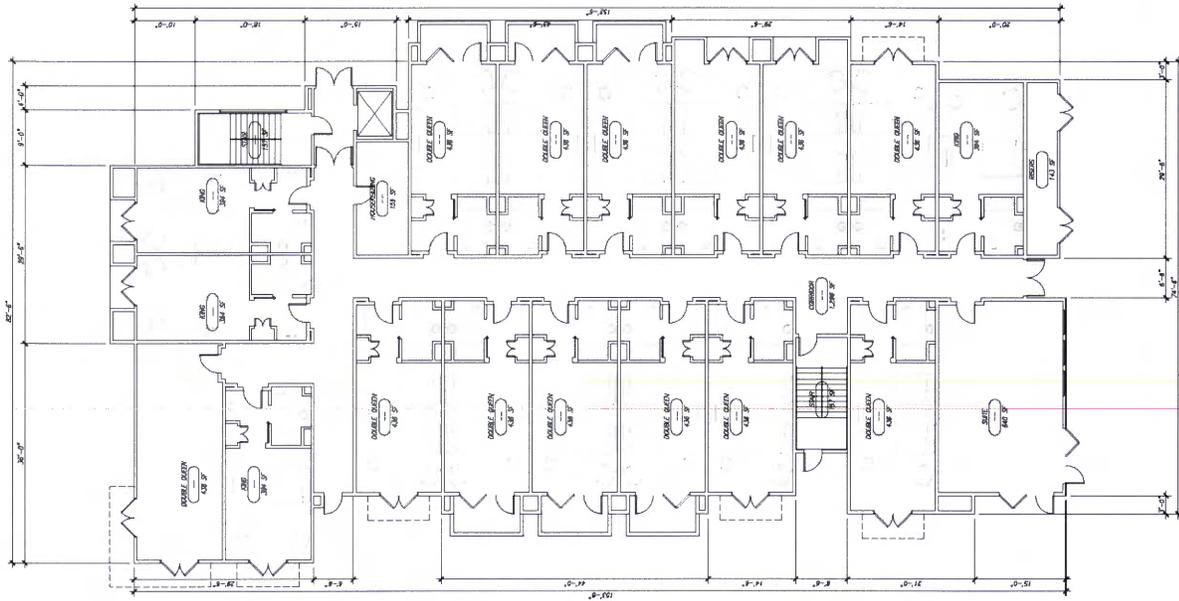
**PACIFICA**  
 COMPANIES

**GROVER BEACH LODGE**

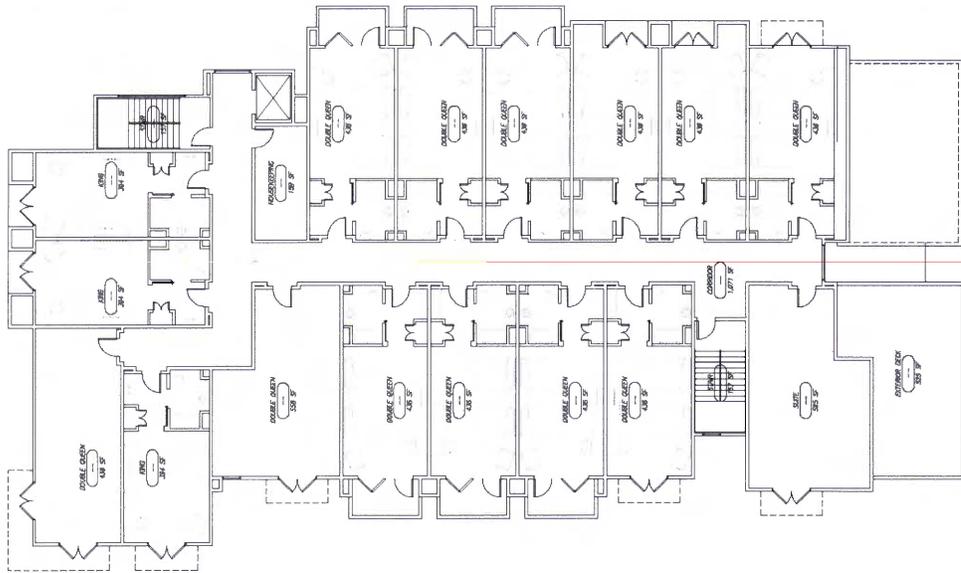
3000 GRAND AVENUE  
 GROVER BEACH, CA 93043

**BUILDING THREE  
 FLOOR PLAN  
 LEVELS 1, 2, & 3**

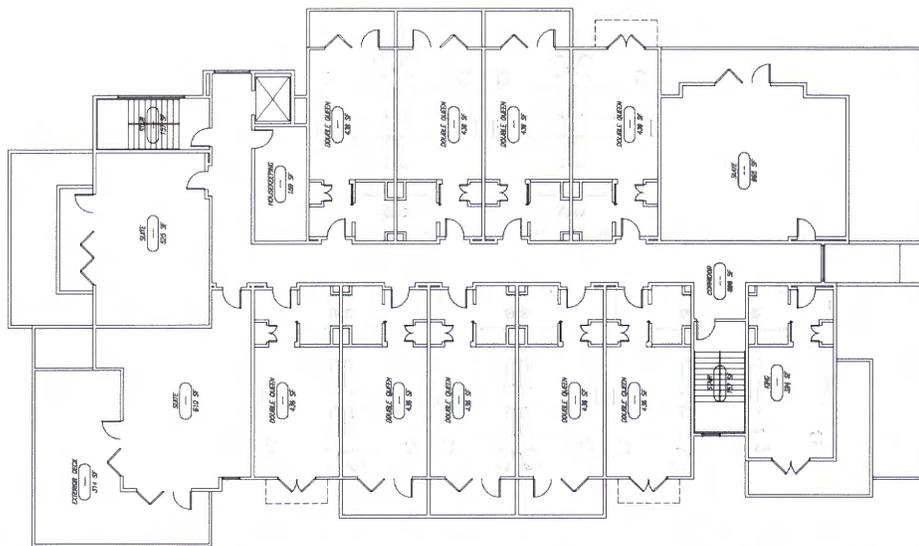
SCALE: **A2.5**



**BUILDING THREE — LEVEL ONE FLOOR PLAN**  
 SCALE: 1/8" = 1'-0"



**BUILDING THREE — LEVEL TWO FLOOR PLAN**  
 SCALE: 1/8" = 1'-0"

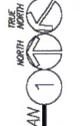


**BUILDING THREE — LEVEL THREE FLOOR PLAN**  
 SCALE: 1/8" = 1'-0"

DATE: 08/14/14  
 PROJECT: GROVER BEACH LODGE  
 DRAWING: FLOOR PLAN

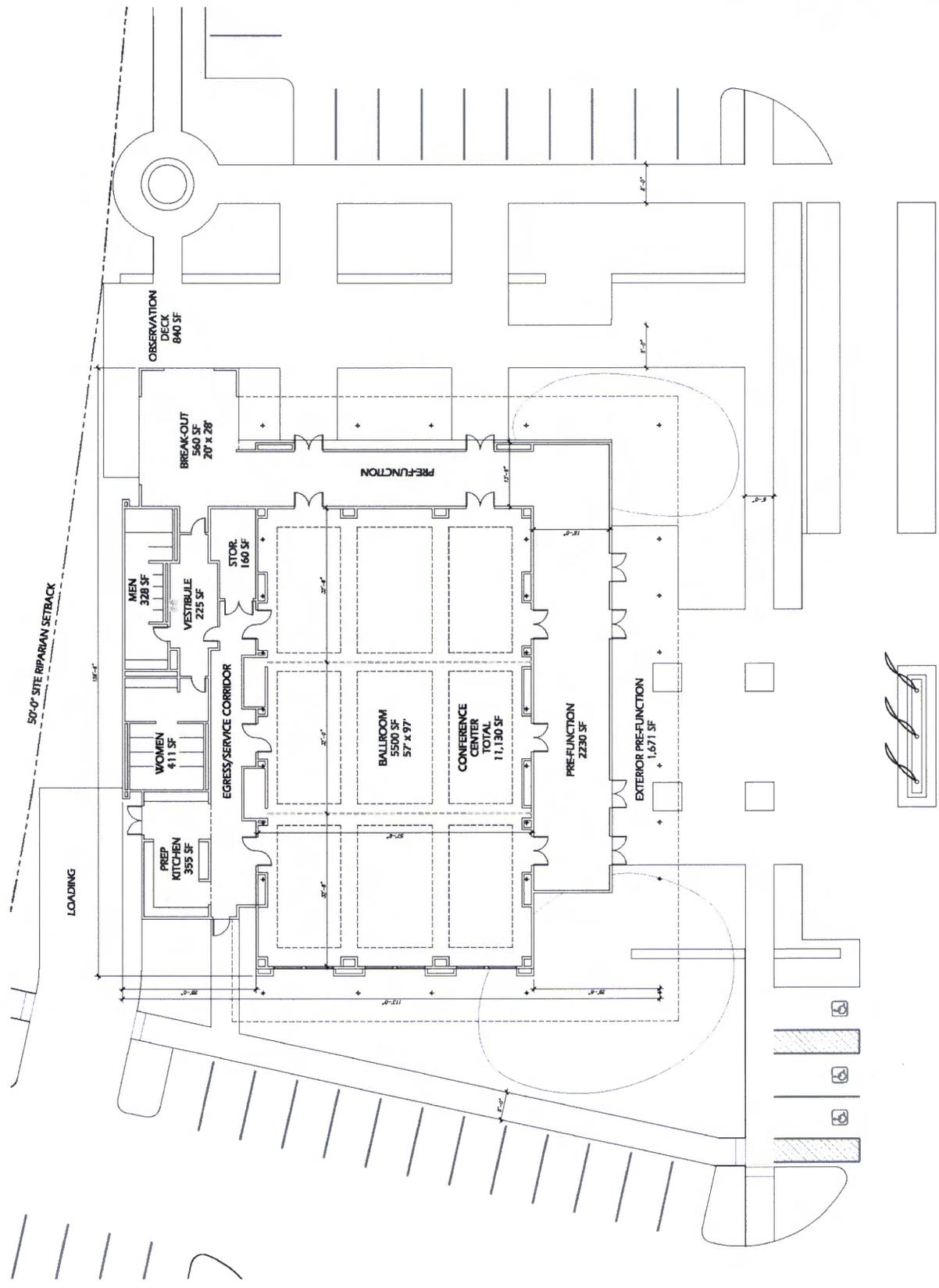
Project No. 08141  
**PACIFICA COMPANIES**  
 GROVER BEACH LODGE

1000 GRAND AVE  
 GROVER BEACH, CA 94943



CONFERENCE CENTER - FLOOR PLAN

Sheet No. **A2.6**



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REV. DATE. DESCRIPTION. REVISION  
 02.28.2011 1006.00  
 03.14.2013 LP SUBMITTAL  
 11.04.2013 SUBMITTAL PLANS

Project No. 00541  
**PACIFICA**  
 COMPANIES

GROVER BEACH LODGE

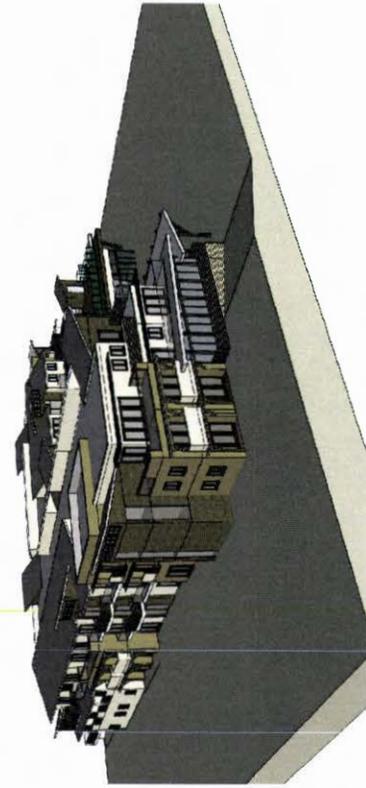
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 GROVER BEACH, CA 93023

Sheet Title  
 BLDG. 1  
 VIEWS

Sheet No.  
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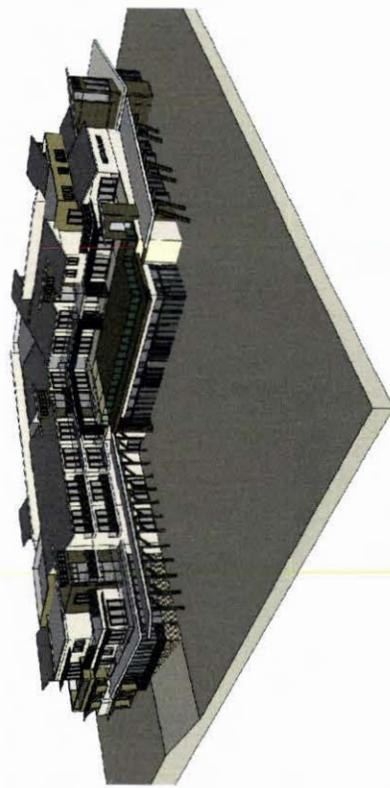
BUILDING ONE - VIEW LOOKING WEST ①  
 SCALE: A1:5



BUILDING ONE - VIEW LOOKING EAST ③  
 SCALE: A1:5



BUILDING ONE - VIEW LOOKING SOUTH ②  
 SCALE: A1:5



BUILDING ONE - VIEW LOOKING NORTH ④  
 SCALE: A1:5

REV.	DATE	BY	CHKD.	REVISION
1	12/28/2011	WDS/SD		
2	10/12/2013	LJP/SUBMITAL		
3	11/04/2013	LJP/SUBMITAL		

Project No. 08141

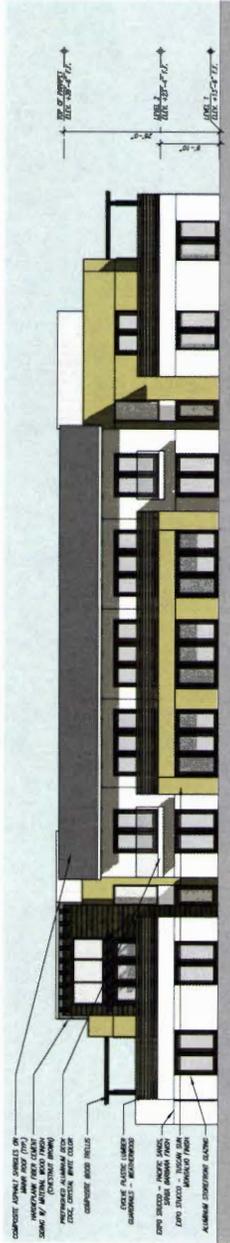


GROVER BEACH LODGE

55 WEST GRAND AVE  
 GROVER BEACH, CA 93433

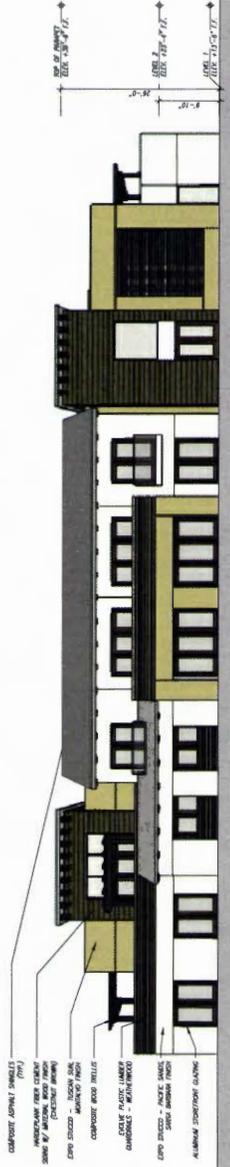
Sheet No.  
**BLDG. 2  
 ELEVATIONS**

Sheet No.  
**A3.2**



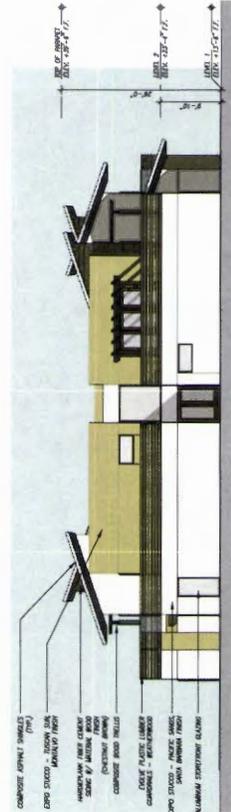
**BUILDING TWO - WEST ELEVATION**

SCALE: 1/8" = 1'-0"



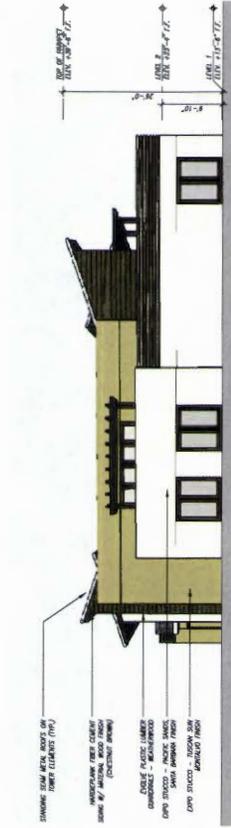
**BUILDING TWO - EAST ELEVATION**

SCALE: 1/8" = 1'-0"



**BUILDING TWO - SOUTH ELEVATION**

SCALE: 1/8" = 1'-0"



**BUILDING TWO - NORTH ELEVATION**

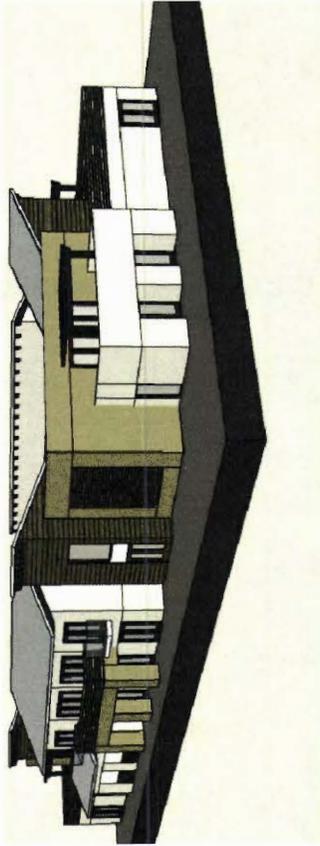
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DATE: 08/14/11  
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 CHECKED: [unintelligible]  
 PROJECT: 1000 20  
 15' SCALE FOR PERMITTING  
 1/4" SCALE FOR CONSTRUCTION

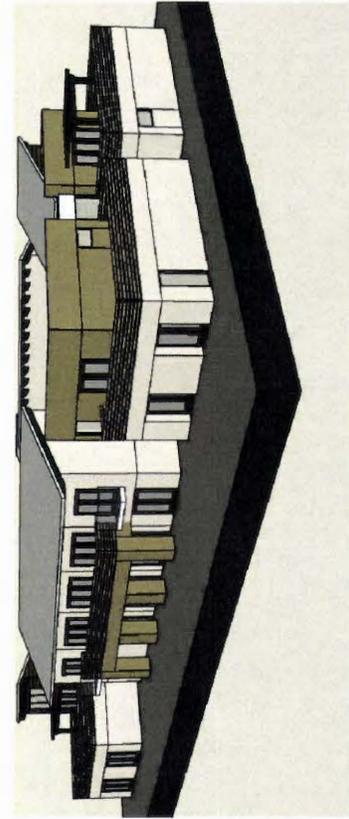
Project No. 08/14/11  
**PACIFICA COMPANIES**  
 GROVER BEACH LODGE

35 WEST GRAND AVENUE  
 GROVER BEACH, CA 94943  
 Sheet Title  
 BLDG. 2  
 VIEWS

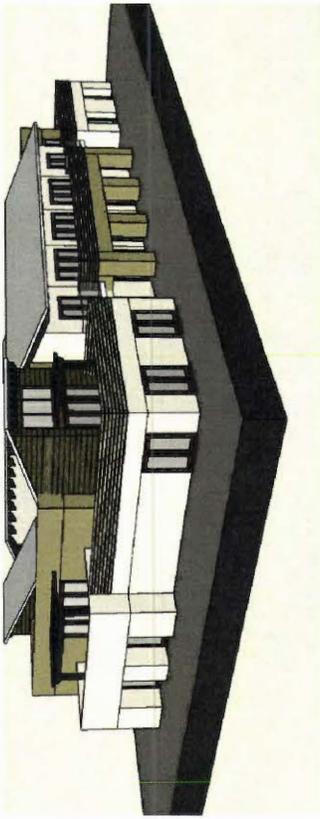
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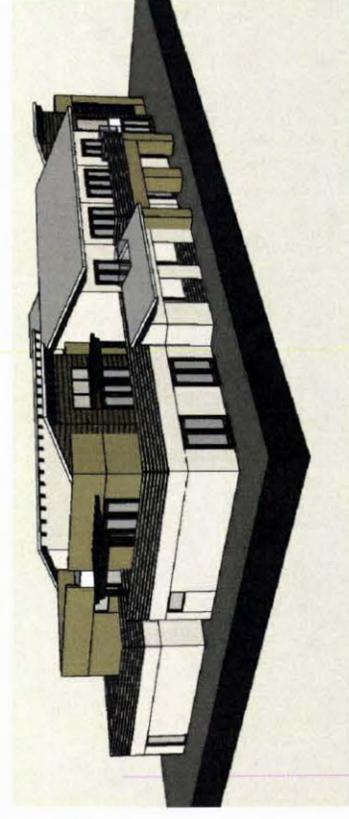
BUILDING TWO - NORTHEAST  
 SCALE: 1/4" = 1'-0"



BUILDING TWO - SOUTHWEST  
 SCALE: 1/4" = 1'-0"



BUILDING TWO - NORTHWEST  
 SCALE: 1/4" = 1'-0"



BUILDING TWO - SOUTHEAST  
 SCALE: 1/4" = 1'-0"

REV.	DATE	BY	DESCRIPTION
1	12.01.2011	1006.50	ISSUED FOR PERMITS
2	11.14.2013	1006.50	FOR SUBMITTAL
3	11.14.2013	1006.50	FOR SUBMITTAL

Project No. 08141

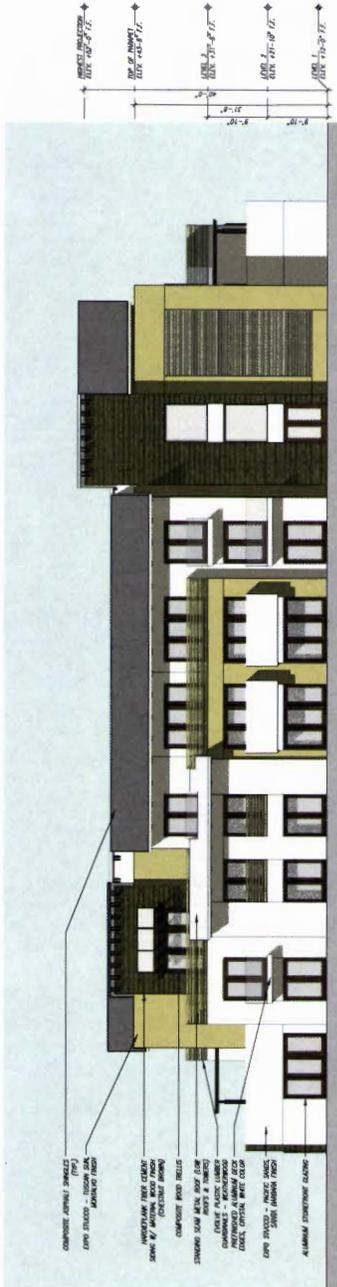
**PACIFICA COMPANIES**

GROVER BEACH LODGE

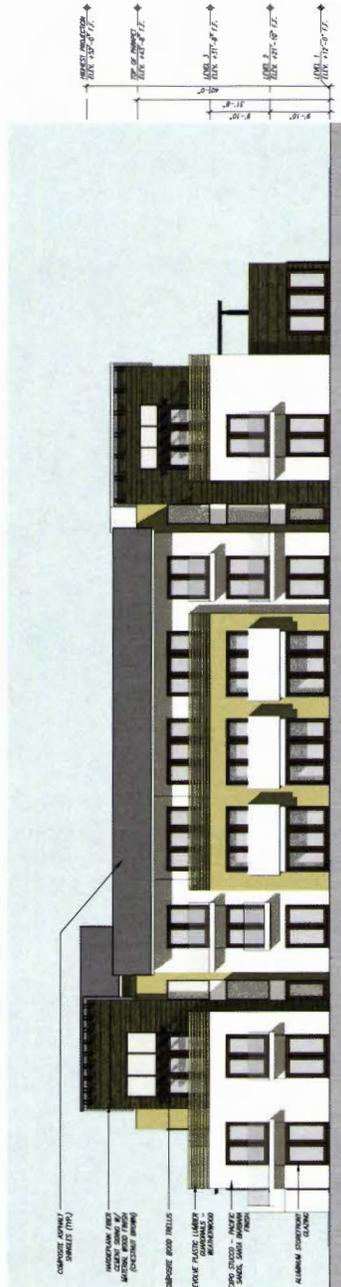
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 GROVER BEACH, CA 93433

Sheet No. **BLDG. 3 ELEVATIONS**

Sheet No. **A3.3**



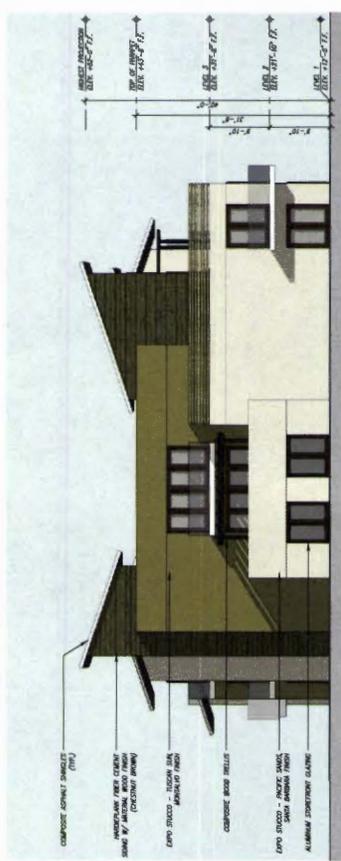
**BUILDING THREE - EAST ELEVATION**



**BUILDING THREE - WEST ELEVATION**



**BUILDING THREE - SOUTH ELEVATION**



**BUILDING THREE - NORTH ELEVATION**



BUILDING THREE - SOUTHWEST CORNER 1  
 SCALE: N.E.S.



BUILDING THREE - SOUTHEAST CORNER 2  
 SCALE: N.E.S.



BUILDING THREE - NORTHWEST CORNER 3  
 SCALE: N.E.S.



BUILDING THREE - NORTHWEST CORNER 4  
 SCALE: N.E.S.

DATE	REVISED	REASON
12.28.2011	100% DD	
11.14.2013	10% SUBMITTAL	
11.14.2013	CONCEPTUAL PLANS	
11.28.2013	CONCEPTUAL PLANS	
11.28.2013	CONCEPTUAL PLANS	

Project No. 09151

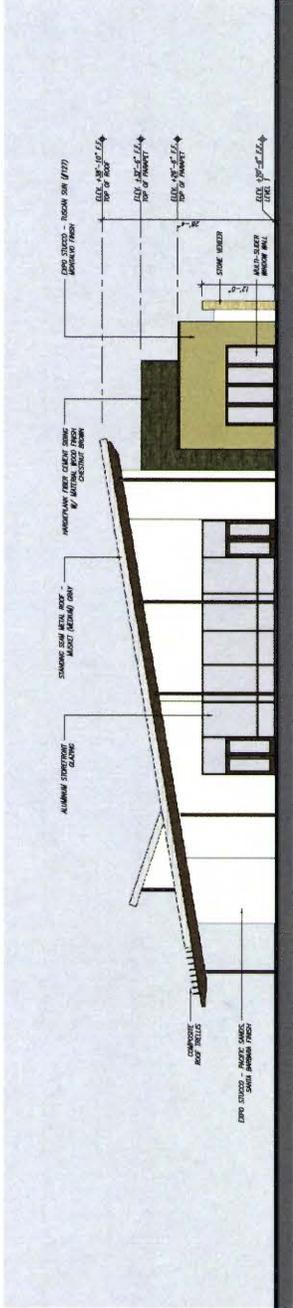


GROVER BEACH LODGE

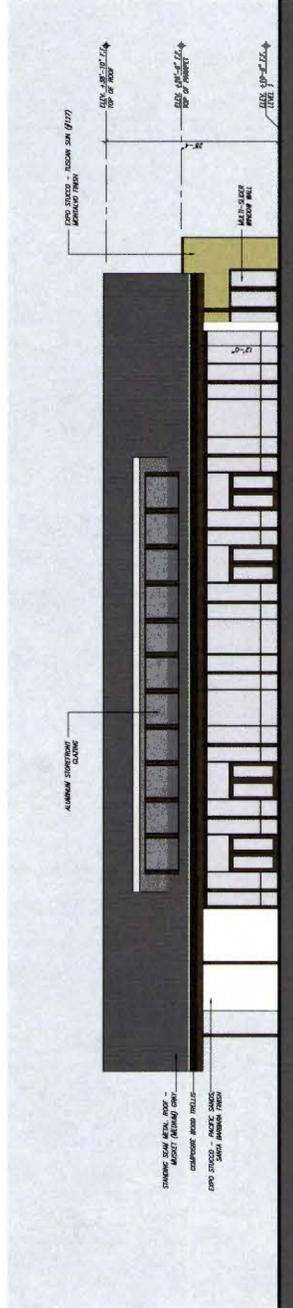
55 WEST GRAND AVE  
 GROVER BEACH, CA 93433

Sheet Title  
 CONFERENCE CENTER ELEVATIONS

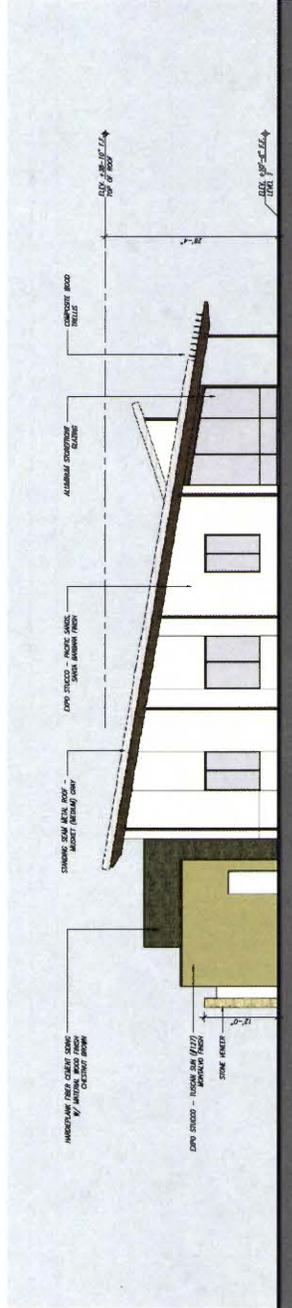
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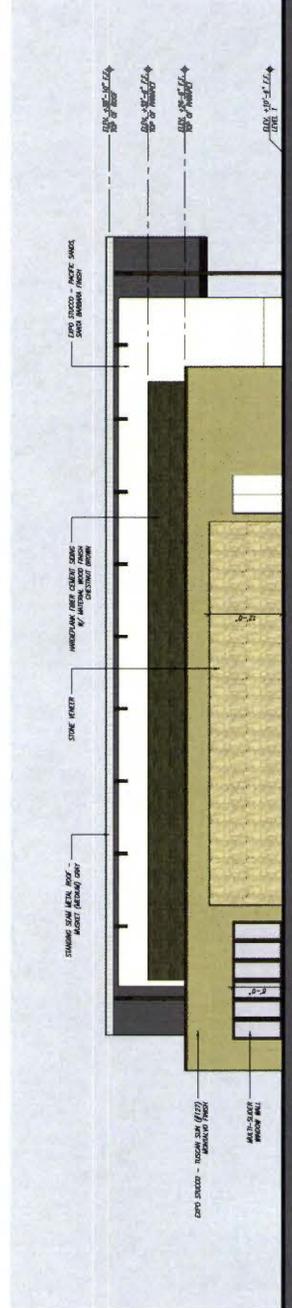
CONFERENCE CENTER - SOUTH ELEVATION 1  
 SCALE: 1/8" = 1'-0"



CONFERENCE CENTER - WEST ELEVATION 2  
 SCALE: 1/8" = 1'-0"



CONFERENCE CENTER - NORTH ELEVATION 3  
 SCALE: 1/8" = 1'-0"



CONFERENCE CENTER - EAST ELEVATION 4  
 SCALE: 1/8" = 1'-0"

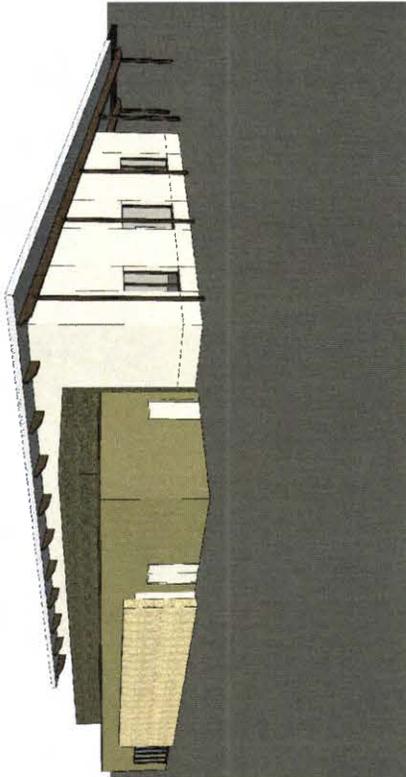
NO. DATE OF REVISION  
 00141 12/20/11 100% SD  
 12/20/11 10% SD  
 11/20/11 CONCEPTUAL PLANS  
 11/20/11 SUBMITTAL

Project No. 00141  
**PACIFICA COMPANIES**  
 GROVER BEACH LODGE

55 WEST GRAND AVE  
 GROVER BEACH, CA 93433

Sheet Title  
 CONFERENCE CENTER  
 CENTER VIEWS

Sheet No.  
**A3.4a**



CONFERENCE CENTER – VIEW LOOKING SOUTHWEST ①  
 SCALE: N.E.S.



CONFERENCE CENTER – VIEW LOOKING NORTHEAST ③  
 SCALE: N.E.S.



CONFERENCE CENTER – VIEW LOOKING SOUTHEAST ②  
 SCALE: N.E.S.



CONFERENCE CENTER – VIEW LOOKING NORTHWEST ④  
 SCALE: N.E.S.

FIELD REPRESENTATIVE SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF THE INFORMATION PROVIDED BY THE ARCHITECT AND SHALL NOT BE HELD RESPONSIBLE FOR ANY ERRORS OR OMISSIONS. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT AND SHALL NOT BE HELD RESPONSIBLE FOR ANY ERRORS OR OMISSIONS. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT AND SHALL NOT BE HELD RESPONSIBLE FOR ANY ERRORS OR OMISSIONS.

# FINAL LOCAL ACTION NOTICE

REFERENCE # 3-GRB-14-0338  
 APPEAL PERIOD 4/14 - 4/28/14

## NOTICE OF FINAL LOCAL ACTION ON COASTAL PERMIT City of Grover Beach

Date of Notice: April 8, 2014

Notice Sent to: California Coastal Commission Central Coast District Office

Please note the following **City of Grover Beach Final Action** on a coastal permit, coastal permit amendment, or coastal permit extension application (all local appeals have been exhausted for this matter):

### Project Information

**Application #:** Development Permit Application 10-03  
**Project Applicant:** Pacifica Companies  
**Project Location:** 55 West Grand Avenue  
**Project Description:** 150 room hotel, meeting space, restaurant, bar and conference center in four buildings and associated parking

# RECEIVED

### Final Action Information

Final Action Body:  Community Development Director  
 Planning Commission  
 City Council

Final Local Action:  Approved  
 Approved with Conditions

APR 14 2014

CALIFORNIA  
 COASTAL COMMISSION  
 CENTRAL COAST AREA

Required Materials Supporting the Final Action	Enclosed	Previously Sent (date)
Adopted Staff Report	x	
Adopted Findings	x	
Adopted Conditions	x	
Site Plans		x
Elevations		x

Additional Materials Supporting the Final Action	Enclosed	Previously Sent (date)
CEQA Document(s)		x
Geotechnical Report(s)		
Biotic Report(s)		
Other:		
Other:		

### Coastal Commission Appeal Information

This Final Action is:

- NOT appealable** to the California Coastal Commission. An action by the Planning Commission of the City of Grover Beach may be appealed to the City Council of the City of Grover Beach within five (5) working days of the action taken pursuant to the procedures as set forth in Part 44, Section 9144.12. (B) of Chapter 1, Article IX of the City Municipal Code (Development Permits and Renovation of Permits, City Zoning Regulations).
- Appealable** to the California Coastal Commission. City actions may be appealed to the California Coastal Commission pursuant to Coastal Act Section 30603 and pursuant to the procedures set forth in Part 45, Section 9145.16 of Chapter 1, Article IX of the City Municipal Code (Coastal Development Permit Procedures, City Zoning Regulations). The Coastal Commission's 10-working day appeal period begins the first working day after the Coastal Commission receives adequate notice of this Final Action. The Final Action is not effective until after the Coastal Commission's appeal period has expired and no appeal has been filed. Any such appeal must be made directly to the California Coastal Commission Central Coast District office in Santa Cruz; there is no fee for such an appeal. Should you have any questions regarding the Coastal Commission appeal period or process, please contact the Central Coast District Office 725 Front Street, Suite 300, Santa Cruz, CA 95060-4508, (831) 427-4863, FAX (831) 427-4877.

Copies of this notice have also been sent via first-class mail to:

- Applicant

**RESOLUTION NO. 14-19**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH  
APPROVING A COASTAL DEVELOPMENT PERMIT AND SITE AND ARCHITECTURAL  
PLANS ASSOCIATED WITH DEVELOPMENT PERMIT APPLICATION 10-03 FOR THE  
GROVER BEACH LODGE AND CONFERENCE CENTER PROJECT  
AND RESCINDING RESOLUTION NO. 13-48**

**WHEREAS**, the applicant, Pacifica Companies, is proposing the development of a 150-room lodge with a conference center and restaurant, and construction of public amenities within Pismo State Beach on approximately 13.0 acres located at the end of West Grand Avenue within Pismo State Beach; and

**WHEREAS**, Development Permit Application 10-03 includes a Local Coastal Program Amendment, Coastal Development Permit, and Site and Architectural Plans; and

**WHEREAS**, on February 15, 2012 the Planning Commission recommended the City Council certify the Environmental Impact Report and approve the Local Coastal Program Amendment, Coastal Development Permit, and Site and Architectural Plans; and

**WHEREAS**, on March 5, 2012 the City Council certified the Environmental Impact Report prepared for the project in compliance with the California Environmental Quality Act (CEQA); and

**WHEREAS**, on June 4, 2012 the City Council approved in concept the Coastal Development Permit and Site and Architectural Plans pending the Coastal Commission certification of the Local Coastal Program Amendment; and

**WHEREAS**, on June 14, 2013 the Coastal Commission certified the Local Coastal Program Amendment; and

**WHEREAS**, as a result of the Local Coastal Program Amendment minor changes were required to the proposed project but none of these changes were substantial or had any increase in the severity of previously identified significant effects; in fact, the project revisions reduced previously identified significant effects on the environment; and

**WHEREAS**, on December 2, 2013 the City Council approved the Coastal Development Permit and Site and Architectural Plans for the project; and

**WHEREAS**, the City Council has determined that it wants to reconsider the project approval to resolve any perceived procedural issues related to filing the Local Notice of Final Action for the Coastal Development Permit and add two conditions of approval related to coastal hazards; and

**WHEREAS**, on January 21, 2014 the City Council opened the public hearing and continued the item to the February 18, 2014 Council meeting, which was noticed as required by law; and

**WHEREAS**, on February 18, 2014 the City Council opened the public hearing and continued the item to the March 3, 2014 Council meeting; and

**WHEREAS**, on March 3, 2014 the City Council opened the public hearing and continued the item to the March 17, 2014 Council meeting; and

**WHEREAS**, on March 17, 2014 the City Council opened the public hearing and continued the item to the April 7, 2014 Council meeting; and

**WHEREAS**, on April 7, 2014 the City Council conducted a public hearing to reconsider the Coastal Development Permit; and

**WHEREAS**, the City Council hereby rescinds Resolution No. 13-48 adopted by the Council on December 2, 2013 approving Development Permit Application 10-03 consisting of a Coastal Development Permit and Site and Architectural Plans; and

**WHEREAS**, the City Council of the City of Grover Beach makes the following findings:

The proposed project is consistent with General Plan Policy LU-6. The development of a hotel and conference center as an anchor for the Visitor Serving area is vital to increasing tourism to the City.

The proposed project is consistent with the State General Development Plan for Pismo State Beach which also identifies the site for use as a 150-room hotel and conference center.

The proposed project is consistent with the West Grand Avenue Master Plan and its policies promoting this area as a destination for locals and tourists by creating lodging, restaurant and outdoor spaces. In addition, pedestrian improvements along the West Grand Avenue frontage will strengthen the pedestrian connection between the beach and visitor serving areas on the east side of Highway 1 consistent with the Plan.

The proposed project is consistent with the City's Economic Development Strategy goal for developing a hotel conference center that will act as a flagship destination in the City and act as a catalyst for further development of visitor serving uses.

The Revised Final EIR prepared for the project was certified by the City Council on March 5, 2012. Subsequently, the Coastal Commission approved a Local Coastal Program (LCP) Amendment which required two changes to the project. These project revisions are consistent with the Final EIR and further minimize impacts identified in the Final EIR.

**WHEREAS**, the City Council of the City of Grover Beach makes the finding that the project is consistent with the applicable policies and requirements of Chapter 5 of the Local Coastal Program including the following:

*Policy 5.7.A.1.a. No future development shall be permitted which obstructs access to the dunes, beach, and shoreline from Highway 1 within the City limits. New development west of Highway 1 shall provide access to the dunes, beach, and shoreline if adequate access does not already exist nearby.*

The project does not obstruct access to the dunes, beach, and shoreline because there are no changes to the existing access via West Grand Avenue. The new 10-foot wide multi-purpose path on the north side of West Grand Avenue will enhance pedestrian and bicycle traffic to the beach. The project will also enhance access to the dunes by adding additional walkways within the project area and eliminating parking areas adjacent to the dunes.

*Policy 5.7.D.1.b. Development in the Coastal Planned Commercial zone adjacent to the environmentally sensitive habitat area which will be sited and designed to prevent impacts which would significantly degrade such areas shall provide additional public parking for beach users. Exact number of spaces designated for public use shall be determined at the time of project review*

and depend upon project size and feasibility.

The Revised FEIR for the project has required mitigation measures to ensure that no significant impacts will occur to adjacent sensitive habitat areas. These include preparation of a Riparian Habitat Restoration Plan for the Meadow Creek corridor. The project retains the existing 160 public parking spaces.

Policy 5.7.D.2.b. Existing and future sanitation stations shall be well signed in the vicinity of the beach and on all coastal access routes. The provision of the existing public dumping station with sewer services by the San Luis Obispo County Sanitation District should be facilitated to make more hours of station service economically feasible.

The relocation of the RV sanitation station to North Beach Campground is in the vicinity of the beach and located adjacent to Highway 1. Directional signage will be added to aid in directing users to the location.

Policy 5.7.D.2.d. In cooperation with the California Department of Parks and Recreation, the parking lot and picnic area shall be landscaped with species that are drought tolerant and if feasible, with native species, and a water-conserving irrigation system installed. Landscaping shall be maintained in a healthy, growing condition, shall receive regular pruning, fertilizing, mowing, and trimming, and shall be kept free of weeds and debris. Any damaged, dead, or decaying plant material shall be replaced within thirty days from the date of damage.

The project will enlarge the public plaza picnic area and relocate the public parking lots. All landscaping shall be native dune species and native riparian species in detention basins.

Policy 5.7.E.1.a and b. Any fees charged in the future in connection with Pismo State Beach facilities within Grover Beach boundaries should be minimal and shall be related directly to the cost of providing specific services to beach users. Fees should not at any time be applied for access to or use of any part of the beach by either pedestrian visitors or vehicles. (b). Existing public recreational facilities should be preserved. The City in cooperation with the California Department of Parks and Recreation should pursue every opportunity to provide additional lower-cost recreational facilities.

There are no fee increases proposed as part of the project associated with public access. The proposed project will retain and enhance recreational facilities within Pismo State Beach.

Policy 5.7.F.1.a. The City shall ensure that visitors to the Pismo State Beach are provided with easily accessible, visitor-serving commercial and public recreational access services, particularly those relating to provision of food and lodging and beach related uses, in any new development in the Coastal Planned Commercial area west of Highway 1..... The area west of Highway 1 shall be developed with visitor serving uses, including a lodge and conference center within the portion of Pismo State Beach shown in Figure 3

The project will provide a visitor serving use consisting of lodging, conference center, and restaurant. The project also provides enhanced access to the existing and redeveloped recreational facilities, such as the public plaza. A second story public viewing area is also provided for views of the shoreline and ocean.

Policy 5.7.F.1.a.(1) Density. The project shall be limited to a maximum room/acre density of 15 rooms/acre.

The project is consistent with the overall room/acre density of 15 rooms/acre based on a room density of 12 rooms per acre (150 rooms/12.96 acres).

Policy 5.7.F.1.a.(2) Height. 60% of the project may extend to a maximum height of 40 feet, and 40% of the project may extend to a maximum height of 28 feet. In the area seaward of the viewshed setback line, as illustrated in LCP Figure 3, the project shall be limited to a maximum of 24 feet in height, with an allowance for minor architectural projections and articulations (such as eaves, gables and cupolas) to extend to a maximum of 26 feet. All such height limits are maximums, and not entitlements, that must be understood in relation to the public viewshed context, and may be adjusted downwards as necessary to meet LCP public view requirements.

The building height between 28 feet and 40 feet is 19% of the overall building area and the remaining 81% is less than 28 feet in overall building area as shown on Sheet A1.1 of Exhibit A. Therefore, the project is consistent with this policy for height percentage. Building 2 is within the viewshed setback and is a maximum of 24 feet in height with minor architectural features to duplicate architectural features on the other buildings that reach a maximum of 26 feet in height consistent with this policy. A condition of approval has been added requiring compliance with this standard and a licensed surveyor to provide verification during construction framing.

Policy 5.7.F.1.a.(3) View Corridors. The project shall be sited and designed to provide public view corridors from along Grand Avenue, Highway 1, and Le Sage Drive that will adequately break up project massing and provide views of the shoreline.

The project has been designed and the buildings sited to retain the public view corridors of the shoreline from West Grand Avenue, Highway 1 and Le Sage Drive. Building 3 is setback 10 feet from West Grand Avenue consistent with the LCP keeping the view corridor unobstructed. The view from Highway 1 at Le Sage Drive is preserved between Buildings 1 and 2 by maintaining a minimum building separation of approximately 90 feet. All four hotel buildings provide variation in massing with a combination of one-, two-, and three-story elements. A visual analysis as part of the Final EIR demonstrated through visual simulations that the proposed project would not significantly obstruct views from public areas and the four buildings are compatible with the environmental setting.

Policy 5.7.F.1.a.(4) Design. The project, including all architectural, landscape and design elements, shall be sited and designed to seamlessly blend into and complement the surrounding natural dune environment (including through the use of natural and natural appearing materials as much as possible). Structures shall be subservient to the natural dune landscape as much as possible, and shall employ measures to increase visual interest and to decrease perceived massing (e.g., low slung structures, areas of offsets and indents, upper stories pulled back from lower stories, landscaped berms, etc.). Lighting shall be limited as much as possible to avoid nighttime glares while still providing adequate lighting for public safety purposes.

The proposed lodge buildings are a contemporary style with simple angular elements to reflect the sloping dunes. The buildings have stepped massing with one-, two- and three-story elements to create visual interest and reduce visual massing. The buildings have overhangs, trellises, balconies and covered areas to provide relief and dimension. The building materials are natural appearing including the use of heavy timbers, siding, composition shingles, composite wood materials, and textured stucco. The building colors are earth tones consisting primarily of tans and browns to blend with the surrounding dunes. Landscaping includes bermed sand dunes and shallow detention basins to emulate the dunes and slack ponds. Mitigation measure AES/mm-4 requires a comprehensive lighting plan be prepared using best practices endorsed by the

International Dark Star Association to minimize lighting to the lowest levels allowed by public safety standards.

Policy 5.7.F.1.a.(5) Landscaping. Landscaping throughout the project site shall be limited to native dune species. In the areas designated as necessary for detention basins, native riparian species shall be allowed. All landscaping shall be kept in good growing condition. All areas not committed to structural development shall be landscaped to emulate a dune, riparian and/or back-beach environment.

Sheets L1.0 and L1.1 of Exhibit A indicate compliance with this policy. In addition, condition of approval CDD-8 requires compliance with this policy as part of the final landscape plan review and approval. The site exceeds the LCP requirement for a minimum of 40% landscaped open areas.

Policy 5.7.F.1.a.(6) Ingress/Egress. Road access to the project shall be from Highway 1, Le Sage Drive and Grand Avenue and shall be designed in such a way as to facilitate all forms of access to the project and to the beach area (including vehicular, pedestrian, bicycle, etc.).

Vehicular access to the site is from Highway 1 via both West Grand Avenue and Le Sage Drive. The project is developed with several features to enhance all forms of access including a multi-purpose path on the north side of West Grand Avenue designed for pedestrian and bicycle access, a trail on the south side of West Grand Avenue, sidewalks on Le Sage Drive, multiple public access paths throughout the hotel site including a connection to the existing boardwalk to the Pismo Beach pier and a trail along Meadow Creek.

Policy 5.7.F.1.a.(7) Coverage. The project shall have a maximum site coverage (i.e., structures, pavement, paths, etc. – anything not landscaped) of 60%, the remaining minimum of 40% shall be in landscaped open areas. All paved areas shall be pervious to the extent feasible. All runoff shall be filtered and treated prior to discharge from the site, including that high pollutant generation areas shall require pollutant specific BMPs (e.g., restaurant wash down plumbed to sanitary sewer, etc.).

The site exceeds the LCP requirement for a minimum of 40% landscaped open areas as shown in Exhibit A. The plan also indicates extensive areas of pervious paving in the parking lots. Mitigation Measure DES/mm-1 requires on site retention and runoff to be treated prior to infiltration/discharge from the site. In addition, the project is required to have a NPDES permit and comply with the Water Quality Control Board Construction General Permit and post construction Storm Water Control Plan.

Policy 5.7.F.1.a.(8) Food Service. The project shall include restaurant facilities, including providing for lower-cost eating options, such as coffee shops and snack bars.

The existing Fin's Seafood Restaurant will remain and the Lodge provides an additional restaurant with a bar/lounge that will provide beverages and appetizers. The hotel will also have a gift shop that will sell low priced snacks and sundries.

Policy 5.7.F.1.a.(9) Parking. Public recreational access parking (including for day use of the beach) shall be provided at a volume commensurate with such demand and free of charge.

The project will retain the existing 160 public parking spaces free of charge. The parking has been redistributed into three areas with parking located adjacent to the golf course and Fin's Seafood Restaurant.

Policy 5.7.F.1.a.(10) Public Availability. All project facilities shall be open to the general public, and shall include as many integrated and defined areas within which public access is provided free of charge (e.g., viewing decks, etc.) as possible while still addressing paying guest needs.

The entire project site is open to the public with the exception of the private rooms and the pool. The project is developed with multiple public access paths throughout the site including a connection to the existing boardwalk to the Pismo Beach pier and a trail along Meadow Creek. The site also provides public paths on the west side of all buildings to allow uninterrupted views of the dunes and shoreline. A second story public viewing area is also provided for views of the shoreline and ocean.

Policy 5.7.F.1.a.(11) Overnight Units. All overnight units shall be provided as traditional overnight units (e.g., traditional hotel accommodations). Timeshare residential uses and quasi-residential visitor-serving uses (including condominium hotels, private unit ownership, fractional ownership, and similar use and ownership structures) shall be prohibited. Rooms may not be rented to any individual, family, or group for more than 29 days per year nor for more than 14 days between Memorial Day and Labor Day.

The hotel shall operate as a traditional hotel with overnight accommodation consistent with this policy as required by condition of approval CDD-2.

Policy 5.7.F.1.a.(12) Public access paths. The project shall provide continuous public access path connectivity from Highway One, Grand Avenue, and Le Sage Drive to the shoreline along the perimeter of and through the project site, including connections to the boardwalk to Pismo Beach. All such paths shall be sited and designed to maximize their public utility and value (including for connectivity, views, etc.).

Pedestrian access is provided to the site and through the site to the shoreline from Highway 1 via both West Grand Avenue and Le Sage Drive. The project is developed with multiple public access paths throughout the hotel site including a connection to the existing boardwalk to the Pismo Beach pier and a trail along Meadow Creek. A public path has been located on the west side of all buildings to allow uninterrupted views of the dunes and shoreline. The project is consistent with Chapter 3 of the Coastal Act including those provisions related to public access.

Policy 5.7.F.1.a.(13) Public Access Management Plan. The project shall include a public access management plan that clearly describes the manner in which general public access associated with the project is to be managed and provided, with the objective of maximizing public access to the public access areas of the site (including all walkways, benches, boardwalks, stairs and all other public access amenities).

The entire project site is open to the public with the exception of the private rooms and the pool. Condition of approval CDD-16 requires the approval of a Public Access Management Plan prior to occupancy.

Policy 5.7.F.b. Armoring. Armoring (including but not limited to seawalls, revetments, retaining walls, etc.) and similar responses to coastal hazards intended to protect development in the area west of Highway 1 (as shown on Figure 3) from coastal hazards (including but not limited to hazards from episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, flooding, and the interaction of same) shall be prohibited. All development in such area shall be conditioned to require that property owners expressly waive any future right to construct such armoring or similar hazard responses that may exist pursuant to Public Resources Code Section 30235 and the City of Grover Beach certified LCP. Prior to

issuance of a coastal development permit, any private property owner shall execute and record a deed restriction against the property that ensures that no such armoring or similar hazard responses shall be proposed or constructed to protect the development, and which includes their waiver, on behalf of themselves and any successors or assigns, of a future right to such armoring.

In addition, as a condition of approval of any development in the area west of Highway 1 (as shown on Figure 3) the property owner shall be required to acknowledge and assume all risks from coastal hazards (including but not limited to hazards from episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, flooding, and the interaction of same) associated with development at this location, waive any claims of damage or liability against the permitting agency, and agree to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards. Prior to issuance of a coastal development permit, any private property owner shall execute and record a deed restriction against the property that explicitly assumes these risks, on behalf of themselves and any successors or assigns.

Conditions of approval CDD-18 and CDD-19 address this policy.

5.7.F.e. Lower-Cost Visitor and Recreational Facilities. Existing lower-cost visitor serving and recreational facilities shall be protected and enhanced, and new lower-cost visitor and recreational facilities shall be encouraged and provided in the City.

There are approximately 1,000 public campground sites within Pismo State Beach and Oceano Dunes SVRA and several private RV park/campgrounds with approximately 1,200 sites within a few mile radius of the site. Therefore, there are ample existing low-cost visitor facilities in the project vicinity. The City currently has no hotel/motel rooms in the Coastal Zone and the motels within the City are all low to moderately priced. A survey prepared in 2007 for the approved project located at 105 West Grand Avenue documented all lodging facilities in the project vicinity and there have been no significant changes since that survey was completed.

**WHEREAS**, the City Council of the City of Grover Beach makes the following findings that the project is consistent with the applicable policies and requirements of Chapter 6 of the Local Coastal Program as follows:

Policy 6.7.1.(6) Development shall only be approved if it is first clearly demonstrated that the development will be served by an adequate, long-term public water supply.

The project provides visitor-serving land uses which are a priority over other proposed developments in the Coastal Zone. The City's current water supply is 2,207 acre feet of water per year (AFY). The City's current water demand is 1,940 AFY. The project at 100% annual occupancy is estimated to use 12,500 gallons per day or approximately 14 AFY. Based on an estimate of 75% annual occupancy, the project will use approximately 10.5 AFY. The City currently has excess demand of 267 AFY. Therefore, the City has an adequate long-term water supply in place to serve the project.

Policy 6.7.2.(4) : Development shall only be approved if it is first clearly demonstrated that there is adequate, long-term public wastewater treatment capacity to serve such development.

The project provides visitor-serving land uses which are a priority over other proposed developments in the Coastal Zone. The City is a member of the South San Luis Obispo County Sanitation District (SSLOCSD) and is presently entitled to approximately 1.5 million gallons per day (MGD) of the treatment plant's 5 MGD average daily capacity. The estimated average flow rate in

2010 is 1.30 MGD, or about 87 percent of the District's allocated daily treatment capacity. Based on the estimated water usage, wastewater is projected to be 9,375 gallons per day (less water used for landscaping), or 0.009375 MGD. The City currently has excess demand of 0.20 MGD treatment capacity. Therefore, the City has adequate long-term wastewater treatment capacity in place to serve the project.

**WHEREAS**, the City Council of the City of Grover Beach makes the following findings that the project is consistent with the development standards for the C-P-C Zone as required by Section 9122.12 of the Zoning Code:

(A) That all development in this area be sited and designed to protect existing view slots or corridors from Highway 1 and upland areas to the dunes and shoreline. (B) That all development in this area be sited and designed to enhance or create new view slots from Highway 1 to the dunes and shoreline.

The project has been designed and the buildings sited to retain the existing view corridor of the ocean from West Grand Avenue and the view corridor of the dunes from Le Sage Drive. No other existing view corridors are blocked as a result of the lodge buildings. A visual analysis as part of the Revised Final EIR demonstrated through visual simulations that the proposed project would not significantly obstruct views from public areas and the four buildings are compatible with the environmental setting.

(C) That all development be sited and designed to protect and enhance where feasible the filtration capabilities of Meadow Creek. (H) That drainage systems be designed to ensure that all silts and oils are removed prior to the water entering a natural drainage channel. (J) That the existing habitat value of Meadow Creek be protected and enhanced by the use of buffer zones, additional native landscaping, sediment/oil control devices and controlled and limited pedestrian access to buffer zone areas.

The project will provide a 50 foot riparian buffer from Meadow Creek which will protect and enhance the habitat values and infiltration capabilities. Project runoff will be directed to detention basins and bioswales for treatment prior to discharging into Meadow Creek. A Habitat Restoration Plan will be prepared and best management practices incorporated into the project. A trail will be provided adjacent to the riparian area and interpretive signage to educate the public about habitat values.

(D) That reasonable mitigation measures shall be required to protect archaeological or paleontological resources.

The Revised FEIR did not identify any archaeological or paleontological resources on the project site.

(E) That native plant material shall be the major theme in all landscape designs.

Condition of approval CDD-8 requires that all landscaping be limited to native dune species and in areas designated as necessary for detention basins, native riparian species shall be allowed.

(F) That all roads, parking lots, and structures shall be sited and designed to prevent impacts which would significantly degrade the adjacent environmentally sensitive area.

The Revised FEIR for the proposed project requires mitigation measures to ensure that no significant impacts will occur to adjacent sensitive habitat areas.

(G) That the architectural theme of development in this area shall generally follow the criteria set forth in the adopted Advisory Architectural Design Guidelines and additionally said architectural theme shall be compatible and complimentary to the existing natural vegetation and land forms. The architecture and site design shall include the following characteristics, in order to reduce massing and reduce the sense of verticalness of structures: (1) Use of structural, architectural design elements, i.e., corridors, heavy beams, posts, arches, columns, colonnades, canopies, cornices, etc. (2) Strong textured look, using woods, tiles, pavers, stuccos, stones, blocks and bricks, colors, plant material, recesses, etc. (3) Strong feeling or overhead treatment such as roof overhangs, balconies, or dark facias. (4) Earthen colors. Colors with warm, natural tones. Colors range from whites, yellows, browns, clays, slates, etc. (5) Wall relief (graphic, three dimensional design, landscaping, heavy textured stucco, wood tiles, etc.). (6) Strong window statement (treatment of frame, mullions, border, etc.). (7) The minimum distance separating buildings shall be equal to the sum of the height of any two adjacent buildings divided by two, but in no case less than ten (10) feet between buildings.

The proposed lodge buildings are a contemporary style with simple angular elements to reflect the sloping dunes. The buildings have stepped massing with one-, two- and three-story elements to create visual interest and reduce visual massing. The buildings have overhangs, trellises, balconies and covered areas to provide relief and dimension. The building materials are natural appearing including the use of heavy timbers, siding, composition shingles, composite wood materials, and textured stucco. The building colors are earth tones consisting primarily of tans and browns to blend with the surrounding dunes. Large window and patio doors on the ground floor provide ample glazing and window treatments. The buildings are separated by a minimum of 60 feet providing on-site view corridors and large landscaped areas between buildings.

(I) That areas of significant natural vegetation be protected and enhanced where feasible.

The Revised FEIR for the proposed project requires mitigation measures to ensure that no significant impacts will occur to adjacent sensitive habitat areas. These include preparation of a Riparian Habitat Restoration Plan.

(K) That the maximum allowable coverage for any project in this District shall be sixty (60) percent. The remaining forty (40) percent shall be in landscaped open areas.

The project provides approximately 46% of the site in landscaped and open space areas and 54% of the site covered with building and parking.

(L) That for hotel/motel/lodge type developments the maximum rooms/acre density south of Le Sage Drive is twenty (20) rooms/acre while north of Le Sage Drive is a maximum of thirty (30) rooms/acre.

The project provides 150 rooms on a 13-acre site, for an overall density of 12 rooms per acre.

(M) That all development in this area be required to maintain or enhance public access to and along the shoreline based on the development's impact on public access.

The project will provide improved public access from Highway 1 to the beach by enhancing public walkways and providing enhanced public amenities. The project is on the inland side of the existing dunes and has no effect on the use of the beach. The project will have no adverse effect either individually or cumulatively on public access to the shoreline or along the coast because the project does not change existing access points to the beach or inhibit access from the beach to the

ocean and water oriented recreational activities. The project is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act (commencing with Section 30200).

**WHEREAS**, the City Council of the City of Grover Beach makes the following findings in accordance with Zoning Code Section 9144.3 (B) (1-5) for Site and Architectural Review:

(1) The architecture and general appearance of the building and grounds are in keeping with the character of the neighborhood.

The existing buildings and grounds in the adjacent C-P-C Zone are predominately underutilized based on the types of visitor serving uses that are allowed. The proposed lodge buildings and surrounding grounds are consistent with the purpose and intent of the C-P-C Zone and will be an improvement to the area.

(2) The proposed design is not detrimental to the orderly and harmonious development of the City of Grover Beach.

The project site is zoned for development of visitor serving uses and has been identified for development as a hotel and conference center for 30 years. Development of the site is within the City limits and can be provided with the necessary City services and is therefore considered orderly development. The project is also within an area that is already developed with and adjacent to existing visitor serving uses.

(3) The development does not impair the desirability of investment or occupation in the neighborhood.

The project will represent a major investment in visitor serving facilities at the City's only developable site adjacent to the ocean. The project will attract overnight visitors who will patronize local businesses and have a positive economic benefit to the City.

(4) The proposal is consistent with applicable guidelines or standards for the project area.

The proposed project is well designed using high quality materials and meets the design intent of the Land Use Element.

(5) The project is consistent with the City's General Plan and Zoning Code.

The proposed hotel with conference center and restaurant is consistent with the purpose and intent of the Planned Commercial land use designation. The project will provide overnight lodging facilities consistent with the City goal of becoming a tourist destination.

The proposed hotel with conference center and restaurant is consistent with the purpose and intent of the C-P-C Zone to provide visitor serving uses in the Coastal Zone. The project meets all development standards as required in the C-P-C Zone.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Grover Beach **DOES HEREBY REVOKE** City Council Resolution No. 13-48 and **APPROVE** a Coastal Development Permit and Site and Architectural Plans associated with Development Permit Application 10-03 subject to the conditions below.

**CONDITIONS OF APPROVAL:****GENERAL**

- G-1. The use shall comply with all Federal, State, and local codes, standards, and regulations in effect at the time of construction.
- G-2. The Applicant agrees, as a condition of approval of this resolution, to indemnify, defend and hold harmless, at Applicant's expense, City and City's agents, officers and employees from and against any claim, action or proceeding commenced within the time period provided in Government Code Section 66499.37 to attack, review, set aside, void or annul the approval of this resolution or to determine the reasonableness, legality or validity of any condition attached hereto. City shall promptly notify Applicant of any such claim, action or proceeding to which City receives notice, and City will cooperate fully with Applicant in the defense thereof. Applicant shall reimburse the City for any court costs and attorney's fees that the City may be required to pay as a result of any such claim, action or proceeding. City may, in its sole discretion, participate in the defense of any such claim, action or proceeding, but such participation shall not relieve Applicant of the obligations of this condition. Applicant's acceptance of this resolution or commencement of construction or operations under this resolution shall be deemed to be acceptance of all conditions contained in this resolution.
- G-3. The approval granted by this Resolution shall be valid for thirty-six (36) months from the date final action is taken by the City Council. If grading has not commenced prior to the expiration date, the applicant may file a time extension consistent with City code requirements.
- G-4. The applicant shall be responsible for all costs for plan review, plan check, special studies, inspections, and all other costs associated with the project as required by City Code and the conditions of approval.
- G-5. The applicant shall pay all development impact fees in effect at the time building permits are issued.
- G-6. The project shall comply with the City's Noise Ordinance at all times.

**COMMUNITY DEVELOPMENT DEPARTMENT**

- CDD-1. This approval authorizes the construction and operation of a 150 room hotel, conference center and restaurant. The final project plans shall be in substantial conformance with the approved conceptual plans dated November 20, 2013 attached as Exhibit A and on file in the Community Development Department. Minor modifications to the approved plans may be approved by the Community Development Director and the Joint Authority if determined to be in substantial conformance with the approved plans and the Concession Contract. The Lodge shall be constructed and operated in compliance with the Concession Contract.
- CDD-2. All hotel rooms shall be operated as traditional overnight units (e.g., traditional hotel accommodations). Timeshare residential uses and quasi-residential visitor-serving uses (including condominium hotels, private unit ownership, fractional ownership, and similar use and ownership structures) shall be prohibited. Rooms may not be rented to any individual, family, or group for more than 29 days per year nor for more than 14

days between Memorial Day and Labor Day.

- CDD-3. The mitigation measures contained in Resolution No. 12-14 Certifying the Revised FEIR are incorporated herein as part of this resolution, except that the following Mitigation Measures are no longer required based on the project revision eliminating the equestrian parking area on the south side of West Grand Avenue (Area C): AES/mm-1, BIO/mm-14, BIO/mm-24, GS/mm-4, GS/mm-5, DES/mm-6 and all other references to Area C as documented in the attached Exhibit B. The applicant shall pay for City staff and/or consultant costs as necessary to implement and monitor the mitigation measures.
- CDD-4. Prior to starting construction in the existing equestrian parking area, an interim or permanent on-site or off-site equestrian parking area shall be operational as approved by the Joint Authority (JA).
- CDD-5. Prior to demolition of the existing RV sewer dump station, the expansion of the North Beach Campground RV dump station shall be operational as approved by State Parks.
- CDD-6. Prior to demolition of the existing 160 public parking spaces, an interim or permanent parking plan shall be approved by the Joint Authority (JA) to ensure that the 160 parking spaces remain available during construction.
- CDD-7. Prior to issuance of a grading and/or building, a comprehensive signage program shall be submitted for review and approval by the Joint Authority (JA). The signage program shall include on-site and off-site directional signage, interpretive signage, safety signage, and monument signs.
- CDD-8. The final landscape plan shall be in compliance with LCP Policy 5.7.F.1.a.(5) which requires the project site be limited to native dune species. In the areas designated as necessary for detention basins, native riparian species shall be allowed. All landscaping shall be kept in good growing condition. All areas not committed to structural development shall be landscaped to emulate a dune, riparian and/or back-beach environment. The final landscape plan shall also be in compliance with the State's Model Water Ordinance.
- CDD-9. Prior to issuance of a grading and/or building, final site plans, building plans, landscape plans and signage shall be approved by the Joint Authority (JA) as required by the Concession Contract.
- CDD-10. Prior to issuance of a grading and/or building permit, the plans shall demonstrate that all ground mounted equipment shall be screened from public view by landscaping and/or decorative walls/fences to the maximum extent feasible.
- CDD-11. Prior to issuance of a grading and/or building permit, the final site plan shall indicate that all parking space dimensions and drive aisle widths meet the minimum Code requirements. A maximum of 30% of parking spaces may be compact size. In addition, turning radii shall be plotted to demonstrate that access is adequate for over sized vehicles to the private pull through spaces and the equestrian parking area.
- CDD-12. Prior to issuance of a grading and/or building permit, the plans shall demonstrate that the parking lot adjacent to West Grand Avenue shall be screened from view from West Grand Avenue through the use of landscaping, berming, fences, and/or walls to the

maximum extent feasible.

- CDD-13. Prior to issuance of a grading and/or building permit, the plans shall demonstrate compliance with the maximum building heights of LCP Policy 5.7.F.1.a.(2). Upon completion of framing of Buildings 1, 2, and 3, a licensed surveyor shall verify the building heights do not exceed the maximum building heights as measured from the finish floor elevations.
- CDD-14. Prior to issuance of a grading and/or building permit, the north and south elevations of Building 2 and the north elevation of Building 3 shall be revised to incorporate additional building articulation and visual interest consistent with the other building elevations as approved by the Joint Authority (JA).
- CDD-15. Prior to issuance of a grading and/or building permit, the State Park parking area to accommodate over sized vehicles in the southeast corner of the site shall be revised to maximize the useable area as approved by the Joint Authority (JA). This may include the removal of the raised curbs and landscaping. The area shall be constructed of an all weather surface to accommodate equestrian usage.
- CDD-16. Prior to occupancy, the applicant shall submit a Public Access Management Plan to be approved by the Joint Authority (JA) that clearly describes the manner in which general public access associated with the project is to be managed and provided, with the objective of maximizing public access to the public access areas of the site (including all walkways, benches, boardwalks, stairs and all other public access amenities).
- CDD-17. Prior to occupancy, the applicant shall submit a Tsunami Safety Plan to be approved by the JA that clearly describe the manner in which hazards associated with tsunamis will be addressed, including that: the existence of threat from both distant and local source tsunamis will be communicated to all guests, information regarding personal safety measures to be undertaken in the event of a tsunami in the area will be made available, efforts will be provided to assist those physically less mobile in seeking evacuation during a tsunami event and that staff have been adequately trained to carry out the safety plan. At a minimum, the plan shall be prepared in cooperation with the San Luis Obispo County Office of Emergency Services, and shall be in general conformance with any area-wide tsunami safety plan that has been prepared for this section of the coast; the plan shall detail the posting of placards, flyers, or other materials at conspicuous locations within each room, provided in an appropriate variety of languages and formats (e.g., embossed braille, tape recordings, etc.), explaining tsunami risks, the need for evacuation if strong earthquake motion is felt or alarms are sounded, and the location of evacuation routes; the plan shall detail the efforts to be undertaken by staff to assist the evacuation of physically less mobile persons during a tsunami event; and the plan shall detail the instruction to be provided to all employees to assure that the Tsunami Safety Plan is effectively implemented.
- CDD-18. Coastal Hazards Risk. By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns:
- (a) That the project is governed by a Joint Powers Agreement (JPA) and a Concessionaire Contract that allocate responsibility for indemnification of the parties, claims of damage and liability and adverse effects on project property among property owner (California State Parks), the project proponent (City of Grover Beach), and the Permittee.
  - (b) Coastal Hazards. That the site is subject to coastal hazards including but not limited

to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, coastal flooding, liquefaction and the interaction of same;

- (c) Assume Risks. That in addition to any requirements in the Concessionaire Contract, it agrees to assume the risks to the Permittee and the property that is the subject of this CDP of injury and damage from such coastal hazards in connection with this permitted development;
- (d) Waive Liability. That in addition to any requirements in the Concessionaire Contract, it agrees to unconditionally waive any claim of damage or liability against the City of Grover Beach, its officers, agents, and employees for injury or damage from such coastal hazards;
- (e) Indemnification. That in addition to any requirements in the Concessionaire Contract, it agrees to indemnify and hold harmless the City of Grover Beach, its officers, agents, and employees with respect to the City's approval of the development against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such coastal hazards; and

Coastal Hazards Response. By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns, that:

- (f) Protective Measures Prohibited. In the event that the approved development is threatened with damage or destruction from coastal hazards, or is damaged or destroyed by coastal hazards, protective structures (including but not limited to seawalls, revetments, groins, deep piers/caissons, etc.) shall be prohibited;
- (g) Section 30235 Waiver. Any rights to construct such protective structures, including rights that may exist under Public Resources Code Section 30235 and City of Grover Beach LCP, are waived;
- (h) Property Owner Agreement. Prior to Issuance of this permit, the Permittee shall provide the City with evidence, for review and written approval, that California State Parks acknowledges and agrees that future shoreline protective structures shall be prohibited and that any rights to construct such protective structures are waived.

## PUBLIC WORKS DEPARTMENT

PW-1. Prior to issuance of a grading permit and/or building permit, the applicant shall prepare a construction traffic access and signage plan indicating restrictions on the use of Le Sage Drive for review and approval by the City Engineer.

PW-2. Prior to issuance of a grading and/or building permit, the applicant shall obtain a City Encroachment Permit for all work in the City right-of way. The applicant shall provide insurance and indemnifications as reasonably required to obtain a City Encroachment Permit.

Prior to issuance of a grading permit, the applicant shall submit a structural analysis of the existing Le Sage Drive Bridge and shall implement repairs identified in the analysis to support the anticipated maximum loading.

PW-3. Prior to any site disturbing activity, the applicant shall comply with the requirements of the Water Quality Control Board Construction General Permit and shall submit a Storm Water Pollution Prevention Plan to the Water Board for approval. In addition, the applicant shall prepare a post construction Storm Water Control Plan (SWCP) for review and approval by the City Engineer. The site shall be designed to retain the 85<sup>th</sup>

Percentile 24-hour storm event, to provide biofiltration treatment systems capable of treating site runoff at a 0.2-inch per hour rainfall intensity loading rate, and shall provide peak flow attenuation such that post construction peak flows do not exceed pre-construction peak flows for the 2 thru 10 year storm events. The applicant shall identify a State Water Board qualified representative to implement and assure compliance with the program on behalf of the applicant.

- PW-4. Prior to occupancy, the applicant shall complete all on and offsite improvements in compliance with Codes and standards in effect at the time of construction as identified on the approved plans and required by these conditions of approval unless otherwise approved by the City.
- PW-5. Prior to occupancy, West Grand Avenue shall be improved between State Highway 1 and the west end of West Grand Avenue to the following cross section:
- a. Two westbound 13-foot travel lanes and one eastbound 12-foot travel lane with a 4-foot wide shoulder.
  - b. Street crossfall and drainage capacity per City standards.
  - c. An 8-foot wide all weather surface multi-purpose trail on the south side of West Grand Avenue from the Meadow Creek Bridge to the Grand Dune Trail. Wood trail fencing shall separate the shoulder from the trail as approved by the City Engineer.
  - d. 10-foot wide concrete multi-purpose path on the north side adjacent to the curb.
- PW-6. Prior to occupancy, the West Grand Avenue project frontage shall be improved as follows:
- a. Construct a decorative concrete crosswalk on the east side of the driveway entering the State Park parking lot immediately west of Meadow Creek Bridge.
  - b. Construct a decorative concrete crosswalk on the west side of the main driveway entrance to the Lodge.
  - c. Construct pedestrian scale lighting along the north side multi-purpose path.
  - d. Construct a minimum 10-foot wide landscape parkway on the north side of the multi-purpose path.
  - e. Construct a landscape irrigation system to provide adequate watering for all new landscape along West Grand Avenue.
  - f. Provide adequate signage for bicycle and pedestrian safety and provide directional signage to the Grand Dune Trail entrance and Beach Boardwalk.
- PW-7. Prior to issuance of a grading permit, the applicant shall provide verification that Pacific Crossing has approved work within the easement area. The applicant shall be responsible for all costs associated with inspections by Pacific Crossing.
- PW-8. Prior to occupancy, the applicant shall construct a new water main connecting the project site to the existing main located in West Grand Avenue at 2<sup>nd</sup> Street. The main shall be sized to provide adequate flow and pressure for domestic service and fire protection to the site. The new main shall include a blow-off and water quality sampling station to be installed per City of Grover Beach and AWWA standards. Water service to existing uses within the State Park shall be maintained at all times unless otherwise approved by the City.
- PW-9. Prior to occupancy, the applicant shall construct a looped water main system on site. The water mains shall be sized to provide adequate flow and pressure for domestic service and fire protection to the proposed buildings and site amenities.

- PW-10. Prior to occupancy, the applicant shall construct an on-site sewage collection system consisting of 8-inch or larger sewer mains sized as necessary to provide adequate sewer service to both the proposed and existing buildings and site amenities. Sewer service to the existing uses within the State Park area shall be maintained at all times unless otherwise approved by the City. The applicant shall provide access to all sewer manholes and cleanouts to the satisfaction of the City Engineer.
- PW-11. Prior to occupancy, the applicant shall either construct a new private sewage lift station and force main or utilize and upgrade the existing private lift station and force main as needed to convey sewage to the City's existing gravity sewer system located on the east side of Highway 1. The new or upgraded private sewage lift station shall be designed and constructed to provide adequate protection from sewage overflows including duplex pumping, connections for an external pump, provisions for emergency secondary power, high water level sensors, and an alarm system including both visual and audible alarms. The applicant shall submit plans for review and approval by the City Engineer.
- PW-12. Prior to occupancy, all existing and proposed dry utilities along the project frontages and within the site that serve the proposed development shall be undergrounded in accordance with City standards.
- PW-13. Prior to occupancy, the applicant shall prepare and submit mylar and electronic record drawings identifying the as-constructed location of all new public improvements located on and offsite.
- PW-14. Prior to occupancy, the applicant shall enter into a maintenance agreement with the City to require the operator of the Lodge to maintain landscape areas, irrigation systems, and drainage inlets along the project frontage.
- PW-15. Prior to occupancy, the applicant shall enter into a maintenance agreement with the City to assure adequate maintenance of all storm water detention and treatment facilities associated with the project in compliance with the approved Storm Water Control Plan.
- PW-16. Prior to occupancy, the applicant shall prepare and submit a CLOMR and LOMR to FEMA for approval to relocate the flood elevation boundaries indicated on the FIRM for the project area.
- PW-17. Prior to occupancy, the applicant shall provide a warranty bond or other securities to guarantee all new public improvements for the period of one year following occupancy.
- PW-18. Prior to issuance of a grading and/or building permit, the applicant shall design driveways to prevent tracking of gravel and/or dirt onto West Grand Avenue and Le Sage Drive.

#### FIRE DEPARTMENT

- FD-1. Installation of a NFPA 13 Fire Protection System shall be required.
- FD-2. A standpipe system shall be incorporated into the fire sprinkler system and be located in each stairwell in each building on all floors.

- FD-3. A dedicated water service sufficient to meet the requirements of the current CFC shall be supplied for the Fire Protection System to be calculated and approved by Fire Protection Engineer.
- FD-4. Prior to occupancy, locally monitored fire alarm system with battery back-up, audible and visual devices, and heat sensors shall be installed in commercial space, stairwells, walkways, and garages.
- FD-5. Prior to occupancy, fire alarm enunciator panel shall be located in the main entrance area.
- FD-6. Prior to occupancy, elevators shall be sized and rated for emergency personnel and equipment and signage posted. Elevators shall also be equipped with recall to the first floor when fire alarm sounds.
- FD-7. Prior to occupancy, if applicable, HVAC systems shall have automatic shut-off when alarm system sounds.
- FD-8. Fire Department connection shall be located at each building either on the double detector check valve or at the building at a location to be determined by the Fire Department.
- FD-9. Prior to occupancy, in compliance with CFC 912.4, a metal sign with raised letters at least one inch (25mm) in size shall be mounted on all fire department connections serving automatic sprinklers, standpipes or fire pump connections. Such signs shall read: AUTOMATIC SPRINKLERS or STANDPIPES or TEST CONNECTION or a combination thereof as applicable. Where the fire department connection does not serve the entire building, a sign shall be provided indicating the portions of the building served.
- FD-10. Prior to occupancy, fire extinguishers shall be located at each exit on each floor in a protective enclosure with appropriate signs posted.
- FD-11. Prior to occupancy, ceiling mounted exit signs (red in color) with battery back-up, and emergency lighting, shall be placed at each exit on each floor and in hallways and stairwells, indicating direction of egress.
- FD-12. Prior to occupancy, a Knox Box shall be mounted on the wall six feet from ground level at the front main entrance to each building.
- FD-13. Prior to occupancy, riser room(s) shall be posted with signage, red in color, with letters one inch minimum in height, letter stating: FIRE SPRINKLER RISER.
- FD-14. Prior to occupancy, electrical room(s) shall be posted with signage, red in color, with letters one inch minimum in height, stating: ELECTRICAL ROOM.
- FD-15. Prior to occupancy, gas meters shall be labeled with units served and signage posted, red in color, with letters one inch minimum in height, indicating the location.
- FD-16. Prior to occupancy, as per CFC 503.2.3, driveways shall be designed and maintained to support the imposed loads of fire apparatus.

- FD-17. Prior to delivery of combustible building materials on site, the hydrants and water system shall pass all required tests and be connected to the public water system.
- FD-18. Prior to construction of combustible materials, an all weather surface shall be in place to provide adequate access for emergency vehicles. The surface shall be of sufficient thickness to support the imposed load of a fire apparatus. The access for use of firefighting equipment shall be provided to the immediate job construction site at the start of construction and maintained at all times until construction is completed.
- FD-19. Prior to occupancy, all driveways shall be designated and posted as "Fire Lane, No Parking".

On motion by Council Member Nicolls, seconded by Mayor Pro Tem Lee, and on the following roll-call vote, to wit:

- AYES: Council Members Bright, Marshall, Nicolls, Mayor Pro Tem Lee, and Mayor Peterson
- NOES: Council Members – None.
- ABSENT: Council Members – None.
- ABSTAIN: Council Members – None.

the foregoing RESOLUTION NO. 14-19 was **PASSED, APPROVED, and ADOPTED** at a regular meeting by the City Council on this 7th day of April, 2014.

  
 \_\_\_\_\_  
 DEBBIE PETERSON, MAYOR

Attest:

  
 \_\_\_\_\_  
 DONNA L. MCMAHON, CITY CLERK

**STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: BRUCE BUCKINGHAM, COMMUNITY DEVELOPMENT DIRECTOR *BAB***  
**GREG RAY, PUBLIC WORKS DIRECTOR/CITY ENGINEER**

**SUBJECT: GROVER BEACH LODGE & CONFERENCE CENTER - DEVELOPMENT PERMIT APPLICATION 10-03 (APPLICANT: PACIFICA COMPANIES)**

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**BACKGROUND**

On December 2, 2013, the City Council conducted a public hearing and adopted a resolution approving the Coastal Development Permit and Site and Architectural Plans for the Grover Beach Lodge and Conference Center (reference Attachment 2, City Council Staff Report dated December 2, 2013). This culminated a public review process that included seven public hearings before the Planning Commission, City Council and California Coastal Commission spanning three and one-half years. On December 30, 2013, the City Council directed staff to reconsider the Grover Beach Lodge project based on a potential procedural issue related to filing the Local Notice of Final Action.

Subsequently, Coastal Commission staff has received two appeals on the project. The first appeal was filed by Friends of Oceano Dunes (reference Attachment 3) which contends several inconsistencies with the Coastal Act and the City's certified Local Coastal Program (LCP). The second appeal was filed by two Coastal Commissioners and is limited to the concern that a condition of approval should be added to assure compliance with the LCP shoreline armoring policy (reference Attachment 4).

On January 21, 2014 the City Council opened the public hearing and continued the item to the February 18, 2014 Council meeting. The item was subsequently continued to the March 3, March 17 and April 7, 2014 Council meetings. The purpose of the continuations was to allow additional time for the Joint Authority (State Parks and the City of Grover Beach) to address the issue regarding shoreline armoring raised in the Coastal Commission's appeal. After several meetings between State Parks' legal counsel and Coastal Commission's legal counsel, a condition has been drafted that both parties agree address the requirements of the LCP shoreline armoring policy.

Therefore, it is requested that the City Council conduct a public hearing to reconsider its previous approval of the Coastal Development Permit and Site and Architectural Plans for the Grover Beach Lodge and Conference Center.

---

**APPROVED FOR FORWARDING**



**ROBERT PERRAULT**  
**CITY MANAGER**

**Please Review for the Possibility of a Potential Conflict of Interest:**

- None Identified by Staff     Bright  
 Peterson     Marshall  
 Lee     Nicolls

**Meeting Date: April 7, 2014**

**Agenda Item No. 5**

## **DISCUSSION**

A few hours prior to the December 2, 2013 Council meeting, Coastal Commission staff contacted City staff indicating potential concerns regarding compliance with the Local Coastal Program (LCP) Policy 5.7.F.b. which was added as part of the LCP Amendment approved by the Coastal Commission in June 2013 as follows:

Armoring (including but not limited to seawalls, revetments, retaining walls, etc.) and similar responses to coastal hazards intended to protect development in the area west of Highway 1 (as shown on Figure 3) from coastal hazards (including but not limited to hazards from episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, flooding, and the interaction of same) shall be prohibited. All development in such area shall be conditioned to require that property owners expressly waive any future right to construct such armoring or similar hazard responses that may exist pursuant to Public Resources Code Section 30235 and the City of Grover Beach certified LCP. Prior to issuance of a coastal development permit, any private property owner shall execute and record a deed restriction against the property that ensures that no such armoring or similar hazard responses shall be proposed or constructed to protect the development, and which includes their waiver, on behalf of themselves and any successors or assigns, of a future right to such armoring.

In addition, as a condition of approval of any development in the area west of Highway 1 (as shown on Figure 3) the property owner shall be required to acknowledge and assume all risks from coastal hazards (including but not limited to hazards from episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, flooding, and the interaction of same) associated with development at this location, waive any claims of damage or liability against the permitting agency, and agree to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards. Prior to issuance of a coastal development permit, any private property owner shall execute and record a deed restriction against the property that explicitly assumes these risks, on behalf of themselves and any successors or assigns.

The policy requires private property owners to record deed restrictions against their property prohibiting armoring and assuming risks caused by coastal hazards. However, in this case State Parks, the property owner, is not a private property owner; therefore, there was some doubt as to whether the policy was applicable. Since there was no ability for City staff, State Parks staff, or the applicant to discuss the potential issue and/or its applicability to the project, the issue was not discussed at the December 2, 2013 Council meeting.

Subsequent to the December 2, 2013 Council meeting, the Joint Authority, consisting of State Parks and City representatives, met to discuss whether there was a need to clarify consistency with the LCP policy on armoring since the findings in the resolution approving the project indicated that the project is consistent with the applicable policies of the LCP. The Joint Authority decided to write a letter to Coastal Commission staff indicating why the Joint Authority believed the project was consistent with the policy and file the Local Notice of Final Action, which starts the 10 working day appeal period the day after the Notice is received. Consequently, the appeal period began on December 24, 2013 and ended on January 8, 2014.

On December 23, 2013, the City received a letter from an attorney representing Friends of Oceano Dunes claiming that the City had not filed the Local Notice of Final Action within the seven working days following the project approval. As discussed above, the reason for the

delay was to allow time for the Joint Authority to discuss the issue raised by Coastal Commission staff and also allow State Parks to discuss the issue with its legal counsel. Upon review of the letter from Friends of Oceano Dunes, both the City Attorney and Coastal Commission legal counsel opined that the late filing was not an issue and that any procedural issue related to a delay in filing the notice was cured upon filing the Notice. However, based on the claims raised by Friends of Oceano Dunes on this procedural issue, the City Council determined it would reconsider the project to deter any potential litigation against the City.

Therefore, the purpose of the public hearing to reconsider the project is to cure any perceived procedural issue related to filing the Local Notice of Final Action raised by Friends of Oceano Dunes. However, since the Council elected to reconsider the project, there have been two appeals of the project submitted to Coastal Commission staff. The first appeal was filed by Friends of Oceano Dunes, which contends that the project is inconsistent with the Coastal Act and the City's certified Local Coastal Program related to public access and relocation of the sewer dump station (reference Attachment 3). The second appeal was filed by two Coastal Commissioners and is limited to the concern that a condition of approval should be added to assure compliance with the LCP policy that prohibits future shoreline armoring and assuming risks from coastal hazards (reference Attachment 4).

As part of the public hearing to reconsider the approval of the project, the Council may discuss any aspect of the project. The purpose of the project reconsideration was not intended to be a review of the two project appeals; however, staff is providing a summary of the issues raised and previous information and analysis related to the issues.

**Coastal Commission Appeal**

The Coastal Commission's appeal is limited to their concern that the project approval should include a condition of approval incorporating the shoreline armoring requirements contained in LCP Policy 5.7.F.b. Since the policy is focused on the property owner waiving its rights, State Parks had its legal counsel review the issue raised in the Coastal Commission appeal. As previously mentioned, State Parks' and Coastal Commission's legal counsels have drafted a condition that they agree addresses the LCP shoreline armoring policy (reference Attachment 1 condition of approval CDD-18).

**Friends of Oceano Dunes Appeal**

The Friends of Oceano Dunes appeal cites four reasons for its appeal. The first two issues are related to maximizing public access to and along the coast and that the proposed project would obstruct access to the dunes, beach and shoreline caused by increased traffic.

The Final EIR analyzed the potential traffic impacts of the proposed project. In regards to accessing the beach, the Final EIR evaluated the intersection of Highway 1 and West Grand Avenue and concluded that Level of Service (LOS) C would be maintained in the cumulative plus project scenario as shown in the table below.

**Level of Service for the Signalized Intersection - Highway 1 and West Grand Avenue**

Condition	AM Peak Hour		PM Peak Hour		Saturday Peak Hour	
	Delay*	LOS	Delay*	LOS	Delay*	LOS
Existing	13.3	B	18.8	B	19.0	B
Existing Plus Project	13.8	B	15.2	B	19.5	B
Cumulative (Build-out)	14.5	B	19.4	B	27.9	C
Cumulative Plus Project	14.6	B	20.4	C	31.0	C

\* Delay in seconds

The Level of Service (LOS) C is the City's targeted LOS and is not considered an adverse impact based on the California Environmental Quality Act (CEQA) thresholds. The net increase in delay at the intersection in the cumulative (build-out) condition as a result of the project at the Saturday peak hour is an average of 3.1 seconds (31.0 - 27.9 seconds).

The third issue raised by Friends of Oceano Dunes indicated concerns regarding the relocation of the sewer dump station. The current recreational vehicle (RV) sewer dump station located on the project site would be relocated off-site as part of the proposed project improvements, which is consistent with the State's General Plan Amendment in 1982 and the Concession Contract between the Joint Authority and Pacifica Companies. As a result, the Joint Authority evaluated several locations within Pismo State Beach and other publicly and privately owned locations, several of which were evaluated in the Final EIR. However, most sites on State Parks owned property were infeasible based on environmental constraints.

The Joint Authority determined that the most appropriate and easily accessible site in the vicinity would be to expand the existing RV sewer dump station located in the North Beach Campground, approximately a half mile north of the current location. State Parks also believed that it would be best to have the dump station on State Parks property since it is an amenity solely for overnight campers staying in the State Park and not open to the general public. State Parks also prefers a location that they can control the operations and monitor its use to help prevent illegal discharges into the sewer system.

The Final EIR for the project analyzed the access to the proposed relocation to North Beach Campground and determined that adequate access would exist as follows:

*As noted in the project description, the proposed project would relocate the existing on-site dump station to the North Beach Campground in the City of Pismo Beach. The current RV sewer dump station will be expanded to accommodate the added demand from the existing RV sewer dump station located on the project site that would be removed by the proposed Lodge and conference center.*

*Traffic counts at the existing RV sewer dump station were taken by the State Parks from August 5, 2010 through September 12, 2010, including numerous weekend days including Labor Day weekend. Counts were taken during mid-day peaks and afternoon peaks. The highest reported average number of dump station users in the traffic count period was found to be 9.5 trailers and RVs per hour between 1:30 and 3:30 PM on Sunday, September 12, 2010. On Labor Day weekend, the peak number of users was found to be 6 trailers and RVs per hour between 1:30 and 3:30 PM on Monday, September 6, 2010.*

*This traffic would be rerouted to the North Beach Campground and would use the entrance off of Highway 1. This entrance features about 600 feet of storage for northbound left turns into the park entrance which is sufficient for 20 25-foot RVs including 5 feet between each vehicle. This storage will be more than enough to handle the current RV and trailer users and the displaced users from the Grover Beach state park area.*

In addition, City staff met with the City of Pismo Beach staff who indicated that their wastewater treatment plant has the capacity for the additional effluent. The Joint Authority is proceeding with preparing a Coastal Development Permit application for submission to the City of Pismo Beach for approval of the expansion of the existing sewer dump station. However, this does not preclude the Joint Authority from considering other viable locations for the sewer dump station if presented to the Joint Authority.

Friends of Oceano Dunes also claim that development of the proposed project, which eliminates the use of the existing vacant lot by off-highway vehicles and equestrians, would create an adverse impact. However, the use of the site has always been informal and is not explicitly provided for in the Coastal Act, the City's certified Local Coastal Program, the City's or State's General Plan, or any other State or City policy document. It should also be noted that the proposed project has included an area for the parking of over-sized vehicles consisting of approximately 10,500 square feet in the southeast corner of the site.

#### Conclusion

If the City Council adopts the attached resolution approving the Coastal Development Permit for the Grover Beach Lodge project, which also rescinds the previous resolution of approval, the appeals filed by the Coastal Commission and Friends of Ocean Dunes would become null and void. A new appeal period would begin once the Coastal Commission receives a new Notice of Final Action within the seven-day period. This would also eliminate any potential litigation related to the procedural issue raised by Friends of Oceano Dunes.

#### ALTERNATIVES

The City Council has the following alternatives to consider:

1. Conduct the public hearing and receive testimony; adopt the Resolution approving the Coastal Development Permit and Site and Architectural Plans; or
2. Provide alternative direction to staff.

#### RECOMMENDED ACTION

It is recommended that the City Council take the following actions:

1. Conduct the public hearing and receive testimony; and
2. Adopt the Resolution approving the Coastal Development Permit and Site and Architectural Plans.

#### FISCAL IMPACT

The project's fiscal impacts were previously discussed in the City Council staff report dated June 4, 2012 titled "Consideration of a Financing Plan for Public Improvements Associated with the Grover Beach Lodge and Conference Center Master Plan" and Resolution No. 12-33. A copy of the staff report and resolution are available for viewing in the City Manager's Office during normal business hours

#### PUBLIC NOTIFICATION

On January 10, 2014, the public hearing notice was published in The Tribune and mailed to all property owners located within 300 feet of the property, all occupants within 100 feet of the property, all residences in Le Sage Mobilehome Park, and posted as required by City code. Additional public hearing notices were also posted in the vicinity of the project site on State Parks property – at parking lot entrances, near the golf course club house, Fin's Seafood Restaurant, and the pedestrian access to the beach. In addition, persons who commented on the Draft EIR or previously submitted letters or emails were sent a notice via mail or email. The agenda was posted in accordance with the Brown Act. On January 21, 2014, the City Council

opened the public hearing and continued the item to the meetings on February 18, 2014, March 3, 2014, March 17, 2014 and April 7, 2014. Notices regarding the continued public hearings were posted at City Hall on January 21, February 19, March 4, 2014 and March 18, 2014.

Since the end of the public comment period on the Draft EIR until the December 2, 2013 Council meeting, the City has received 38 letters and emails regarding the project. This correspondence has previously been provided to the Council. A summary of the person submitting the correspondence, date, and comment topic is attached (reference Attachment 5). A complete copy of all correspondence is available for viewing in the City Manager's Office during normal business hours. Please note that two letters omitted from the December 2, 2013 staff report have been included in the revised attachment. The letters are from Friends of Oceano Dunes, dated July 15, 2011, and Pamela Krahl, dated July 21, 2011. Since the December 2, 2013 Council meeting, five additional letters have been received, three from Friends of Oceano Dunes (dated January 9, 2014, March 3, 2014 and March 17, 2014), and one each from Deah Rudd, and Nora and Kitt Jenae (reference Attachment 6).

April 6<sup>th</sup> - food

**ATTACHMENTS**

- 1. Draft Resolution No. 14-\_\_ Approving the Coastal Development Permit & Site and Architectural Plans with Exhibits A and B
- 2. City Council Staff Report Dated December 2, 2013
- 3. Appeal Filed by Friends of Oceano Dunes
- 4. Appeal Filed by Coastal Commissioners
- 5. Summary of Previous Public Comment Correspondence → need to get
- 6. Correspondence Received Since December 2, 2013 → need to get
- 7. Project Plans Dated November 20, 2013 (previously provided and plans are available at City Hall for viewing)

✓ have  
✓ have this  
✓ have this  
✓ have this

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
 725 FRONT STREET, SUITE 300  
 SANTA CRUZ, CA 95060-4508  
 VOICE (831) 427-4863 FAX (831) 427-4877

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

**Please Review Attached Appeal Information Sheet Prior To Completing This Form.**

**SECTION I. Appellant(s)**

Name: ~~Friends of Ocean Dunes, Inc~~, Friends of Oceano Dunes, Inc *by Jim Suth, President*  
 Mailing Address: 15131 Garcal Drive  
 City: San Jose Zip Code: 95127 Phone: 408-242-4445

**SECTION II. Decision Being Appealed**

1. Name of local/port government:

City of Grover Beach City Council

2. Brief description of development being appealed:

GROVER BEACH LODGE & CONFERENCE CENTER - DEVELOPMENT PERMIT APPLICATION 10-03  
 (APPLICANT: PACIFICA COMPANIES)

According to the City of Grover Beach's draft resolution, the applicant, Pacifica Companies, is proposing the development of a 150-room lodge with a conference center and restaurant, and construction of public amenities within Pismo State Beach on approximately 13.0 acres located at the end of West Grand Avenue within Pismo State Beach.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

The project site is situated between State Highway 1 and the Pacific Ocean in the city of Grover Beach, at the terminus of West Grand Avenue at Pismo State Beach.

Assessor's Parcel Number: 060-381-010, 060-381-011 and 060-380-002 in Grover Beach; 006-241-016 in the Pismo Beach State Park North Beach Campground .

Address: 55 West Grand Avenue  
 Grover Beach, CA 93433

4. Description of decision being appealed (check one.):

- Approval; no special conditions  
 Approval with special conditions:  
 Denial

**RECEIVED**

APR 25 2014

CALIFORNIA  
 COASTAL COMMISSION  
 CENTRAL COAST AREA

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060-4508  
VOICE (831) 427-4863 FAX (831) 427-4877



**Note:** For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

**TO BE COMPLETED BY COMMISSION:**APPEAL NO: A-3-GRB-14-0024DATE FILED: April 25, 2014DISTRICT: Central Coast**RECEIVED**

APR 25 2014

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)**

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: April 7, 2014

7. Local government's file number (if any): unknown

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Pacifica Hosts, Inc.  
1785 Hancock Street, Suite 100  
San Diego, CA 92110  
Contact: Allison Rolfe

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Bruce Van Vort, Manager of Concession at Fin's Seafood Restaurant  
25 W. Grand Ave., Grover Beach, California 93433

(2) Sharon Brown, City of Grover Beach resident, address not available.

(3) Pacifica Hosts, Inc.  
1785 Hancock Street, Suite 100  
San Diego, CA 92110  
Contact: Allison Rolfe

(4)

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)**

**SECTION IV. Reasons Supporting This Appeal**

**PLEASE NOTE:**

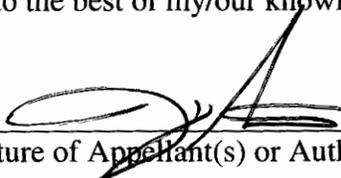
- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Please see Attachment A - Reasons Supporting This Appeal.

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**

**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.

  
\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent

Date: 4/22/14

**Note:** If signed by agent, appellant(s) must also sign below.

**Section VI. Agent Authorization**

I/We hereby authorize Thomas D. Roth, Law Offices of Thomas D. Roth  
to act as my/our representative and to bind me/us in all matters concerning this appeal.

  
\_\_\_\_\_  
Signature of Appellant(s)

Date: 4/12/14

**ATTACHMENT A: REASONS SUPPORTING FRIENDS OF  
OCEANO DUNES' APPEAL TO COASTAL COMMISSION OF THE  
GROVER BEACH CONFERENCE CENTER**

Friends of Oceano Dunes (Friends) files this appeal pursuant to Public Resources Code § 30603(a)(1) and (2).

The grounds or reasons for this appeal are that "the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in [the Coastal Act]," as generally described below. Pub. Res. Code § 30603(b)(1) and § 30210 et seq.

Additional issues and facts are provided in attached documents. Friends incorporates herein by reference prior comments, declarations, exhibits and attached documents, including but not limited to prior comments in this administrative process that support its claims:  
Ex. 1 - January 9, 2014 letter stating grounds for appeal to the California Coastal Commission; Ex. 2 – Friends' March 3, 2014 comments to the City; Ex. 3- Friends March 17, 2014 comments to the City; and Ex. 4 – Friends April 6, 2014 comments to the City; Ex. 5 – Friends' Articles of Incorporation; Ex. 6 – Declaration of Joel Suty and Supplemental Declaration of Joel Suty; Ex. 7 – Friends' 12/30/2013 powerpoint presentation to Grover Beach City Council; and Ex. 8 – pictures of staging area. To avoid duplication, exhibits to previous letters were omitted from the letter and attached as separate exhibits to this Attachment A.

**Background**

The Law Offices of Thomas D. Roth, One Market, Spear Tower, Suite 3600, San Francisco, California 94105, represents the Friends of Oceano Dunes (Friends), a California not-for-profit corporation and public watchdog association, representing approximately 28,000 members and users of the Oceano Dunes State Vehicular Recreation Area (SVRA).

Friends is the only entity exclusively representing the interests of off-road vehicle (OHV) users and visitors to the park, representing businesses, environmentalists, equestrians, campers, fishermen, families and off-road enthusiasts who enjoy the benefits of public access to the coastal zone through responsible recreation at the Oceano Dunes SVRA. Friends is dedicated to ensuring continued access to the beach and dune areas at Oceano Dunes SVRA for the park's statutorily dedicated use for OHV as

authorized under Public Resources Code, § 5090.01 et seq. The public access and recreation issues raised in this appeal are important to the continued vitality and functionality of Oceano Dunes SVRA because the area That is being slated for development as a conference center and hotel is located at one of the two main entrances to the SVRA, which is visited by millions of citizens each year.

Friends appeals the City of Grover Beach's approval of a coastal development permit (CDP) on April 7, 2014, granted to the applicant Pacifica Hosts Inc., for a lodge and conference center on beachfront property owned by the State.

Friends' chief concern is the project's **adverse impact to public access to the beach and to Oceano Dunes SVRA**. The concern has two principal elements: first, the proposed hotel and conference center intends to use land that is not available for development because it has previously been **dedicated to the public recreational use** of OHV and equestrian staging for use of the beach and Oceano Dunes SVRA.

The City is attempting to supplant a recreational facility for public use on land long ago dedicated to OHV recreational use with a private, commercial lodge. State Parks, the present owner of the property, intends to lease the land to the developer. However, State Parks, the City, and this Commission lack any legal authority to execute a lease, approve a project or issue a permit to construct a private development on land that prior to 1972 was impliedly dedicated to public recreational use as a OHV staging area, enabling access to the beach and the SVRA.<sup>1</sup>

Second, the elimination of the staging area for OHV, RV and equestrian vehicles and trailers needing to prepare for beach and dunes access, combined with hotel and conference center visitation, will significantly worsen local traffic and further impede public access to the beach, shoreline and dunes. The project also removes and relocates

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<sup>1</sup> The proposed conference center and hotel seeks to eliminate the staging area and reduce the current wide, open-spaced OHV implied dedication to a postage-stamp size area (less than ¼ acre) for the parking of over-sized RV and equestrian trailers. This area is designated by the City as a parking lot both for the general public and hotel visitors, meaning it often will not be available for RVs and horse trailers. Even the project's prior proposal for RV parking was 36,992 sf, or close to 4 times as large as the final proposal.

another coastal recreational facility – the RV dump station –in order to make room for the private, commercial hotel.

The City's approval and proposed actions to eliminate, shrink and move these long-standing recreational facilities are inconsistent with the state Constitution, the Coastal Act, and the City's certified Local Coastal Program (LCP).

### **Summary of the Significant Questions Raised in this Appeal**

#### **A. This Development Does Not Conform to the City's LCP or the Coastal Act's Public Access Policies.**

This proposed development, the Grover Beach Lodge and Conference Center (the "Project"), fails to conform to the standards set forth in the City's LCP as well as the public access policies set forth in the Coastal Act, Public Resources Code, § 30000 et seq.

Public Resources Code § 30211 mandates that "[d]evelopment shall not interfere with the public's right of access to the sea *where acquired through use* or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation."

Oceano Dunes SVRA is unique among state parks. Oceano Dunes SVRA is one of the few facilities in California expressly established for OHV recreational activities and RV beach camping. As a result, public access to this park requires consideration of factors that might not be considered at other coastal parks or beaches. Specifically, the right of public access and recreational opportunities must include the provision and maintenance of staging and parking facilities that serve the unique and special purpose of the SVRA – a controlled and regulated area set aside for OHV recreation and RV beach camping. Without such facilities, users of the SVRA do not have adequate and sustainable access.

The City's failure to comply its Commission–certified LCP, Coastal Act policies and the State constitution include but are not limited to the following:

1. The Coastal Act, State Constitution and Certified LCP All Emphasize Maximum Public Access and Recreational Opportunities.

The right of access to coastal areas and recreational opportunities addressed in this administrative appeal affect millions of people who travel to Oceano Dunes SVRA and the beach each year. In this administrative process, Friends has cited numerous provisions of the Coastal Act *mandating* public access policies of *protecting and maximizing* public access and recreational opportunities that implement the Constitutional *mandate* that public access and recreational opportunities *shall be provided and protected*. (See, e.g., Public Resources Code, §§ 30001.5 (c) ("*Maximize public access to and along the coast and maximize public recreational opportunities* in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners."); See also, §§ 30220-30224 re recreational use priority; 30210 ("In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and *recreational opportunities shall be provided* for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse."); 30211 ("*Development shall not interfere with the public's right of access to the sea where acquired through use* or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation."); 30213 ("*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*"); 30214(b) ("The Legislature made it clear that "[n]othing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution" that provides the public with a "constitutional right of access"); 30220 ("Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas *shall be protected* for such uses."))

The City's LCP likewise incorporates the Constitutional mandate of maximizing public access and recreational opportunities as well as the above referenced Coastal Act policies. The City's LCP recognizes the importance of this Constitutional mandate in *LCP 5.5 Conformance with Coastal Act Policies. 5.5.1.A. Maximum Access and Recreation Opportunities*. "Provision of "maximum access" to the shoreline is, of course, one of the cornerstones of the Coastal Act." (Ex. 1, January 9, 2014

letter stating grounds for appeal to the California Coastal Commission; Ex. 3- Dunes GB Comments March 17, 2014) The City's LCP, *Section 5.1. Introduction for the Public Access and Recreation Component*, recognizes that "[p]rovision of coastal access was a primary concern of California voters who approved the Coastal Zone Management Initiative in 1973." (Ex. 1, January 9, 2014 letter stating grounds for appeal to the California Coastal Commission.)

2. This Development Fails to Conform to the Standards in the Coastal Act and the City's LCP That Require Protection and Preservation of Existing Recreational Facilities, such as the OHV and RV Staging Area and the RV Dump Station.

As stated above, the State constitution, Coastal Act and LCP recognize that the public's right of access and recreational opportunities should be maximized.

Oceano Dunes SVRA provides unique recreational opportunities, such as OHV riding on the dunes, driving on the beach and RV camping on the beach. To ensure adequate public access, these unique recreational opportunities require facilities, such as the OHV/RV staging area and the RV dump station, that might not be needed at other beaches or parks that don't allow these particular recreational activities.

The City's LCP also requires **preserving existing public recreational facilities**. City Policy 5. 7.E.1.b states that "*Existing public recreational facilities should be preserved.*"

The OHV/RV staging area off of Grand Avenue (on the site now slated for the hotel) has existed since the 1960s – more than 50 years. The Project eliminates this area as a staging facility, simply dismissing it as an "informal use." An informal use that has existed for more than 50 years is no longer "informal." As argued herein, this consistent use meets the standards for an implied dedication of land to the public for use as a recreational staging area for OHV, RVs and equestrians using the SVRA and beach. The City has no legal authority to eliminate such a use because to do so violates LCP Policy 5.7.E.1.b, and also because it is contrary to the implied dedication for OHV/RV recreational purposes that has existed for more than 50 years.

The City's approval further violates its own LCP by effectively obstructing long-standing public access. LCP *5.7 Recommendations. A.*

*Maximum Access. 1.a Policy mandates that development shall not obstruct access to the dunes, beach and shoreline:*

"No future development shall be permitted which obstructs access to the dunes, beach and shoreline from Highway 1 within the City limits. New development west of Highway 1 shall provide access to the dunes, beach and shoreline if adequate access does not already exist nearby."

Obstruct means not only to block, but also to "hinder" and "impede." Webster's New World Dictionary. Eliminating a staging area necessary for OHV, RVs and equestrians before they can access the dunes, beach and shoreline "hinders" and "impedes" that public access and shoreline recreation.

In addition, "access" as used in the Coastal Act must be construed liberally in order to achieve the Coastal Act's objectives to provide maximum public access and recreational opportunities. § 30009 ("This division shall be liberally construed to accomplish its purposes and objectives.") The Coastal Act and the City's LCP make clear that one tool to implement public access is the provision of recreational facilities. Access is hindered and impeded when the recreational facilities are relocated, or, in the case of the dedicated OHV/RV staging area, eliminated. Access is also limited when recreational facilities such as the RV dump station lose functionality because they can no longer accommodate the expected volume of use. The City therefore has not met these access standards.

Given the unique recreational opportunities at Oceano Dunes SVRA, the City's LCP provides for recreational facilities – namely, "public recreational access services," "recreational support facilities," or "all other public access amenities."

For instance, the City's LCP, 5.5.2 RECREATIONAL SUPPORT FACILITIES, recognizes the importance of "recreational support facilities," such as "large off-beach parking" lots (which is one of the functions of the OHV staging area), and sanitation stations (RV dump station). *LCP 5.7 Recommendations. D. Recreational Support Facilities* requires that the City "[e]nsure that adequate parking and other recreational support facilities are available to the public." (Emphasis added.) *Policy 1.a of LCP 5.7 Recommendations. D. Recreational Support Facilities* indicates that "support facilities" include "public amenities," such as parking and additional public restrooms. (Ex. 1, January 9, 2014 letter stating grounds for appeal to the California Coastal Commission.)

Likewise, the City's LCP amendment certified by the Commission (with modifications to Chapter 5 Public Access and Recreation Component and Chapter 6 Public Works) requires this Project to ensure that visitors to Pismo State Beach are provided "public recreational access services." (Ex. 1, January 9, 2014 letter stating grounds for appeal to the California Coastal Commission.)

The City's LCP thus expressly states that the recreational facilities should be adequate and available to the public. Like the access standard, adequacy and availability mean more than simply providing a physical space for OHV staging or RV Dump Station. The space is not adequate and available when the recreational facilities are not functional to the intended uses and purposes, as in this case. If the recreational facilities are not adequate and available, then public access is obstructed and impaired.

The Project does not meet these standards.

3. The LCP Policies Recognize that Public Access is Not Limited to Roadways and Paths, But Also Includes Facilities Needed to Access to the Recreational Facilities.

The City effectively contends that public access is limited to the provision of roads and bike paths. To the contrary, the City's LCP recognizes that public access infrastructure has two primary components of (1) the roads, bike paths and trails that transport the public to the beach and/or SVRA and (2) the recreational support facilities (OHV staging area and RV dump station) that visitors must use before entering the SVRA and after exiting the SVRA before the trip home.

The provision of adequate recreational facilities is essential given the special dedicated nature of the SVRA under Public Resources Code 5090 et seq., i.e., Pub. Res. Code § 5090.35 [SVRA areas shall be developed, managed, and operated for the purpose of making the "**fullest public use of the outdoor recreational opportunities present**"]

This is because most visitors to Oceano Dunes SVRA want to participate in the unique recreational opportunities of OHV riding, RV camping, beach driving and horse riding, which requires a staging area before entering the SVRA. These recreational facilities thus are the interconnecting public access link between the roadway infrastructure and the recreational use of the SVRA.

The City's LCP recognizes both roadway infrastructure and recreational facility infrastructure needed for Oceano Dunes SVRA. The City's LCP mandates that "all forms of access to the project and to the beach area" be "facilitate[d]." (Chapter 5 Public Access and Recreation Component, 5.7 Recommendations, F. Private Visitor-Serving and Recreational Facilities, 1. Policies, 6, recently amended) LCP Section 6.7.3 *Circulation* also provides policies recognizing access infrastructure is both roads and interrelated facilities: "5 Policy: *All development shall be sited and designed to maximize public recreational access opportunities, including through providing meaningful and useful connections to and from roads, trails, and other such facilities and areas that provide access to and through the City's coastal zone and along the shoreline.* Development shall accommodate all modes of circulation (including vehicular, pedestrian, bicycle, etc.) *in a way that facilitates and enhances public recreational access to and along the shoreline.*" (Ex. 1, January 9, 2014 letter stating grounds for appeal to the California Coastal Commission)

Public access to Oceano Dunes SVRA thus includes freeways, roads, paths, trails, etc) and recreational support facilities, such as the staging area and RV dump station, as the facilities needed to provide maximum access to the beach/dunes and recreational opportunities. (Ex. 1, January 9, 2014 letter stating grounds for appeal to the California Coastal Commission; Ex. 2 – Friends' March 3, 2014 comments to the City; Ex. 3- Dunes GB Comments March 17, 2014)

The City's approval, however, fails to meet these standards since it eliminates the staging area, drastically reduces parking for large RVs and trailers, and undermines the functionality of the RV dump station.

#### 4. The City Misinterprets Its LCP By Emphasizing Only the Benefits of the Hotel for Public Access and Essentially Ignoring the Project's Destruction of the Historical and Long-Standing OHV/RV Staging Area.

The City's approval dismisses impacts to OHV recreational facilities and focuses only on the benefits of the hotel and conference center.

The OHV/RV staging area and the RV Dump Station are the public recreational access services, recreational support facilities, or public access amenities that are part of the structural facilities in the chain of access ways to the beach and dunes. City Policy 5. 7.E.1.b, quoted in the Resolution states that "*Existing public recreational facilities should be*

*preserved.* The City in cooperation with the California Department of Parks and Recreation should pursue every opportunity to provide additional lower-cost recreational facilities." The Resolution then concludes that the "proposed project will retain and enhance recreational facilities within Pismo State Beach." This is untrue. The City is not retaining and enhancing existing public recreational facilities, but instead is doing just the opposite by diminishing/extinguishing the existing OHV/RV staging area and the RV Dump Station.

The City appears to believe that recreational facilities are limited to those facilities for visitors to the new hotel and conference center; it has eliminated or rendered dysfunctional the existing and historical recreational facilities needed for OHV users of the SVRA. As stated in the Draft Resolution findings:

"Policy 5.7. F. 1. a. The City shall ensure that visitors to the Pismo State Beach are provided with *easily accessible, visitor-serving commercial and public recreational access services, particularly those relating to provision of food and lodging and beach related uses*, in any new development in the Coastal Planned Commercial area west of Highway 1 ..... The area west of Highway 1 shall be developed with visitor serving uses, including a lodge and conference center within the portion of Pismo State Beach shown in Figure 3."

The City finds conformity:

"The project will provide a visitor serving use consisting of lodging, conference center, and restaurant. *The project also provides enhanced access to the existing and redeveloped recreational facilities, such as the public plaza. A second story public viewing area is also provided for views of the shoreline and ocean.*" (Emphasis added)

The City also finds conformity with the development standards for the C-P-C Zone as required by the Zoning Code in its Draft Resolution:

The standard is "(M) That *all development in this area be required to maintain or enhance public access to and along the shoreline based on the development's impact on public access.*" (Emphasis added)

The City finds compliance: "The project will provide improved public access from Highway 1 to the beach by *enhancing public walkways and providing enhanced public amenities.* The project is on the inland side of the existing dunes and has no effect on the use of the beach. *The project*

*will have no adverse effect either individually or cumulatively on public access to the shoreline or along the coast because the project does not change existing access points to the beach or inhibit access from the beach to the ocean and water oriented recreational activities. The project is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act (commencing with Section 30200)."*

"Existing public recreational facilities" are not "preserved," maintained or enhanced when the *public use* OHV/RV staging area and the RV Dump Station are removed and replaced with different recreational uses for the *private, commercial hotel*. As Friends has stated repeatedly, the City's failure to maintain the existing OHV recreational services constitutes an obstruction of public access contrary also to LCP 5.7 *Recommendations. A. Maximum Access. 1.a Policy that mandates* development shall not obstruct access to the dunes, beach and shoreline.

5. The Increased Traffic Caused by the Development Obstructs OHV/RV Users' Access to the Coast, As Well As Recreational Opportunities at the SVRA. The LCP and Final Environmental Impact Report (FEIR) analysis is based on the assumption that LCP measures have been fully implemented. However, the City's LCP never implemented Department of Transportation's traffic management strategies for Grand Avenue to reduce present and future conflicts between design capacity and peak use demand. Moreover, even assuming that this new standard is operational, the Project did not adequately consider the impacts of the West Grand Avenue Master Plan or evaluate the Project under these new standards. In addition, the City's LCP, which was recently amended for this Project, did not change the findings in its LCP that traffic, congestion and capacity are already an issue for the SVRA access points and surrounding areas, or adequately analyze how the cumulative impact of adding traffic from the project (including induced growth) and simultaneously eliminating the OHV staging area, and drastically reducing RV parking and the functionality of the dump station will impede effective access to the beach, shoreline, dunes and SVRA.

In addition, Pub. Res. Code § 30212.5 and the LCP (page 65) require parking areas or facilities sufficient to mitigate against adverse impacts of crowding or overuse of a single area. The City's elimination of the long-standing staging area, reduction in RV parking and reduction in RV dumping functionality will result in overuse of areas that further impedes access to the coast, shoreline, beach and dunes.

6. The Applicant Failed to Demonstrate That It Has Authority to Build on Land That Is Dedicated to the Public for Use as an OHV/RV Staging Area. Pursuant to Pub. Res. Code § 30601.5, the applicant for this Project has not "demonstrate[d] the authority to comply with all conditions of approval" because it does not own the underlying land that is subject to the implied public dedication and does not have a legal right to a lease or a permit to construct and use the land subject to the OHV implied dedication for purposes inconsistent with that dedication.

In the 1960s, and for a period exceeding five years, hundreds of members of the public used a large portion of the current site of the proposed hotel/conference center as a staging area for OHV/RV access to the dunes and the beach. This constituted an implied dedication of the area to the public for use as a recreation staging area for OHV and RVs/ accessing the beach and the dunes (as an easement or fee). Because this implied dedication occurred in the late 1960s and perhaps 1970, it predated Civil Code § 1009, and thus the dedication must be analyzed under the California Supreme Court standard articulated in *Gion v. City of Santa Cruz* (1970). The land is dedicated to this public recreational use as an OHV/RV staging area because it was used for a period exceeding 5 years by the public without significant objection by the private landowner, or with acquiescence of the private owner. It was accepted by public use. *Helm v. McClure* (1895). The public's rights to this area became vested prior to the adoption of Civ. Code § 1009, and also prior to the acquisition of the area by the State in late 1971. It has been in continual use as an OHV/RV staging area since the late 1960s, and its use as such has been readily apparent since that time.

The State purchased the land subject to the vested public dedication rights, and is obligated to maintain the area for its original dedication purpose, i.e., OHV/RV staging for recreational use of the beach, shoreline and dunes. The implied dedication to the public does not extend to such broad uses as a hotel and conference center, which serves purposes different than a staging area. The implied dedication survives the State's ownership, and the State remained (post acquisition) and remains obligated to maintain the original dedication. Indeed, the State did just that for the past 50 years, and only with the City's approval of the CDP for the hotel/conference center in April 2014 has the State purported to implement a use inconsistent with the implied dedication to OHV/RV

staging purposes. The real property interest vested in the public (by public trust) may not be extinguished and survives presently.

For these reasons, the City's approval is unlawful and exceeds its authority since the land cannot be converted to hotel/conference center purposes. See also Pub. Res. Code § 30005.5 ["Nothing in this division shall be construed to authorize any local government, or to authorize the commission to require any local government, to exercise any power it does not already have under the Constitution and **laws of this state** or that is not specifically delegated pursuant to Section 30519."]

7. The Project is also inconsistent with State Park's General Development Plan (GDP) for Pismo Dunes State Vehicular Recreation Area, now Oceano Dunes SVRA, by taking away the staging area plan that the GDP stated is needed for off-highway vehicle recreational activities, and has been historically provided and used for years. The Final EIR for this project states that Joint Powers Agreement between City and State Parks requires that the Project comply with the State Park System Plan 2002. The GDP makes it clear that the staging area is a recreational area to enable, enhance and maximize OHV users' access to the coast and recreational opportunities at SVRA. For the reasons stated herein, the City's approval is inconsistent with this standard.

8. Relocation and Downsizing of the RV Dump Station Will Result in Traffic Impacts and Congestion, Thus Obstructing and Impairing OHV Users' Access to the Coast and Recreational Opportunities at the SVRA. Relocating and downsizing the existing RV dump station will *decrease availability of this recreational support facility* by causing or contributing to more traffic congestion and further impede public access to the coastal zone and is located in an area near or adjacent to wetlands that will preclude future expansion when needed in violation of the LCP recreational support facilities provisions. The City's approval violates this standard.<sup>2</sup>

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<sup>2</sup> LCP 5.7 Recommendations. D. Recreational Support Facilities. 2. Actions. b. states that "[e]xisting and future sanitation stations shall be well signed in the vicinity of the beach and on all coastal access routes. The provision of the existing public dumping station with sewer services by the San Luis Obispo County Sanitation District should be facilitated to make more hours of station service economically feasible." Compliance with this provision is also suspect.

9. Neither the City Nor the Commission Has Authority to Issue a CDP for a Project Partially on Public Trust Lands (the Lands Impliedly Dedicated to the Public Recreational Use of OHV/RV Staging).

After the LCP is certified, the development review authority shall be delegated to the local government, except for development on public trust lands. Since the proposed development is partially on land impliedly dedicated to the public and held in public trust for recreational OHV/RV staging, the City lacked authority to issue an approval.

Likewise, the Commission has no authority to approve a change in the use on the land to hotel/conference center, when the land has been impliedly dedicated by easement or fee to the public trust for recreation OHV/RV staging. That use has vested and cannot be changed.

**B. This Appeal Raises Significant Questions Under PRC § 30625(b) As To Conformity with the City's LCP and Public Access and Public Recreation Policies of the Coastal Act.**

As listed above, there are substantial issues and significant questions regarding the development's failure to conform to the standards set forth in the City's LCP, the Coastal Act and the Constitution.

The public's substantial interest in access to the beach, shoreline and SVRA will continue to be burdened with unlawful limitations by the City – limitations that are not consistent with its LCP, the State constitution, and the Coastal Act policies for public access and public recreation.

The Commission cannot make the requisite findings that this development is in conformity with the LCP or the public access and public recreational policies of the Coastal Act.

On appeal, the Commission can approve the CDP only if it "finds that the proposed development is in conformity with the certified local coastal program." (Public Resources Code § 30604(b).) Furthermore, "every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that such development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200)" of the Coastal Act. (Public Resources Code § 30604(c).)

The Commission cannot make these findings for the reasons stated herein and in the referenced incorporated documents. However, even if the Commission somehow finds conformity with the LCP or Coastal Act policies, the Commission does not have the authority to issue or approve a CDP on the OHV public dedicated land, and thus the CDP could be revoked or voided.

**Ex. 1**

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January 9, 2014

California Coastal Commission  
Central Coast District Office  
Dan Carl, Deputy Director  
Madeline Cavalieri, District Manager  
725 Front Street, Suite 300  
Santa Cruz, CA 95060-4508

**Re: Friends of Oceano Dunes' Supplemental Information Re Appeal of  
City of Grover Beach's Approval of Coastal Development Permit Application  
No. 10-03 (Grover Beach Lodge and Conference Center, Applicant Pacifica  
Companies)**

Dear Mr. Carl and Ms. Cavalieri:

This firm represents the Friends of Oceano Dunes (Friends), a California not-for-profit corporation and watchdog association, representing approximately 28,000 members and users of the Oceano Dunes State Vehicular Recreation Area (SVRA). Friends represents businesses, environmentalists, equestrians, campers, fishermen, families and off-road enthusiasts who enjoy the benefits of public access to the coastal zone through responsible recreation at the Oceano Dunes SVRA.

The proposed Grover Beach Lodge and Conference Center (the "Project"), will negatively impact public access to the coastal zone and Oceano Dunes SVRA. In accordance with the appeals form, Friends is submitting this "additional information to the staff and/or Commission to support the appeal request."

Friends was formed in 2001 for the express purpose of "preserving and developing recreational uses" in the "Oceano Dunes area" of San Luis Obispo County. (See Articles of Incorporation submitted herewith.) Friends' members live near, use, recreate, visit and personally enjoy the aesthetic, wildlife and recreational resources of the dunes area, including hiking, exploring and observing wildlife. Friends is a public watchdog organization that has been monitoring the rule-makings and other governmental agency operations and activities that might affect this state park since 2001.

Oceano Dunes SVRA is a popular tourism facility for the City. See, *Goal LU-23: Create an identity for the City that will enhance its image as a tourist*

*destination. Policies. LU-23.1. Promote the City's image.* ("The City will promote the City's tourist amenities including the Oceano Dunes State Vehicular Recreational Area ....") A 2006 study by State Parks reported that there were 2,076,000 visitors to SVRA in 2005. Holiday weekends show higher rates of visitation than the other times of year. "For example, Memorial Day Weekend 2004 saw an estimated 60,000 visitors to the park."  
([http://www.slostateparks.com/pdf/ODSVRA\\_Alternative\\_Access\\_Study.pdf](http://www.slostateparks.com/pdf/ODSVRA_Alternative_Access_Study.pdf), p. 11.)

Thus, the right of access to coastal areas and recreational opportunities addressed in this administrative appeal affect millions of people who travel to Oceano Dunes SVRA and the beach in the state park. The proposed Project's negative impacts on users of Oceano Dunes SVRA include:

1. Relocation and reduction in size and functionality of the long-standing staging area used by OHV/recreational vehicles (RV), enabling millions of people to access Oceano Dunes SVRA. This obstructs and impairs OHV users' access to the coast and recreational opportunities at SVRA.
2. Relocation and downsizing of the RV Dump Station resulting in traffic impacts and congestion, thus obstructing and impairing OHV users' access to the coast and recreational opportunities at the SVRA.
3. Increased traffic, congestion, impeded circulation and delays, including from the construction for this Project, thus obstructing and impairing OHV users' access to the coast and recreational opportunities at the SVRA. The LCP and FEIR analysis is based on the assumption that LCP measures fully implemented. However, the City's LCP apparently never implemented Department of Transportation traffic management strategies for Grand Avenue to reduce present and future conflicts between design capacity and peak use demand. Moreover, even assuming this new standard was operative, the Project did not adequately consider the impacts of the West Grand Avenue Master Plan or evaluate the Project under these new standards.

In sum, the Project impairs public access by OHV users by failing to address adequately traffic and vehicle circulation impacts, in part by failing to address congestion generated by this Project. This will result in delays entering and exiting the SVRA, and obstruct and impair public access to the dunes, beach and shoreline at Oceano Dunes SVRA in violation of the City's LCP, the Coastal Act and the California Constitution.

This appeal is filed pursuant to Public Resources Code § 30603(a)(1) as the City of Grover Beach (City) approved a Coastal Development Permit (CDP) for the Project that is located "between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance." The public access and recreation issues raised in this appeal are important to the continued vitality and functionality of Oceano Dunes SVRA because the Project area is located at one of the main entrances to the SVRA.

The grounds or reasons for this appeal are that "the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in [the Coastal Act]," as generally described below. Public Resources Code § 30603(b)(1); see also, Public Resource Code § 30200.

## **1. The Project As Proposed Violates Constitutional, Statutory and LCP Standards**

### **1.1 Article X, Section 4 of the California Constitution mandates maximum public access to the coast and recreational opportunities in the coastal zone.**

The California Coastal Act, Public Resources Code, § 30210 states that "carrying out the requirement of Section 4 of Article X of the California Constitution" requires "maximum access" and "recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse." The Coastal Act requires that "[e]ach local coastal program prepared pursuant to this chapter shall contain a specific public access component to assure that maximum public access to the coast and public recreation areas is provided." Public Resources Code § 30500(a).

The Legislature made it clear that "[n]othing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution" that provides the public with a "constitutional right of access." Public Resources Code, § 30214(b). Maximizing public access to the coast and maximizing public recreational opportunities in the coastal zone are one of the core principles of the Coastal Act. Public Resources Code § 30001.5(c); See also, §§ 30220-30224 re recreational use priority.

The City's LCP, *Section 5.1. Introduction for the Public Access and Recreation Component*, recognizes that "[p]rovision of coastal access was a primary concern of California voters who approved the Coastal Zone Management Initiative in 1973." The Legislature made it clear that even legislative authorization of a development cannot impair these public access rights. Public Resources Code § 30211. ("Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.") The Legislature made it clear that "Nothing in this division shall be construed to authorize any local government, or to authorize the commission to require any local government, to exercise any power it does not already have under the Constitution and laws of this state or that is not specifically delegated pursuant to Section 30519." Public Resources Code § 30005.5. And, to achieve and protect the public's rights, "This division shall be liberally construed to accomplish its purposes and objectives." Public Resources Code § 30009.

**1.2. The public's access and use rights are so important that the Legislature expressly established that in this Project "[d]evelopment will not impact the resources or the public's use of the state park." Public Resources Code § 5003.02.1(b)(3).**

Thus, any development ultimately approved must ensure that public access to the park is not obstructed or impaired.

**2. The CDP Approved by the City Exceeds its LCP Standards Mandating Maximizing Public Access to and Along the Coast and Maximizing Public Recreational Opportunities in the Coastal Zone.**

The City's LCP recognizes the importance of this Constitutional mandate in *LCP 5.5 Conformance with Coastal Act Policies. 5.5.1.A. Maximum Access and Recreation Opportunities*. "Section 30210 of the Coastal Act is the most comprehensive of the Act's policies concerning shoreline access and recreation. For this reason, in order to determine the extent to which the City and the California Department of Parks and Recreation are or are not in compliance with this policy, several points will need to be addressed." The first point relates to maximum access and specifically at the ramp entrance to the SVRA:

"A. MAXIMUM ACCESS

*Provision of "maximum access" to the shoreline is, of course, one of the cornerstones of the Coastal Act. There are points of access to various interconnected parts of Pismo State Beach and the adjoining Vehicular Recreation Area. One of these accessways, the ramp entrance which lies at the foot of Grand Avenue, is located within Grover Beach limits." LCP 5.5 Conformance with Coastal Act Policies. 5.5.1. Maximum Access and Recreation Opportunities, A. Maximum Access. "The Grand Avenue ramp provides beach access for approximately 51 percent of the beach's visitors."*

LCP, 5.2.2 BEACH ACCESS.

The City's LCP amendment certified by the Commission (with modifications to Chapter 5 Public Access and Recreation Component and Chapter 6 Public Works)<sup>1</sup> requires this Project to ensure that visitors to Pismo State Beach are provided "public recreational access services:"

"The City shall ensure that visitors to the Pismo State Beach are provided with easily accessible visitor-serving commercial and

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<sup>1</sup> (Commission Staff Report June 2013)  
<http://documents.coastal.ca.gov/reports/2013/6/F10a-6-2013.pdf> ) Chapter 5 Public Access and Recreation Component, 5.7 Recommendations, F. Private Visitor-Serving and Recreational Facilities, 1. Policies, a.

public recreational access services, particularly those relating to provision of food and lodging and beach related uses, in any new development in the Coastal Planned Commercial area west of Highway 1."

The public's rights are so important that the Legislature further provided that "[d]evelopment [of the Project] will not impact the resources or the public's use of the state park." Public Resources Code § 5003.02.1(b)(3).

Public access to the coast and to recreational opportunities are not maximized, but instead are impaired because the proposed Project obstructs and impedes access by eliminating the long-standing and well-functioning staging area and by ignoring the operational needs of OHV users of a park established specifically under state law for their recreational uses.

### **3. The Law Requires Protection of Existing and Future Public Access and Recreational Opportunities at Oceano Dunes SVRA.**

The Commission recognizes that coastal resource constraints include not only environmental constraints, but also protection of public access and recreation. California Coastal Commission, *Draft Sea-Level Rise Policy Guidance* (October 14, 2013) ("In addition, designing to meet FEMA requirements may be in conflict other resource constraints, such as protection of visual resources, community character, and public access and recreation."), p. 70.

The constraint of public access and recreation as applied to this case needs to be evaluated to determine how the Project impacts existing public access and recreation. The Commission's *Draft Sea-Level Rise Policy Guidance* sets forth how the "Coastal Act requires that development avoid impacts to coastal resources" (p. 71). "*Public access and recreation resources include lateral and vertical public accessways, public access easements, beaches, recreation areas, public trust lands, and trails, including the California Coastal Trail.*" (p. 73, emphasis added.) One part of the coastal resource analysis is to "Identify locations of the proposed project site that can *support development without encroachment onto the existing or future locations of these access locations.*" (Id.)

Section 30211 of the Public Resources Code mandates that "development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation." Section 30221 provides that "oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area." Further, "[d]evelopment will not impact the resources or the public's use of the state park." Public Resources Code § 5003.02.1(b)(3).

Any CDP application for development should evaluate both historical access on the site and impacts to existing and future public access and recreation

from the proposed development. Development should not impede any public access rights that exist and should provide for continued public recreational use of the site.

**4. The CDP Exceeds Applicable LCP standards by Relocating, Adversely Impacting and Decreasing Recreational Support Facilities, Including the OHV/RV Staging Area and RV Dump Station That Are Essential for Unimpeded Coastal Access and Recreational Opportunities at the Oceano Dunes SVRA.**

Recreational support facilities are instrumental to providing access to the SVRA and its unique recreational uses. The LCP recognizes the importance of recreational support facilities and how even visual appearance can make the facilities not inviting to park visitors:

**"5.5.2 RECREATIONAL SUPPORT FACILITIES**

Public restrooms, picnic area, and a large off-beach parking lot are located at the end of Grand Avenue near the entrance station to the beach. *These support facilities were previously identified as serious needs. Currently, lack of landscaping, however, makes this area not very inviting to visitors.*" (Emphasis added.)

*LCP 5.7 Recommendations. D. Recreational Support Facilities* requires that the City "[e]nsure that adequate parking and other recreational support facilities are available to the public." (Emphasis added.) *Policy 1.a of LCP 5.7 Recommendations. D. Recreational Support Facilities* indicates that "support facilities" include "public amenities, such as parking and additional public restrooms." *LCP 5.7 Recommendations. D. Recreational Support Facilities. 2. Actions. b.* states that "[e]xisting and future sanitation stations shall be well signed in the vicinity of the beach and on all coastal access routes. The provision of the existing public dumping station with sewer services by the San Luis Obispo County Sanitation District should be facilitated to make more hours of station service economically feasible." *LCP 5.7 Recommendations. A. Maximum Access. 1.a Policy* mandates development shall not obstruct access to the dunes, beach and shoreline:

"No future development shall be permitted which obstructs access to the dunes, beach and shoreline from Highway 1 within the City limits. New development west of Highway 1 shall provide access to the dunes, beach and shoreline if adequate access does not already exist nearby."

The OHV Staging Area and the RV Dump Station are recreational support facilities that are relocated, downsized and rendered ineffective by the proposed Project. The absence of adequate facilities will mean frustration, delay, congestion, and thus obstruct visitors from accessing the unique coast and public recreational activities.

State Parks has allowed a staging area on the proposed Project site for OHVs/Recreational Vehicles (RVs) and equestrian staging since 1982. Yet, the proposed new staging area discussed in the FEIR describes the relocation and creation of a new staging area for horses only and is silent about staging facilities for OHVs/RVs.

In terms of capacity, use and traffic, the proposed staging area is based only on how many horse trailers use the staging area, and thus the total use/capacity will be less than a capacity/use that also factors in RV/OHV users:

"Current use is estimated to be an average of five horse trailers at any one time on the property, although as many as 12 horse trailers at any one time have been counted on the site." [FEIR, Executive Summary, p. ES-11; FEIR, Chapter 2, Project Description, p. 2-20]

"A daily average of five horse trailers have parked on the site during a State Parks survey conducted during 2010." [FEIR, Chapter 4.8 Transportation-Traffic, p.4-151]

In terms of use and maneuverability, the staging area design is based only on the size, length and width of horse trailers:

"The applicant has included, in the proposed equestrian staging area, pull-through parking spaces with sufficient room to unload horse trailers in the proposed equestrian staging area, located south of West Grand Avenue in an area currently in disturbed dune habitat. The area would accommodate approximately 10 to 15 trailers, depending on size and configuration." [FEIR, Executive Summary, p. ES-11; FEIR, Chapter 2, Project Description, p. 2-20]

The area identified to offset the staging area is too small and thus will not accommodate large RVs (65' in length), and busy weekends will require more space for equestrians and OHV access. The Project does not provide the space needed for RVs and trucks towing off-highway vehicles or horse trailers to unload and turn around. Instead, the Project proposes to provide large vehicle parking by allowing larger vehicles to use "two stalls" in a pull-through parking space/stall, which will not work because the length of the pull-through is only 40 feet and large vehicles will not be able to circulate through the area because the turning radiuses are too sharp.

This Project also proposes to relocate a RV dump station to join an existing RV dump station that will *decrease availability of this recreational support facility* by causing or contributing to more traffic congestion and further impede public access to the coastal zone and is located in an area near or adjacent to wetlands that will preclude future expansion when needed in violation of the LCP recreational support facilities provisions discussed above. And, the campground may need to be reconfigured. This violates § 30212.5: "Wherever appropriate and feasible, *public facilities*, including parking areas or facilities, *shall be distributed throughout an area* so as to *mitigate against the impacts, social and otherwise, of*

*overcrowding or overuse by the public of any single area.*" (Emphasis added.) This also violates one of the basic goals for the coastal zone: "Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state." Public Resources Code § 30001.5(b).

Relocating the RV dump station means all RVs will need to use Highway 1 through Butterfly Grove, which will cause congestion, particularly on peak times, such as busy weekends, and there are no large gas stations on Highway 1. In terms of the RV dump station, the larger vehicles (65' in length) will not be accommodated:

"This traffic would be rerouted to the North Beach Campground and would use the entrance off of Highway 1. This entrance features about 600 feet of storage for northbound left turns into the park entrance which is *sufficient for 20 25-foot RVs* including 5 feet between each vehicle. This storage will be more than enough to handle the current RV and trailer users and the displaced users from the Grover Beach state park area." [FEIR, Chapter 4.8 Transportation/Traffic, p. 4-160 (emphasis added).]

This lack of functionality for both the RV dump station and the staging area does not maximize access to the coast and recreational opportunities, negatively impacts the public's use of Oceano Dunes SVRA (see. e.g. Public Resources Code § 5003.02.1(b)(3)), and obstructs access to the park because OHV users can not access the park designed for them when they are not provided adequate and functional recreational support facilities.

**5. The CDP Fails to Comply with the LCP's Standard of Maximizing Public Coastal Access By Allowing the Project to Obstruct and Impair Access to the Dunes, Beach and Shoreline As a Result of Project Created Traffic Impacts, Circulation Impacts, and Congestion, Including Construction Work.**

The City's LCP, which was recently amended for this Project, did not change the findings in its LCP that traffic, congestion and capacity is already an issue for the SVRA access points and surrounding areas. *LCP 5.5 Conformance with Coastal Act Policies. 5.5.1. Maximum Access and Recreation Opportunities, A. Maximum Access.* discusses the maximum access mandate in the context of SVRA ramp entrance, which is the "*most intensively used of the access points, serving over 50 percent of the beach's visitors each year,*" and "*At peak use periods the ramp sometimes becomes congested and contributes to traffic congestion farther inland on Grand Avenue and Highway 1.*" (Emphasis added.) *LCP 5.7 Recommendations. A. Maximum Access. 1.a Policy mandates* development shall not obstruct access to the dunes, beach and shoreline:

"No future development shall be permitted which obstructs access to the dunes, beach and shoreline from Highway 1 within the City limits. New development west of Highway 1 shall provide access to

the dunes, beach and shoreline if adequate access does not already exist nearby."

See also Public Resources Code § 5003.02.1(b)(3).

Consistency with the LCP requires that the Project protect existing public access to the coast and not obstruct access. Chapter 5 Public Access and Recreation Component, 5.7 Recommendations, F. Private Visitor-Serving and Recreational Facilities, 1. Policies, 6, recently amended, requires road access to the project and to the beach area be "facilitated:"

"(6) Ingress/Egress. Road Access to the project shall be from Highway 1, Le Sage Drive and Grand Avenue and shall be designed in such a way as to facilitate all forms of access to the project and to the beach area (including vehicular, pedestrian, bicycle, etc.)."

Recently amended Chapter 6 Public Works Component, 6.4 Circulation, describes Grand Avenue as one of the three major streets that provide public access to the City's portion of the coastal zone (in Section 6.4.1 Existing System, A. Streets), highlighting the existing conditions of limited road access to the beach and existing condition of congestion before the additional traffic and visitor usage contributed to by this Project in the future:

"Grand Avenue: Grand Avenue is primarily a commercial street. In addition to serving commercial needs, Grand Avenue provides access to Pismo State Beach for both local residents and out-of-the-area beach visitors.

*...This portion of Grand Avenue near the ramp entrance is often critically congested at peak use periods, particularly when high tides hinder access and egress of beach visitors in vehicles." (Emphasis added.)*

Section 6.6.3 Circulation describes peak traffic flows, capacity and congestion at the SVRA entrance and coastal access roads at peak and nonpeak time periods:

"1. The three major coastal access routes presently serving Grover Beach's portion of the Coastal Zone are North Fourth Street, Grand Avenue, and State Highway 1.

3. On Grand Avenue west of Fourth Street peak traffic flows presently occur at 35 percent of the street's design capacity.

4. Highway 1 north of Grand Avenue carries a peak traffic flow of 83 percent of its design capacity and south of Grand Avenue, only 50 percent of its capacity.

5. The distribution of average and peak demands among recreational, residential, commercial, and industrial uses differs slightly for each of the three coastal access routes. *However, recreational demand at peak periods is high on all parts of the three coastal access routes.* Neither local or commuter traffic competes heavily with recreational demand at peak use periods.

6. On-street, free public parking is permitted south of Ocean View Avenue on North Fourth Street, and on Grand Avenue to within 680 feet of the end of the street. *This area experiences significant congestion during peak use periods.* No parking is permitted on Highway 1 within the City limits.

7. Traffic on Grand Avenue is not expected to exceed design capacities, during peak use periods, at City build-out.

9. Traffic on Highway 1 north of Grand Avenue, is also expected to exceed design capacities, during peak use periods, at City build-out. The State Department of Transportation has previously proposed to widen portions of the Highway to provide emergency parking and to increase pedestrian and cyclist safety." (Emphasis added.)

Section 6.7.3 *Circulation* provides some actions and policies that focus on mitigating traffic congestion and circulation. One action recommends implementing management strategies to reduce conflicts between capacity and peak use, an action also recommended in the LCP in 1999 and not changed in this amendment:

"2. Action: In cooperation with the California Department of Transportation, Transportation Management Strategies recommended by the State for Grand Avenue should be implemented to reduce present and future conflicts between design capacity and peak use demand on this street."

The Project and CDP fail to meet these standards.

First, the LCP and FEIR analysis is based on the implicit assumption that LCP measures have been fully implemented. However, the City's LCP never implemented Department of Transportation traffic management strategies for Grand Avenue to reduce present and future conflicts between design capacity and peak use demand. The Project contributes to additional traffic beyond that anticipated by the LCP, creating traffic congestion in the area that exceeds LCP standards.

Even if one could argue that the Project analysis assumes that the DOT transportation management strategies have been subsumed by the Circulation Element and the West Grand Avenue Master Plan, such an assumption would be

unlawful because it de facto changes the standard of implementation outside the required LCP amendment process. See, e.g. Public Resources Code § 30514. See, e.g., City of Grover Beach General Plan, Circulation Element (2005), Part D- Circulation Issues of Concern, pp. 25-27, and City of Grover Beach, West Grand Avenue Master Plan (2011), see, e.g., pp. 9, 17, 60.

Even assuming this new standard was somehow operative, the Project did not adequately consider the impacts of the West Grand Avenue Master Plan or evaluate the Project under these new standards. Moreover, the *Grand Avenue Master Plan* reduces the ability of users and visitors of Oceano Dunes SVRA to maneuver the large RVs down Grand Avenue since the plan contains many flow restrictions, including street width reduction and roundabouts.

The Section 6.7.3 *Circulation* also provides policies, which is what Friends has been requesting throughout this process for this Project, to resolve the adverse impacts on public access and recreational opportunities:

"4. Policy: To protect public access to the shoreline and reserve limited road capacity for coastal priority uses, *development shall be required to identify and appropriately offset all circulation impacts, with preference given to mitigation measures designed to improve public recreational access and visitor-serving circulation.*

5 Policy: *All development shall be sited and designed to maximize public recreational access opportunities, including through providing meaningful and useful connections to and from roads, trails, and other such facilities and areas that provide access to and through the City's coastal zone and along the shoreline.* Development shall accommodate all modes of circulation (including vehicular, pedestrian, bicycle, etc.) *in a way that facilitates and enhances public recreational access to and along the shoreline.*" (Emphasis added.)

Instead of facilitating and enhancing the existing public access and recreational opportunities, the Project has proposed or relies upon measures that have not been implemented (and are not planned to be implemented) or will make access worse for the OHV users of Oceano Dunes SVRA. The Project does not provide adequate facilities for RVs at the OHV /RV staging area or at the RV Dump Station, and both are support facilities needed for recreational use of the SVRA.

## **6. The Size and Scale of the Project Is Inconsistent with the LCP.**

The issues raised by Friends (recreational support facilities needed to use the SVRA and traffic congestion/ circulation) show that the size and scale of the Project is not consistent with the Coastal Act, the City's LCP and the California law, e.g., the requirement that "[d]evelopment will not impact the resources or the public's use of the state park." Public Resources Code § 5003.02.1(b)(3). In order to make room for the Project's structures, the recreational support facilities currently used by visitors to access the Oceano Dunes SVRA were relocated, such

as relocating the current RV dump station located on the Project site to a new location off site. The result is that in terms of the coastal resource constraints of existing and future public access and recreation, this Project does not provide for maximum access, but frustrates, obstructs and impedes public access and recreational opportunities. If the Project cannot accommodate these public access and recreational resource constraints, then the size and scale of the Project should be decreased to make room for existing and future public access and recreational opportunities.

The Commission recognized in its comments to the draft EIR attached to the FEIR that the "City should analyze whether the proposed project provides for *maximum public access*." [FEIR, Chapter 9, p. 9-19 (emphasis added).] The Commission recognized that "increased vehicle congestion" is one of the negative impacts that affect public access. FEIR, Chapter 9, p. 9-19. Specifically, "[t]o be consistent with the LCP and the Coastal Act, the *project must protect existing public access to the coast*, which, at this location, relies heavily of vehicle access via Highway 1." [FEIR, Chapter 9, p. 9-18 (emphasis added).] Existing public access also includes the recreational support facilities that visitors to Oceano Dunes SVRA use in order to access the park, such as the staging area, and the RV dump station. The Commission concluded that a "smaller and/or different project may be necessary to accommodate the site resource constraints." [FEIR, Chapter 9, p. 9-19.] The Project Applicant appears to agree that there are some inconsistencies: "The project appears mostly consistent with the City's LCP, specifically with regard to the guidelines in the LCP related to size and scale." [FEIR, Chapter 9, p. 9-28.]

For these reasons, this appeal raises substantial issues regarding conformity with the LCP as well as public access policies under the Coastal Act, and should be upheld and the CDP should be denied.

Sincerely,

(s)

Tom Roth

**Ex. 2**

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**Re: Friends of Oceano Dunes' Supplemental Comments Re Reconsideration  
By the City Council of Prior Approval of Coastal Development Permit  
Application No. 10-03 (Grover Beach Lodge and Conference Center,  
Applicant Pacifica Companies)**

Dear Ms. McMahon and City Council:

This firm represents the Friends of Oceano Dunes (Friends), a California not-for-profit corporation and watchdog association, representing approximately 28,000 members and users of the Oceano Dunes State Vehicular Recreation Area (SVRA). Oceano Dunes SVRA is a popular tourism facility and amenity for the City, attracting millions of visitors annually. Thus, the right of access and recreational opportunities addressed in these comments affect not only members of Friends, but the public as well.

The proposed Grover Beach Lodge and Conference Center (the "Project") will negatively impact public access to the coastal zone and Oceano Dunes SVRA. Friends submitted comments in a letter of January 9, 2014, and the issues raised in that letter remain unresolved. This letter provides additional comments after reviewing the 2014 Staff Report and Draft Resolution to approve a Coastal Development Permit (CDP) for this Project at the March 3<sup>rd</sup> City Council meeting. Friends requests that the City deny approval of the CDP for this Project until all the issues raised by Friends have been adequately addressed.

Friends is a not-for-profit public benefit corporation and association representing users of Oceano Dunes SVRA, and is the only entity exclusively representing the interests of OHV users and visitors to the park. According to its Articles of Incorporation,

Friends was formed for the express purpose of preserving and developing recreational uses in the Oceano Dunes SVRA area of San Luis Obispo County. [Declaration of Joel Suty, (Suty Decl.), para 2] Friends represents businesses, environmentalists, equestrians, campers, fishermen, families and off-road enthusiasts who enjoy the benefits of public access to the coastal zone through responsible recreation at the Oceano Dunes SVRA. Friends is dedicated to ensuring continued access to the beach and dune areas at Oceano Dunes SVRA for the park's statutorily dedicated use for OHV as authorized under Public Resources Code, § 5090 et seq. [Suty Decl., para 2] Friends' members live near, use, recreate, visit and personally enjoy the aesthetic, wildlife and recreational resources of the dunes area, including hiking, exploring and observing wildlife. Friends' members are frequent users of Oceano Dunes SVRA, visiting several times a year to enjoy the recreational elements unique to the beach and dune setting at the park. [Suty Decl., para 3] For decades, one member and his family have enjoyed Oceano Dunes SVRA each year and intend to continue to frequent the park in the future. [Suty Decl., para 3] Friends' members regularly engage in recreational activities at Oceano Dunes SVRA. [Suty Decl., para 3] Thus, Friends' members have practical experience in accessing and using Oceano Dunes SVRA for recreational opportunities.

The 2014 Staff Report for this Project on the agenda for the March 3, 2014 City Council meeting requests that the City Council conduct a public hearing to reconsider its previous approval of a CDP for the Grover Beach Lodge and Conference Center. Staff either dismisses Friends' concerns, or erroneously believes that Friends' issues have been resolved.

The 2014 Staff Report concludes that the issue raised by Friends in its administrative appeal to the California Coastal Commission regarding maximizing rather than obstructing public access to the coast and dunes has been addressed by the Final EIR that analyzed traffic impacts. [2014 Staff Report, pp. 3-4] However, the 2014 Staff Report did not address the West Grand Avenue Master Plan or that the City's LCP never implemented Department of Transportation's traffic management strategies for Grand Avenue to reduce present and future conflicts between design capacity and peak use demand. Moreover, the City's LCP, which was recently amended for this Project, did not change the findings in its LCP that traffic, congestion and capacity are already an issue for the SVRA access points and surrounding areas. *LCP 5.5 Conformance with Coastal Act Policies. 5.5.1. Maximum Access and Recreation Opportunities, A. Maximum Access.* discusses the maximum access mandate in the context of SVRA ramp entrance, which is the "most intensively used of the access points, serving over 50 percent of the beach's visitors each year," and "At peak use periods the ramp sometimes becomes congested and contributes to traffic congestion farther inland on Grand Avenue and Highway 1."

In addition, the 2014 Staff Report concludes that relocation of the sewer dump station to a new site is the "most appropriate and easily accessible site" based on the opinions of the Joint Authority and State Parks as well as the staff's conclusion that the Final EIR determined that the relocated dump station would provide "adequate access." [2014 Staff Report, p. 4] However, the Joint Authority and State Parks do not have the benefit of the practical experience of the dump station's actual users, which include

members of Friends who are part of the many users/tourists who travel to Oceano Dunes SVRA, and thus have erroneously concluded that the access would be adequate. [2014 Staff Report, p. 4]

Indeed, the 2014 Staff Report implicitly recognizes that access may be inadequate:

"The Joint Authority is proceeding with preparing a Coastal Development Permit application for submission to the City of Pismo Beach for approval of the expansion of the existing sewer dump station. *However, this does not preclude the Joint Authority from considering other viable locations for the sewer dump station if presented to the Joint Authority.*" [2014 Staff Report, p. 4 (Emphasis added)]

This seems to place the burden on finding alternative access on Friends and users rather than on the applicant for the permit, which is contrary to the land use regulations and State law, such as the Coastal Act.

Regarding Friends' issue of relocating and reducing the size and functionality of the historical staging area for horses and recreational vehicles, the Staff Report concludes that neither State nor local law expressly authorized the use of the site for these purposes:

"Friends of Oceano Dunes also claim that development of the proposed project, which eliminates the use of the existing vacant lot by off-highway vehicles and equestrians, would create an adverse impact. *However, the use of the site has always been informal and is not explicitly provided for in the Coastal Act, the City's certified Local Coastal Program, the City's or State's General Plan, or any other State or City policy document.* It should also be noted that the proposed project has included an area for the parking of over-sized vehicles consisting of approximately 10,500 square feet in the southeast corner of the site." [2014 Staff Report, p. 5 (Emphasis added)]

Labeling the use "informal" has no legal meaning or consequence. The use was in existence and at least was an accepted, long-standing, grand-fathered use even if it is claimed that it was somehow nonconforming.

The proposed project for the Grover Beach Lodge & Conference Center (Project) plans to relocate the long-standing staging area for off-highway vehicles (OHV) that has currently and historically been located and operated near the entrance to Oceano Dunes SVRA. [Suty Decl., para 4]

However, years of public usage of the staging area for public recreational purposes and uses incidental thereto for recreational uses at the Oceano Dunes SVRA beach and dunes without asking or receiving permission from the landowner might provide an implied dedication of the staging area to the public,

and thus the staging area is authorized by State law. An implied dedication of land arises when the public uses the land, like the staging area, for a period of more than five years with the knowledge of the owner, without asking for permission and without objection. Implied dedication of land to the public is particularly true when the public uses the land for recreational or park uses or other public uses. An implied dedication of land for the benefit of the public cannot be extinguished or terminated by the City of Grover Beach issuing a CDP for this project that would attempt to remove the public dedication by relocating the staging area to a new site.

The facts support a claim of implied dedication of the staging area. For a period of more than five years, members of the public used this staging area land as they would have used other public land, believing the public had a right to such uses of this shoreline or coastal land. The use of the staging area over the years was by members of Friends as well as diverse groups of members of the general public visiting or using the SVRA beaches and dunes, such as families, young and old. The use was open, public and continuous such that the landowner had knowledge, and yet no actions were taken to object, interfere or prohibit such use, and thus the public did not ask or receive permission to use the staging area in the shoreline or coastal area. [Suty Decl., paras 3, 5, 6, and 7]

Members of Friends and the public generally have used the staging area on Grand Avenue near the entrance to the beach consistently since 1964 for a variety of recreational uses related to using the SVRA. [Suty Decl., para 5] Members of the public using the staging area over the years are diverse, including young and old people and families. [Suty Decl., para 6] One member of Friends has stated how he and his family used the staging area to "change our vehicle's street tires to sand tires before entering the SVRA." [Suty Decl., para 5] Other members of the public have used the staging area to perform other activities in preparation for entering the SVRA for swimming, riding horses, riding bikes, viewing the ocean, OHV riding, or fishing on the beach and when exiting the SVRA. [Suty Decl., para 6] The staging area has been used for preparation to use the SVRA park. For example, some people unload OHVs from recreational vehicles so that the staging area allowed or enabled the public access to the OHV riding areas of SVRA. [Suty Decl., para 6]

Prior to becoming state land, and when the area was in private ownership, members of the public used the staging area for more than 5 years without objection or interference by anyone, including the private property owner. Public use of the staging area has been continuous and uninterrupted since 1964 for public recreational purposes and uses of the SVRA. [Suty Decl., para 6]

People used the staging area believing that the public has a right to such use. People used the staging area whenever they wished to do so – it was continuous, regular, open and public use. Friends' member Joel Suty can testify that he never experienced any restrictions or warnings from the property owner,

and never asked permission or saw anyone asking permission to use the staging area. He can testify that he never saw any signs that use of the staging area was prohibited, never saw any "No Trespassing" signs, and never saw any structures, fencing or barricades preventing access to the staging area. Suty entered and used the staging area freely as he pleased and without any thought or worry just as you would use any recreational support facility that was open and available to the public. Suty never even saw any attempts to prevent public use of the staging area. [Suty Decl., para 7]

An implied dedication is consistent with the strong policy expressed in the California Constitution and statutes, cited in this letter and our prior comment letter, to encourage public use, and therefore public access, of shoreline or coastal recreational areas.

The California Constitution, statutory provisions and the City's LCP provisions govern maximum access to the coast and public recreational opportunities. [See, Article X, Section 4 of the California Constitution, Public Resources Code, § 30210 and Friends' January 9, 2014 comments.] The Legislature made it clear that "[n]othing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution" that provides the public with a "constitutional right of access." Public Resources Code, § 30214(b). Maximizing public access to the coast and maximizing public recreational opportunities in the coastal zone are one of the core principles of the Coastal Act. Public Resources Code § 30001.5(c); See also, §§ 30220-30224 re recreational use priority. The public's access and use rights are so important that the Legislature expressly established that in this Project "[d]evelopment will not impact the resources or the public's use of the state park." Public Resources Code § 5003.02.1(b)(3). The City's LCP recognizes the importance of this Constitutional mandate in *LCP 5.5 Conformance with Coastal Act Policies. 5.5.1.A. Maximum Access and Recreation Opportunities*. "Section 30210 of the Coastal Act is the most comprehensive of the Act's policies concerning shoreline access and recreation. For this reason, in order to determine the extent to which the City and the California Department of Parks and Recreation are or are not in compliance with this policy, several points will need to be addressed."

Yet, the 2014 Staff Report and the Draft Resolution to approve the CDP also present a narrow view of the Constitutional right of maximum access to the coast and public recreational opportunities, such as Oceano Dunes SVRA, and this narrow view is evident in its consistency findings, which affect the conclusions reached. The City interprets access as limited to the transportation access ways to the coast and dunes, such as bike trails, and roads. The Draft Resolution under consideration (<http://www.grover.org/DocumentCenter/View/4258>), for example, when listing consistency findings regarding the policies and requirements of Chapter 5 of the LCP, states that the project does not obstruct access to the dunes and beach, citing walkways, bicycle paths and road access at West Grand Avenue. [Draft Resolution, pp. 2 (Policy 5.7.A. 1. a), 5 (policy 5.7.F.1.a. (6))]

However, the Draft Resolution findings also note that public access means the direct paths to the beach (such as walkways) and indirect access structures, facilities, or amenities, such as recreational support facilities, or "other public access amenities" that, similar to transportation routes, enable access to the recreational park:

"Policy 5. 7.F.1.a.(13) Public Access Management Plan. The project shall include a public access management plan that clearly describes the manner in which general public access associated with the project is to be managed and provided, with the objective of maximizing public access to the public access areas of the site (including all walkways, benches, boardwalks, stairs and **all other public access amenities**)."[Draft Resolution, p. 6 (Emphasis added)]

"All other public access amenities," or useful features or facilities, include the public recreational access services and recreational support facilities, such as the staging area and the dump station, that are part of the structural facilities in the chain of access ways to the beach and dunes. The access to Oceano Dunes includes a chain of transportation facilities (freeways, roads, paths, trails, etc) and includes the recreational support facilities, such as the staging and dump station, as the facilities needed to provide maximum access to the beach/dunes and recreational opportunities. LCP 5.7 Recommendations. D. Recreational Support Facilities makes this clear by requiring that the City "[e]nsure that adequate parking and *other recreational support facilities are available to the public*." [Emphasis added] If the recreational support facilities are not functional, then the flow of traffic from the roads to the support facilities to the beach becomes obstructed and impaired. The absence of adequate facilities will mean frustration, delay, congestion, and thus obstruct visitors from accessing the unique coast and public recreational activities. Chapter 5 Public Access and Recreation Component, 5.7 Recommendations, F. Private Visitor-Serving and Recreational Facilities, 1. Policies, 6, recently amended, recognized that road access to the project and to the beach area requires facilitation of "all forms of access" to the beach area:"

"(6) Ingress/Egress. Road Access to the project shall be from Highway 1, Le Sage Drive and Grand Avenue and shall be designed in such a way as to *facilitate all forms of access to the project and to the beach area* (including vehicular, pedestrian, bicycle, etc.)." (Emphasis added)

In fact, the Draft Resolution's findings of consistency with the "development standards for the C-P-C Zone as required by Section 9122.12 of the Zoning Code" recognizes that Section 9122.12(M) requires that "all development in this area be required to maintain or *enhance public access* to and along the shoreline based on the development's impact on public access." [Draft Resolution, p. 9 (Emphasis added)]

For these reasons, the CDP would fail to conform with the LCP and the public access mandates and policies under the Coastal Act and the California Constitution that are key to ensuring that the Oceano Dunes SVRA remains a functional and pleasurable

experience for the millions of visitors each year, an interest shared by the City and Friends. And, the approval and issuance of a CDP that includes relocation of the staging area might violate State law.

Thus, Friends requests that this CDP under reconsideration not be approved until these issues are addressed. In this regard, Friends is willing to discuss and work with the City to obtain resolutions of these issues, and prior to the initiation of any litigation.

Sincerely,

/s/

Tom Roth

**Ex. 3**

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March 17, 2014

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**Re: Friends of Oceano Dunes' Supplemental Comments Re  
Reconsideration By the City Council of Prior Approval of Coastal  
Development Permit Application No. 10-03 (Grover Beach Lodge and  
Conference Center, Applicant Pacifica Companies)**

Dear Ms. McMahon and City Council:

This firm represents the Friends of Oceano Dunes (Friends), a California not-for-profit corporation and watchdog association, representing approximately 28,000 members and users of the Oceano Dunes State Vehicular Recreation Area (SVRA). Oceano Dunes SVRA is a popular tourism facility and amenity for the City, attracting millions of visitors annually. Thus, the right of access and recreational opportunities addressed in these comments affect not only members of Friends, but the public as well.

The proposed Grover Beach Lodge and Conference Center (the "Project") will negatively impact public access to the coastal zone and Oceano Dunes SVRA. Friends submitted comments in letters of January 9, 2014 and March 3, 2014, and the issues raised in those letters remain unresolved. Friends requests that the City deny approval of the Coastal Development Permit (CDP) for this Project until all the issues raised by Friends have been adequately addressed.

Friends is a not-for-profit public benefit corporation and association representing users of Oceano Dunes SVRA, and is the only entity exclusively representing the interests of OHV users and visitors to the park. According to its

Articles of Incorporation, Friends was formed for the express purpose of preserving and developing recreational uses in the Oceano Dunes SVRA area of San Luis Obispo County. [First Supplemental Declaration of Joel Suty, (Suty Decl.), para 2] Friends represents businesses, environmentalists, equestrians, campers, fishermen, families and off-road enthusiasts who enjoy the benefits of public access to the coastal zone through responsible recreation at the Oceano Dunes SVRA. Friends is dedicated to ensuring continued access to the beach and dune areas at Oceano Dunes SVRA for the park's statutorily dedicated use for OHV as authorized under Public Resources Code, § 5090 et seq. [Suty Decl., para 2] Friends' members live near, use, recreate, visit and personally enjoy the aesthetic, wildlife and recreational resources of the dunes area, including hiking, exploring and observing wildlife. Friends' members are frequent users of Oceano Dunes SVRA, visiting several times a year to enjoy the recreational elements unique to the beach and dune setting at the park. [Suty Decl., para 3] For decades, one member and his family have enjoyed Oceano Dunes SVRA each year and intend to continue to frequent the park in the future. [Suty Decl., para 3] Friends' members regularly engage in recreational activities at Oceano Dunes SVRA. [Suty Decl., para 3] Thus, Friends' members have practical experience in accessing and using Oceano Dunes SVRA for recreational opportunities.

The 2014 Staff Report for this Project on the agenda for the March 17, 2014 City Council meeting requests that the City Council conduct a public hearing to reconsider its previous approval of a CDP for the Grover Beach Lodge and Conference Center. Staff either dismisses Friends' concerns, or erroneously believes that Friends' issues have been resolved.

The 2014 Staff Report concludes that the issue raised by Friends in its administrative appeal to the California Coastal Commission regarding maximizing rather than obstructing public access to the coast and dunes has been addressed by the Final EIR that analyzed traffic impacts. [2014 Staff Report, pp. 3-4] However, the 2014 Staff Report did not address the West Grand Avenue Master Plan or that the City's LCP never implemented Department of Transportation's traffic management strategies for Grand Avenue to reduce present and future conflicts between design capacity and peak use demand. Moreover, the City's LCP, which was recently amended for this Project, did not change the findings in its LCP that traffic, congestion and capacity are already an issue for the SVRA access points and surrounding areas. *LCP 5.5 Conformance with Coastal Act Policies. 5.5.1. Maximum Access and Recreation Opportunities, A. Maximum Access.* discusses the maximum access mandate in the context of SVRA ramp entrance, which is the "most intensively used of the access points, serving over 50 percent of the beach's visitors each year," and "At peak use periods the ramp sometimes becomes congested and contributes to traffic congestion farther inland on Grand Avenue and Highway 1."

In addition, the 2014 Staff Report concludes that relocation of the sewer dump station to a new site is the "most appropriate and easily accessible site" based on the opinions of the Joint Authority and State Parks as well as the staff's conclusion that the Final EIR determined that the relocated dump station would provide "adequate access." [2014 Staff Report, p. 4] However, the Joint Authority and State Parks do not have the benefit of the practical experience of the dump station's actual users, which include members of Friends who are part of the many users/tourists who travel to Oceano Dunes SVRA, and thus have erroneously concluded that the access would be adequate. [2014 Staff Report, p. 4]

Indeed, the 2014 Staff Report implicitly recognizes that access may be inadequate:

"The Joint Authority is proceeding with preparing a Coastal Development Permit application for submission to the City of Pismo Beach for approval of the expansion of the existing sewer dump station. *However, this does not preclude the Joint Authority from considering other viable locations for the sewer dump station if presented to the Joint Authority.*" [2014 Staff Report, p. 5 (Emphasis added)]

This seems to place the burden on finding alternative access on Friends and users rather than on the applicant for the permit, which is contrary to the land use regulations and State law, such as the Coastal Act.

Regarding Friends' issue of relocating and reducing the size and functionality of the historical staging area for horses and recreational vehicles, the Staff Report concludes that neither State nor local law expressly authorized the use of the site for these purposes:

"Friends of Oceano Dunes also claim that development of the proposed project, which eliminates the use of the existing vacant lot by off-highway vehicles and equestrians, would create an adverse impact. *However, the use of the site has always been informal and is not explicitly provided for in the Coastal Act, the City's certified Local Coastal Program, the City's or State's General Plan, or any other State or City policy document.* It should also be noted that the proposed project has included an area for the parking of over-sized vehicles consisting of approximately 10,500 square feet in the southeast corner of the site." [2014 Staff Report, p. 5 (Emphasis added)]

Labeling the use "informal" has no legal meaning or consequence. The use was in existence and at least was an accepted, long-standing, grand-fathered use even if it is claimed that it was somehow

nonconforming. While the Staff Report suggests that the existence and use of the staging area is "informal," and thus presumably SVRA users should be pleased with whatever provisions are ultimately provided, the General Development Plan for the SVRA requires an operational, effective staging area.

The Project is inconsistent with State Park's General Development Plan (GDP) for Pismo Dunes State Vehicular Recreation Area, now Oceano Dunes SVRA, by taking away the staging area plan that the GDP stated is needed for off-highway vehicle recreational activities, and has been historically provided and used for years. The GDP makes it clear that the staging area is a recreational area to enable, enhance and maximize OHV users' access to the coast and recreational opportunities at SVRA. The "Declaration of Purpose" for the GDP states that the Department of Parks and Recreation (Department) will manage the SVRA in a manner to "provide appropriate related facilities to serve the users of the area." [GDP, p.43] One of the "problems and conflicts" to be addressed by the GDP was the need for a staging area for OHV recreational users of the SVRA. [GDP, pp. 26, 28] The GDP states that one of the recreational OHV facilities needed is an effective staging area. The GDP recognized that "[m]any off highway vehicle owners trailer their vehicles to the area for operation in the dunes," but due to the lack of adequate facilities, "most of these operators use the beach as their staging area," which "aggravated" the problem of "vehicle congestion problem on the beach." [GDP, p. 28] In addition, the "problem mentioned above is made even worse because off highway vehicles that are not street licensed must be trailered from nearby private recreational vehicle parks to the beach or dunes." [GDP, p. 28] There was and remains a very real need for an adequate staging area. Thus, the "basic day use elements within the proposed vehicular recreation area include" a "[d]ay use staging area providing the operational base for the off highway vehicle activities" for the SVRA. [GDP, p. 50] This staging area for off-highway vehicle recreation activities "must serve the following functions," including "Parking and a trailered vehicle unloading area should be provided for off highway vehicle operators. This will require a vast area for parking during peak use which occurs on relatively few days of the year. Consequently, it is reasonable that the paved parking area serve only the basic needs and that less costly turf areas be provided for expansion of parking during peak use." [GDP, p. 51] The "basic needs of the off highway vehicle operator should be met in this" staging area. [GDP, p. 51] There is nothing "informal" when the recreational facility of the staging area is included in the GDP.

However, the proposed project is inconsistent with the GDP standards. Relocation and reduction in size and functionality of the SVRA staging area does not meet the basic operational needs of the OHV operator, as Friends has stated in its prior comments. The absence of

adequate facilities will mean frustration, delay, congestion, and thus obstruct visitors from accessing the unique coast and public recreational activities.

The proposed project for the Grover Beach Lodge & Conference Center (Project) plans to relocate the long-standing staging area for off-highway vehicles (OHV) that has currently and historically been located and operated near the entrance to Oceano Dunes SVRA. [Suty Decl., para 4]

However, years of public usage of the staging area for public recreational purposes and uses incidental thereto for recreational uses at the Oceano Dunes SVRA beach and dunes without asking or receiving permission from the landowner might provide an implied dedication of the staging area to the public, and thus the staging area is authorized by State law. An implied dedication of land arises when the public uses the land, like the staging area, for a period of more than five years with the knowledge of the owner, without asking for permission and without objection. Implied dedication of land to the public is particularly true when the public uses the land for recreational uses or other public uses. An implied dedication of land for the benefit of the public cannot be extinguished or terminated by the City of Grover Beach issuing a CDP for this project that would attempt to remove the OHV recreational use public dedication by relocating the staging area to a new site.

The facts support a claim of implied dedication of the OHV recreational use staging area. For a period of more than five years, members of the public used this staging area land as they would have used other public land, believing the public had a right to such uses of this shoreline or coastal land. The use of the staging area over the years was by members of Friends as well as diverse groups of members of the general public visiting or using the SVRA beaches and dunes, such as families, young and old. The use was open, public and continuous such that the landowner had knowledge, and yet no actions were taken to object, interfere or prohibit such use, and thus the public did not ask or receive permission to use the staging area in the shoreline or coastal area. [Suty Decl., paras 3, 5, 6, and 7]

Members of Friends and the public generally have used the staging area on Grand Avenue near the entrance to the beach consistently since 1964 for a variety of recreational uses related to using the SVRA. [Suty Decl., para 5] Members of the public using the staging area over the years are diverse, including young and old people and families. [Suty Decl., para 6] One member of Friends has stated how he and his family used the

staging area to "change our vehicle's street tires to sand tires before entering the SVRA." [Suty Decl., para 5] Other members of the public have used the staging area to perform other activities in preparation for entering the SVRA for swimming, riding horses, riding bikes, viewing the ocean, OHV riding, or fishing on the beach and when exiting the SVRA. [Suty Decl., para 6] The staging area has been used for preparation to use the SVRA park. For example, some people unload OHVs from recreational vehicles so that the staging area allowed or enabled the public access to the OHV riding areas of SVRA. [Suty Decl., para 6]

Prior to becoming state land, and when the area was in private ownership, members of the public used the staging area for more than 5 years without objection or interference by anyone, including the private property owner. Public use of the staging area has been continuous and uninterrupted since 1964 for public recreational purposes and uses of the SVRA. [Suty Decl., para 6]

People used the staging area believing that the public has a right to such use. People used the staging area whenever they wished to do so – it was continuous, regular, open and public use. Friends' member Joel Suty can testify that he never experienced any restrictions or warnings from the property owner, and never asked permission or saw anyone asking permission to use the staging area. He can testify that he never saw any signs that use of the staging area was prohibited, never saw any "No Trespassing" signs, and never saw any structures, fencing or barricades preventing access to the staging area. Suty entered and used the staging area freely as he pleased and without any thought or worry just as you would use any recreational support facility that was open and available to the public. Suty never even saw any attempts to prevent public use of the staging area. [Suty Decl., para 7]

An implied dedication is consistent with the strong policy expressed in the California Constitution and statutes, cited in this letter and our prior comment letters, to encourage public use, and therefore public access, of shoreline or coastal recreational areas.

The California Constitution, statutory provisions and the City's LCP provisions govern maximum access to the coast and public recreational opportunities. [See, Article X, Section 4 of the California Constitution, Public Resources Code, § 30210 and Friends' prior comments.] The Legislature made it clear that "[n]othing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution" that provides the public with a "constitutional

right of access." Public Resources Code, § 30214(b). Maximizing public access to the coast and maximizing public recreational opportunities in the coastal zone are one of the core principles of the Coastal Act. Public Resources Code § 30001.5(c); See also, §§ 30220-30224 re recreational use priority. The public's access and use rights are so important that the Legislature expressly established that in this Project "[d]evelopment will not impact the resources or the public's use of the state park." Public Resources Code § 5003.02.1(b)(3). The City's LCP recognizes the importance of this Constitutional mandate in *LCP 5.5 Conformance with Coastal Act Policies. 5.5.1.A. Maximum Access and Recreation Opportunities*. "Section 30210 of the Coastal Act is the most comprehensive of the Act's policies concerning shoreline access and recreation. For this reason, in order to determine the extent to which the City and the California Department of Parks and Recreation are or are not in compliance with this policy, several points will need to be addressed."

Yet, the 2014 Staff Report and the Draft Resolution to approve the CDP also present a narrow view of the Constitutional right of maximum access to the coast and public recreational opportunities, such as Oceano Dunes SVRA, and this narrow view is evident in its consistency findings, which affect the conclusions reached. The City interprets access as limited to the transportation access ways to the coast and dunes, such as bike trails, and roads. The Draft Resolution under consideration (<http://www.grover.org/DocumentCenter/View/4302->), for example, when listing consistency findings regarding the policies and requirements of Chapter 5 of the LCP, states that the project does not obstruct access to the dunes and beach, citing walkways, bicycle paths and road access at West Grand Avenue. [Draft Resolution, pp. 2, 5 (Policy 5. 7.A. 1. a), (policy 5. 7.F.1.a. (6))]

However, the Draft Resolution findings also note that public access means the direct paths to the beach (such as walkways) and indirect access structures, facilities, or amenities, such as recreational support facilities, or "other public access amenities" that, similar to transportation routes, enable access to the recreational park:

"Policy 5. 7.F.1.a.(13) Public Access Management Plan. The project shall include a public access management plan that clearly describes the manner in which general public access associated with the project is to be managed and provided, with the objective of maximizing public access to the public access areas of the site (including all walkways, benches, boardwalks, stairs and **all other public access amenities**)."[Draft Resolution, p. 6 (Emphasis added)]

"All other public access amenities," or useful features or facilities, include the public recreational access services and recreational support facilities, such as the staging area and the dump station, that are part of the structural facilities in the chain of access ways to the beach and dunes. The access to Oceano Dunes includes a chain of transportation facilities (freeways, roads, paths, trails, etc) and includes the recreational support facilities, such as the staging and dump station, as the facilities needed to provide maximum access to the beach/dunes and recreational opportunities. LCP 5.7 Recommendations. D. Recreational Support Facilities makes this clear by requiring that the City "[e]nsure that adequate parking and *other recreational support facilities are available to the public.*" [Emphasis added] If the recreational support facilities are not functional, then the flow of traffic from the roads to the support facilities to the beach becomes obstructed and impaired. The absence of adequate facilities will mean frustration, delay, congestion, and thus obstruct visitors from accessing the unique coast and public recreational activities. Chapter 5 Public Access and Recreation Component, 5.7 Recommendations, F. Private Visitor-Serving and Recreational Facilities, 1. Policies, 6, recently amended, recognized that road access to the project and to the beach area requires facilitation of "all forms of access" to the beach area:"

"(6) Ingress/Egress. Road Access to the project shall be from Highway 1, Le Sage Drive and Grand Avenue and shall be designed in such a way as to *facilitate all forms of access to the project and to the beach area* (including vehicular, pedestrian, bicycle, etc.)." (Emphasis added)

In fact, the Draft Resolution's findings of consistency with the "development standards for the C-P-C Zone as required by Section 9122.12 of the Zoning Code" recognizes that Section 9122.12(M) requires that "all development in this area be required to maintain or *enhance public access* to and along the shoreline based on the development's impact on public access." [Draft Resolution, p. 9 (Emphasis added)]

For these reasons, the CDP would fail to conform with the LCP and the public access mandates and policies under the Coastal Act and the California Constitution that are key to ensuring that the Oceano Dunes SVRA remains a functional and pleasurable experience for the millions of visitors each year, an interest shared by the City and Friends. And, the approval and issuance of a CDP that includes relocation of the staging area might violate State law.

Thus, Friends requests that this CDP under reconsideration not be approved until these issues are addressed. In this regard, Friends is willing to discuss and work with the City to obtain resolutions of these issues, and prior to the initiation of any litigation.

Sincerely,

/s/

Tom Roth

**Ex. 4**

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**Re: Friends of Oceano Dunes' Supplemental Comments Re  
Reconsideration By the City Council of Prior Approval of Coastal  
Development Permit Application No. 10-03 (Grover Beach Lodge  
and Conference Center, Applicant Pacifica Companies)**

Dear Ms. McMahon and City Council:

This firm represents the Friends of Oceano Dunes (Friends), a California not-for-profit corporation and watchdog association, representing approximately 28,000 members and users of the Oceano Dunes State Vehicular Recreation Area (SVRA). Oceano Dunes SVRA is a popular tourism facility and amenity for the City, attracting annually millions of visitors, many who have used the off-road vehicle (OHV) staging area over the years near the Oceano Dunes SVRA, which was formerly known as the Pismo Dunes State Vehicular Recreational Area. *Sierra Club v. Department of Parks & Recreation* (2012) 202 Cal. App. 4th 735.

The conference center would unlawfully destroy the implied dedication of a OHV recreational staging area to public use.

All of Friends' prior comments and attached documents, such as declarations, submitted during this process are incorporated herein by reference, including comments and declarations submitted in letters of January 9, 2014,

March 3, 2014, and March 17, 2014, and the issues raised in those letters remain unresolved.

Friends requests that the City deny approval of the Coastal Development Permit (CDP) for this Project until all the issues raised by Friends in prior comments and the comments in this letter have been adequately addressed.

**1. The City of Grover Beach and State Parks Do Not Have the Legal Authority to Sell, Lease, Dispose, Transfer or Otherwise Encumber, Change or Use the Implied OHV Recreational Use Public Dedication Staging Area for the Project by Issuing a Permit or Executing a Lease, Contract or Other Agreement.**

The City and State Parks, the property owner (Final EIR, Introduction, p. 1-3), intend to relocate the staging area pursuant to a Concession Contract with Pacifica Hosts, Inc. to lease the property for 50 years for the lodge and conference center Project. (Final EIR, Executive Summary, p. ES-2) The Staff Report states that the proposed Project provides an *alternative* location for parking, which is one of many functions of the existing staging area:

"Friends of Oceano Dunes also claim[s] that development of the proposed project, which eliminates the use of the existing vacant lot by off-highway vehicles and equestrians, would create an adverse impact. However, the use of the site has always been informal and is not explicitly provided for in the Coastal Act, the City's certified Local Coastal Program, the City's or State's General Plan, or any other State or City policy document. It should also be noted that the proposed project has included an area for the parking of over-sized vehicles consisting of approximately 10,500 square feet in the southeast corner of the site." (Staff Report, p. 5)<sup>1</sup>

This is legally inadequate. The area previously used as a staging area constitutes an implied dedication of public use as a public OHV area, and its use cannot be changed by the City, State Parks or the developer.

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<sup>1</sup> While one proposal for equestrian/OHV staging area, which was located on the south side of West Grand Area or Area C, has been eliminated from the project (April 7, 2014 Draft Resolution, p. 12), it should be noted that this proposal provided "36,992 sf" or more than three times the size of the area proposed in the southeast corner. (FEIR, Chapter 2, Project Description, p. 2-11; Attachment 2, City Council Staff Report Dated December 2, 2013, p.6 ("The project has been revised to incorporate a smaller area, approximately 10,500 square feet, for equestrian parking in the southeast corner of the site...."))

Once an implied dedication is completed, as here, the property becomes public property, limited to the use for which it was dedicated. Calling this implied dedication "informal" has no legal meaning or bearing.

The City and State Parks do not have legal authority to grant or authorize the relocation or removal of the dedicated OHV/equestrian staging area, whether by Joint Powers Agreement, contract or otherwise, or to lease the dedicated staging area to the project proponent for its Project, or to grant the project proponent the right or a permit to enter upon the dedicated staging area and construct its project. Such actions can be legally voided or revoked to protect the dedication. Public entities, such as the City and State Parks, and the Legislature, do not have authority to destroy, annihilate, transform, withdraw or divert a part of dedicated OHV recreational land into part of a private, public-private, or commercial hotel, lodge or conference center.

The Implied OHV Recreational Use Public Dedication Staging Area provides the public with the legal right to use the dedicated land for its dedicated uses. The only authority that public entities have is in their role of trustees for the public to maintain the staging area in a proper and convenient manner for the exercise of the dedicated use by the public. The intended use of the dedicated area by the Project proponent for a hotel or lodge is not for uses incidental to or within the scope of the Implied OHV Recreational Use Public Dedication Staging Area but solely for the private commercial purposes of the proposed lodge, a use inconsistent with the dedication. The scope of the implied dedication is limited to OHV recreational uses and uses incidental thereto and does not include the commercial hotel and lodge interests of a private company. The dedicated staging area must be maintained for the benefit of the public without obstruction or limitations imposed for the benefit of a private commercial project.

## **2. As Trustee for the Public, State Parks Must Maintain the Implied OHV Recreational Use Public Dedication Staging Area for its Dedicated Uses.**

State Parks holds the function or position of a trustee to maintain and protect the objective of the trust of the Implied OHV Recreational Use Public Dedication Staging area. Whatever interest public entities may have in the dedicated staging area is limited to holding in trust for the dedicated public uses. The objectives, purposes and uses of the Staging Area include the loading and unloading of recreational vehicles and trailers and related uses for recreational opportunities at the SVRA. Public entities cannot change, divert or destroy the character of the dedicated land from recreational staging area to private commercial hotel for which the land was not dedicated to public use. Public entities do not have authority to destroy, change or divert the subject of the trust, and such actions would be in violation of the trusts upon the dedicated land.

Once land is dedicated to Implied OHV Recreational Use Public Dedication Staging area, then public entities, such as the City, State Parks and the legislature cannot withdraw the land, lease the area, or otherwise destroy the subject of their trust in violation of the trust but rather are charged as trustees to protect the Implied OHV Recreational Use Public Dedication Staging area.

The City's suggestion that approximately 10,500 sq. feet would be used for OHV parking does not fulfill State Parks obligation as trustee. First, the area is much smaller than the pre-existing implied dedication area. Second, OHV parking is just one of many of the many OHV recreational uses of the implied dedication, including pre- and post- dunes vehicle preparation. Third, the City has not committed to dedicating the area to OHV staging uses, but rather it will be shared with parking for the hotel and conference center. Since it will be first come, first-served, there will be a constant shortage of area needed for OHV and RV prep for beach and dune travel at the SVRA. Fourth, the design of using "two stalls" in a pull thru scenario won't work because the length of these stalls would be only 40 feet in length at most, which will not accommodate the larger RVs. Fifth, there are inadequate turning points planned to accommodate the turning radius of larger RVs.

### **3. State Parks Had Notice of the Implied OHV Recreational Use Public Dedication Staging Area.**

The use of the area by members of Friends and the public since at least the 1960s provided notice to State Parks, private land owners and others of the Implied OHV Recreational Use Public Dedication Staging Area. The Staff Report acknowledges the use of the existing area for OHV staging and recreational uses. (Staff Report, p. 5 ("Friends of Oceano Dunes also claim[s] that development of the proposed project, *which eliminates the use of the existing vacant lot by off-highway vehicles and equestrians, would create an adverse impact. However, the use of the site has always been informal...*") (Emphasis added); Staff Report (December 2, 2013, p. 2 ("*Existing onsite uses include public restrooms, picnic areas, a visitor drop off area, beach user and equestrian parking, public paths and trails, passive use areas, and access to the beach. The majority of the existing project location is an unpaved vacant area, used predominantly as parking for equestrian vehicles and overflow public parking.*") (Emphasis added); Staff Report (December 2, 2013, p. 7 ("State Parks and the City are committed to retaining the equestrian use and replacing the existing area with a location that is comparable in size."); Staff Report (December 2, 2013, p. 9 ("The first revision relocated the equestrian parking area to the north side of West Grand Avenue consistent with the environmental superior alternative identified in the Final EIR."))

State Parks admits that it has "allowed use of the project site for equestrian staging since 1982 when the previous facility near Oso Flaco Lake was closed."

(FEIR, Executive Summary, p. ES-11) (The Project documents refer to the OHV staging area or equestrian staging area, which are the same.) Our prior comment letters included the Declaration of Joel Suty (Suty Dec.) and the First Supplemental Declaration of Joel Suty (Supp. Dec.), which are included in the Meeting Agenda for April 7, 2014 in Attachment 6. Joel Suty can testify that he has used the staging area since 1964 for public recreational purposes and uses of the SVRA and witnessed many other members of the public using the staging area in preparation for entering the SVRA for swimming, riding horses, riding bikes, viewing the ocean, OHV riding, or fishing on the beach and when exiting the SVRA. (Suty Dec., paras 5, 6; see also, First Supplemental Declaration of Joel Suty (Supp. Dec.), paras 3, 5, 6) The historical and public use of the Implied OHV Recreational Use Public Dedication has been continuous and open so it should be no surprise that Friends seeks to protect this dedication.

**4. The Project's Changed Use of the Implied OHV Recreational Use Public Dedication is Inconsistent with and Violates the Coastal Act, the City's Local Coastal Program and California Constitutional Provisions Mandating Maximum Access to the Coast and Public Recreational Opportunities as well as State Park System Plan 2002.**

As established in prior comment letters, the OHV Staging Area is an implied OHV Recreational Use Public Dedication. The Project plans to relocate the long-standing staging area for OHV that has currently and historically been located and operated near the entrance to Oceano Dunes SVRA. An implied dedication of land for the benefit of the public cannot be extinguished or terminated by the City of Grover Beach issuing a CDP for this project that would attempt to remove the Implied OHV Recreational Use Public Dedication by relocating it to a new site, thus obstructing the public's access and recreational opportunities that are codified by Constitutional and statutory provisions.

The California Constitution, statutory provisions and the City's LCP provisions govern maximum access to the coast and public recreational opportunities. (See, Article X, Section 4 of the California Constitution, Public Resources Code, § 30210) The Legislature made it clear that "[n]othing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution" that provides the public with a "constitutional right of access." Public Resources Code, § 30214(b). Maximizing public access to the coast and

maximizing public recreational opportunities in the coastal zone are one of the core principles of the Coastal Act. Public Resources Code § 30001.5(c); See also, §§ 30220-30224 re recreational use priority. The public's access and use rights are so important that the Legislature expressly established that in this Project "[d]evelopment will not impact the resources or the public's use of the state park." Public Resources Code § 5003.02.1(b)(3). The City's LCP recognizes the importance of this Constitutional mandate in *LCP 5.5 Conformance with Coastal Act Policies. 5.5.1.A. Maximum Access and Recreation Opportunities*. "Section 30210 of the Coastal Act is the most comprehensive of the Act's policies concerning shoreline access and recreation. For this reason, in order to determine the extent to which the City and the California Department of Parks and Recreation are or are not in compliance with this policy, several points will need to be addressed."

The FEIR states that Joint Powers Agreement between City and State Parks requires that the Project comply with *The State Park System Plan 2002*: "The project must meet all permitting requirements and shall comply with State Park System Plan 2002, Pismo State Beach Implementation Plan, California Coastal Act, Grover Beach General Plan and Amendments, the Local Coastal Program (LCP), the California Building Code, and the Americans with Disabilities Act of 1990." (FEIR, Chapter 1, Introduction, pp. 1-3 to 1-4) The proposed Project violates *The State Park System Plan 2002* to "accommodate" visitor's desires, not reduce, eliminate or relocate the staging area. Part II, *The State Park System Plan 2002*, p. 20 ("The State Park System should employ innovations in these facilities (e.g., group camps, recreational vehicle hookups, overnight shelters, platform tents, staging areas) that will accommodate the different desires of the state's changing population. Some of these facilities that are particularly attractive to nontraditional users should be developed and monitored as to their use.")

For these reasons, neither the City nor State Parks has the legal authority to relocate, withdraw, or terminate the Implied OHV Recreational Use Public Dedication, or to change the dedicated uses by issuing a CDP for this Project to construct a hotel or lodge.

Thus, Friends requests that this CDP under reconsideration not be approved until these issues are addressed. In this regard, Friends is willing to discuss and work with the City to obtain resolutions of these issues, and prior to the initiation of any litigation to protect the Implied OHV Recreational Use Public Dedication.

Sincerely,

/s/

Tom Roth

Attached graphics

**Ex. 5**

ARTICLES OF INCORPORATION  
OF  
FRIENDS OF OCEANO DUNES

2314429  
**FILED**  
In the Office of the Secretary of State  
of the State of California  
JUN 12 2001  
*Bill Jones*  
BILL JONES, Secretary of State

ONE: The name of this corporation shall be:

**FRIENDS OF OCEANO DUNES**

TWO: This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law exclusively for charitable purposes. The corporation is formed for the express purpose of preserving and developing recreational uses in the Oceano Dunes areas of San Luis Obispo County, California. Such purposes for which this corporation is formed are exclusively charitable within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986.

Notwithstanding any other provisions of these articles, the corporation shall not carry on any activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law) or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law).

THREE: The name and address in California of this corporation's initial agent for service of process are:

EDWARD H. WALDHEIM  
3550 Foothill Boulevard  
Glendale, CA 91214

FOUR:

(a) No substantial part of the activities of this corporation shall consist of lobbying or propaganda, or otherwise attempting to influence legislation, except as provided in Section 501(h) of the Internal Revenue Code of 1986, and this corporation shall not participate in or intervene in (including publishing or distributing statements) any political campaign on behalf of or in opposition to any candidate for public office.

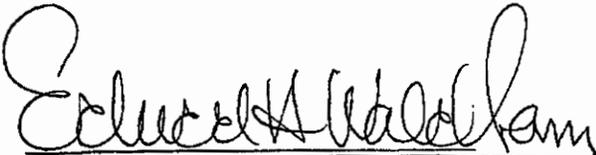
(b) All corporate property is irrevocably dedicated to the purposes set forth in Article Two, above. No part of the net earnings of this corporation shall inure to the benefit of any of its directors, trustees, officers or members, or to individuals.

(c) Upon the winding up or dissolution of the corporation, after paying or adequately providing for the debts and obligations of this corporation, the remaining assets shall be distributed to a non-profit fund, foundation, or corporation which is organized and operated exclusively for charitable and religious purposes and which has established its tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and Section 23701(d) of the Revenue and Taxation Code. If this corporation holds any assets in trust, such assets will be disposed of in such a manner as may be directed by decree of the Superior Court of the county in which this

corporation's principal office is located, upon petition therefor by the Attorney General or by any person concerned in the liquidation.

FIVE: Subject to the limitations imposed by Corporations Code Section 5238, the Corporation shall, and does hereby, indemnify and hold each of its directors and officers free and harmless from and on account of all matters provided in Corporations Code Sections 5238 (b) and (c).

Dated: May 11, 2001

  
\_\_\_\_\_  
Edward H. Waldheim  
Incorporator



I hereby certify that the foregoing transcript of 3 page(s) is a full, true and correct copy of the original record in the custody of the California Secretary of State's office.

JAN 04 2012 *my*

Date: \_\_\_\_\_

*Debra Bowen*

DEBRA BOWEN, Secretary of State

**Ex. 6**

## FIRST SUPPLEMENTAL DECLARATION OF JOEL SUTY

I, Joel Suty, declare that the following declaration is true and accurate. The following is based on my personal knowledge and if called upon, I can competently testify as to the truthfulness of this declaration.

1. I am a member of the Friends of Oceano Dunes (Friends).

2. Friends is a not-for-profit public benefit corporation and association representing users of Oceano Dunes SVRA, and is the only entity exclusively representing the interests of OHV users and visitors to the park. According to its Articles of Incorporation, Friends was formed for the express purpose of preserving and developing recreational uses in the Oceano Dunes SVRA area of San Luis Obispo County. Friends is dedicated to ensuring continued access to the beach and dune areas at Oceano Dunes SVRA for the park's statutorily dedicated use for OHV as authorized under Public Resources Code, § 5090 et seq.

3. Friends' members --- including myself, my wife, and my children --- are frequent users of Oceano Dunes SVRA, visiting several times a year to enjoy the recreational elements unique to the beach and dune setting at the park. For decades, beginning in the early 1960s, my family and I have enjoyed Oceano Dunes SVRA each year and intend to continue to frequent Oceano Dunes for OHV and beach camping recreation in the future. I, my family and other Friends' members regularly engage in OHV and beach camping recreational activities at Oceano Dunes SVRA.

4. The proposed project for the Grover Beach Lodge & Conference Center (Project) is seeking to relocate the long-standing staging area (on Grand Avenue near the entrance to the beach) for OHV that has currently and historically been used by the public and users of Oceano Dunes as a recreational staging area.

5. My family and I have used the staging area on Grand Avenue near the entrance to the beach consistently since 1964. My family and I use, and have used, the location to change our vehicle's street tires to sand tires and/or for other vehicle preparation before entering Oceano Dunes.

6. Over the years, and continuing through to today, there has been wide-spread use of the staging area by members of the public for staging and vehicle prep for recreational use at Oceano Dunes. I have witnessed hundreds of other individuals of the public performing activities at the staging area in preparation for entering the SVRA for swimming, riding horses, riding bikes, viewing the ocean, OHV riding, or fishing on the beach and when exiting the SVRA by persons engaged in all the recreational pursuits available at SVRA. Use of the staging area is a routine practice before proceeding with entering the SVRA. For example, we witnessed people unloading OHVs from recreational vehicles, trucks or trailers so that the staging area allowed or enabled the public access to the OHV riding areas of SVRA. My observations of people using the staging area are not limited to friends and family or members of Friends. Rather, various different groups of people used the staging area, young and old, families, and tourists who had out-of-state license plates. Prior to becoming state land, and when the area was in private ownership, we used and observed others using the staging area for public recreational uses for more than 5 years without permission, objection, protest or interference by anyone, including the private property owner. Our use of the staging area has been continuous, open, public and uninterrupted since 1964 for public recreational purposes and uses of the SVRA.

7. We used the staging area in public ways, and observed hundreds of others using the staging area, as we would use any public recreational area, people entering and exiting as they pleased. My family and I used the staging area believing that the public has a right to such use. My family and I used the staging area whenever we wished to do so – it was continuous, regular, open and public use. I never experienced any restrictions or warnings from the property owner, and never asked or received permission or saw anyone asking permission to use the staging area. I never saw any signs that use of the staging area was prohibited, never saw any "No Trespassing" signs, and never saw any structures, fencing or barricades preventing access to the staging area. We entered and used the staging area

freely as we pleased and without any thought or worry just as you would use any recreational support facility or area that was open and available to the public. I never even saw any attempts to prevent, obstruct, object or interfere with public use of the staging area and never saw anyone or their vehicles ejected from the staging area.

I declare under penalty of perjury under the laws of the State of California that the forgoing is true and correct.

Executed this 16<sup>th</sup> day of March, 2014 at San Jose, California.

---

Joel Suty

the private property owner. Our use of the staging area has been continuous, open, public and uninterrupted since 1964 for public recreational purposes and uses of the SVRA.

7. We used the staging area in public ways, and observed hundreds of others using the staging area, as we would use any public recreational area, people entering and exiting as they pleased. My family and I used the staging area believing that the public has a right to such use. My family and I used the staging area whenever we wished to do so – it was continuous, regular, open and public use. I never experienced any restrictions or warnings from the property owner, and never asked or received permission or saw anyone asking permission to use the staging area. I never saw any signs that use of the staging area was prohibited, never saw any "No Trespassing" signs, and never saw any structures, fencing or barricades preventing access to the staging area. We entered and used the staging area freely as we pleased and without any thought or worry just as you would use any recreational support facility or area that was open and available to the public. I never even saw any attempts to prevent, obstruct, object or interfere with public use of the staging area and never saw anyone or their vehicles ejected from the staging area.

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Executed this 16<sup>th</sup> day of March, 2014 at San Jose, California.

  
Joel Suty

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in the future. I and other Friends' members regularly engage in recreational activities at Oceano Dunes SVRA.

4. The proposed project for the Grover Beach Lodge & Conference Center (Project) plans to relocate the long-standing staging area for off-highway vehicles (OHV) that has currently and historically been located and operated near the entrance to Oceano Dunes SVRA.

5. My family and I have used the staging area on Grand Avenue near the entrance to the beach consistently since 1964. My family and I use the location to change our vehicle's street tires to sand tires before entering the SVRA.

6. I have witnessed many other members of the public performing other activities at the staging area in preparation for entering the SVRA for swimming, riding horses, riding bikes, viewing the ocean, OHV riding, or fishing on the beach and when exiting the SVRA. Various people, young and old, families, used the staging area. For example, we witnessed people unloading OHVs from recreational vehicles so that the staging area allowed or enabled the public access to the OHV riding areas of SVRA. Prior to becoming state land, and when the area was in private ownership, we used and observed others using the staging area for more than 5 years without objection or interference by anyone, including the private property owner. Our use of the staging area has been continuous and uninterrupted since 1964 for public recreational purposes and uses of the SVRA.

7. My family and I used the staging area believing that the public has a right to such use. My family and I used the staging area whenever we wished to do so – it was continuous, regular, open and public use. I never experienced any restrictions or warnings from the property

owner, and never asked permission or saw anyone asking permission to use the staging area. I never saw any signs that use of the staging area was prohibited, never saw any "No Trespassing" signs, and never saw any structures, fencing or barricades preventing access to the staging area. I entered and used the staging area freely as we pleased and without any thought or worry just as you would use any recreational support facility that was open and available to the public. I never even saw any attempts to prevent public use of the staging area.

I declare under penalty of perjury that the forgoing is true and correct.

Executed this 3<sup>rd</sup> day of March, 2014 at San Jose, California.

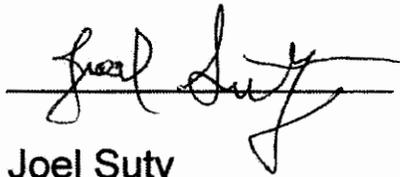
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Joel Suty

permission to use the staging area. I never saw any signs that use of the staging area was prohibited, never saw any "No Trespassing" signs, and never saw any structures, fencing or barricades preventing access to the staging area. I entered and used the staging area freely as we pleased and without any thought or worry just as you would use any recreational support facility that was open and available to the public. I never even saw any attempts to prevent public use of the staging area.

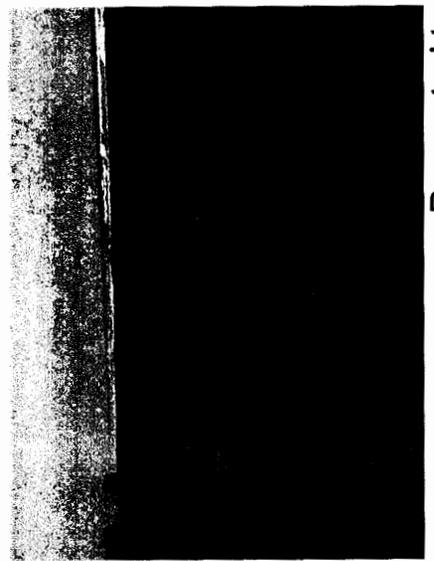
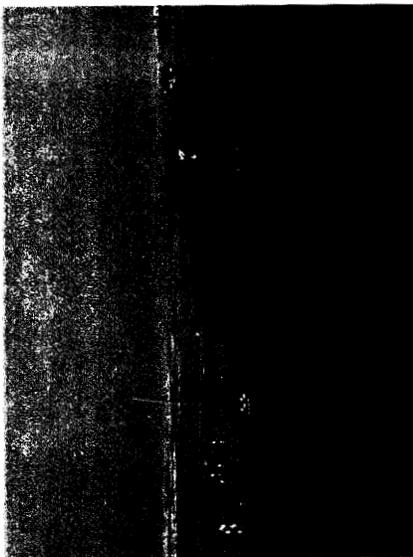
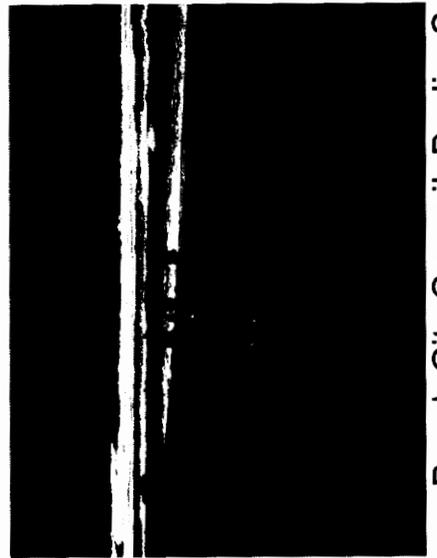
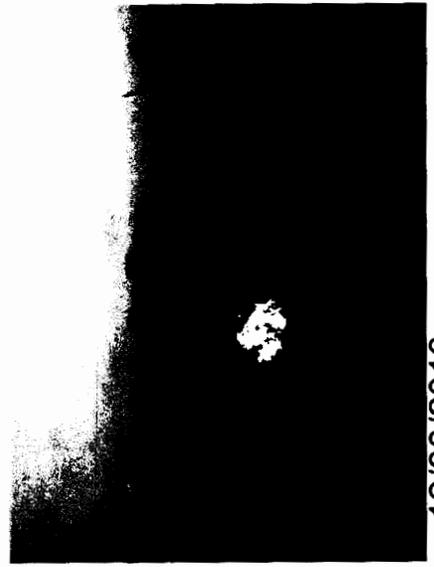
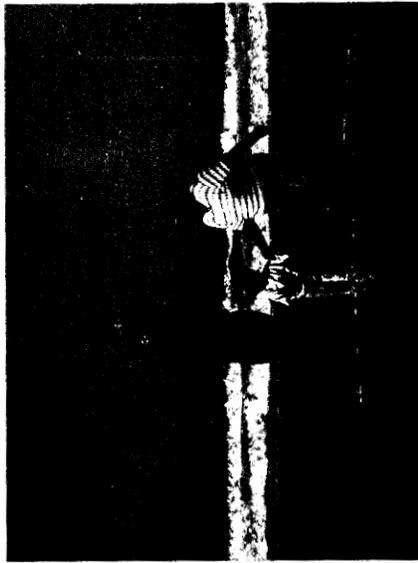
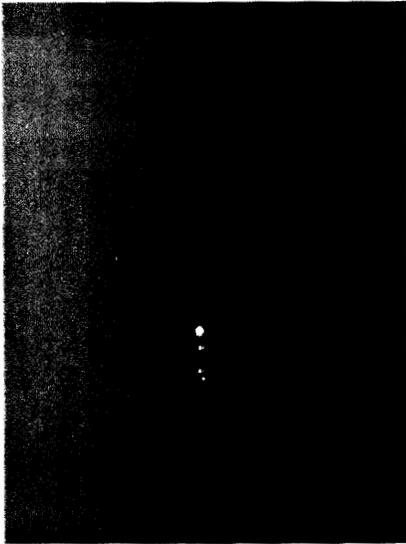
I declare under penalty of perjury that the forgoing is true and correct.

Executed this 3<sup>rd</sup> day of March, 2014 at San Jose, California.

A handwritten signature in cursive script, appearing to read "Joel Suty", is written over a horizontal line.

Joel Suty

**Ex. 7**



Presented to Grover Beach City Council, By Jim Suty on 12/30/2013



## **Friends of Oceano Dunes**

- Friends of Oceano Dunes is a 501(c)(3) California Not-for-Profit Public Benefit Corporation, comprised of over 28,000 supporters.
- We represent businesses, environmentalists, equestrians, campers, fishermen, families and off-road enthusiasts who enjoy the benefits of public access through responsible recreation at the Oceano Dunes State Vehicular Recreation Area (ODSVRA).
- We formed in May 2001
- Several FRIENDs Board of Directors are with us here this evening
- FRIENDs is a 100% volunteer organization...no salaries are paid!

Grover Beach 12/30/13



## **Friends of Oceano Dunes would like to discuss:**

- Concerns with Grover Beach pattern of ignoring the users of the ODSVRA
  - Lodge project
  - Impact from removing/reducing staging area used by OHV and equestrians
  - Relocation of the RV Dump Station and consequential impacts
  - Concerns of construction impacting access to the beach/dunes
- Grand Avenue Master Plan
  - Flow restriction
  - Street width reduction
  - Roundabouts
- APCD appointments
- Closing Comments

Grover Beach 12/30/13

Concerns with the Lodge project :

“FRIENDS” has submitted at least 4 letters on its concerns about the Lodge Project, going back to Jan 2011.

“FRIENDS” has met with the Equestrians to hear their concerns.

“Friends” has offered to meet with the Planning Commission to resolve concerns, but received no response.

The 3 main concerns are:

1. Loss of staging area
2. Redirect of RV dump station
3. Construction impacts

Grover Beach 12/30/13



January 27, 2011

City of Grover Beach

City Manager  
S.W.C.  
1411  
San Luis

Subject: Equestrian  
Elitist

Dear:

July 15, 2011  
Grover Beach Planning Commission  
154 S. Eighth Street  
Grover Beach, CA 93441

Subject: Please Don't  
Down Planning Commission

FRIENDS OF OCEANO DUNES  
15131 Carval Drive  
Grover Beach, CA 93426  
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www.oceanodunes.org

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Public Resources Code (5003.02.1) provides:

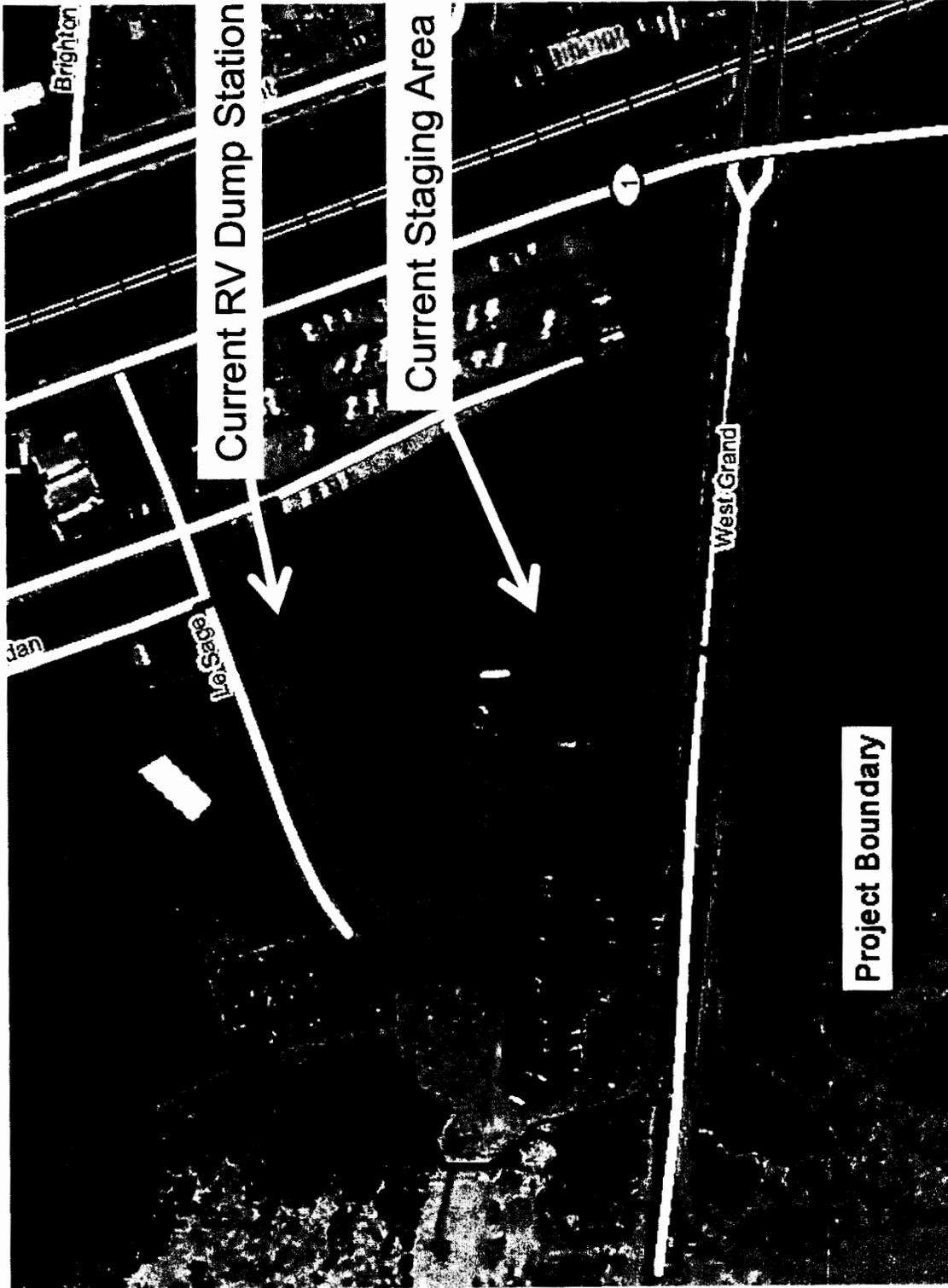
“(3) The development will not impact the resources or the public's use of the state park.”

FRIENDs represents the largest organization of the “public’s use of the state park”

FRIENDs believes it is the best organization to assess true impact and how to mitigate for the users of the state park.

However we feel our numerous letters and requests to address the impacts have been ignored.

1. Loss of staging area



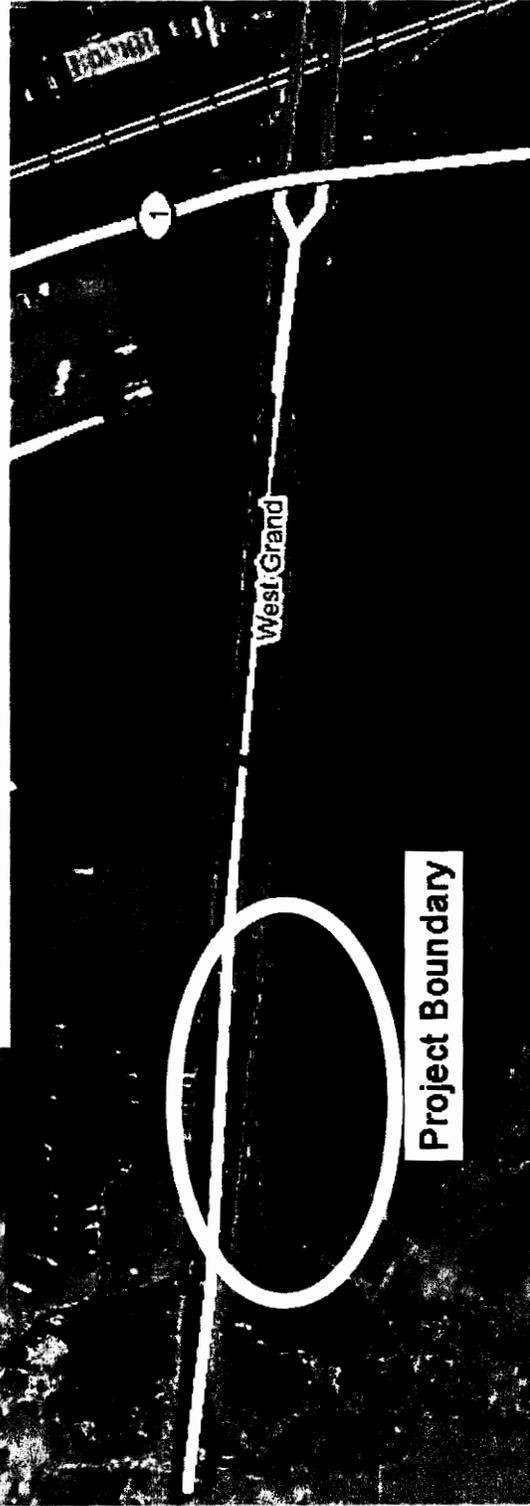
Grover Beach 12/30/13



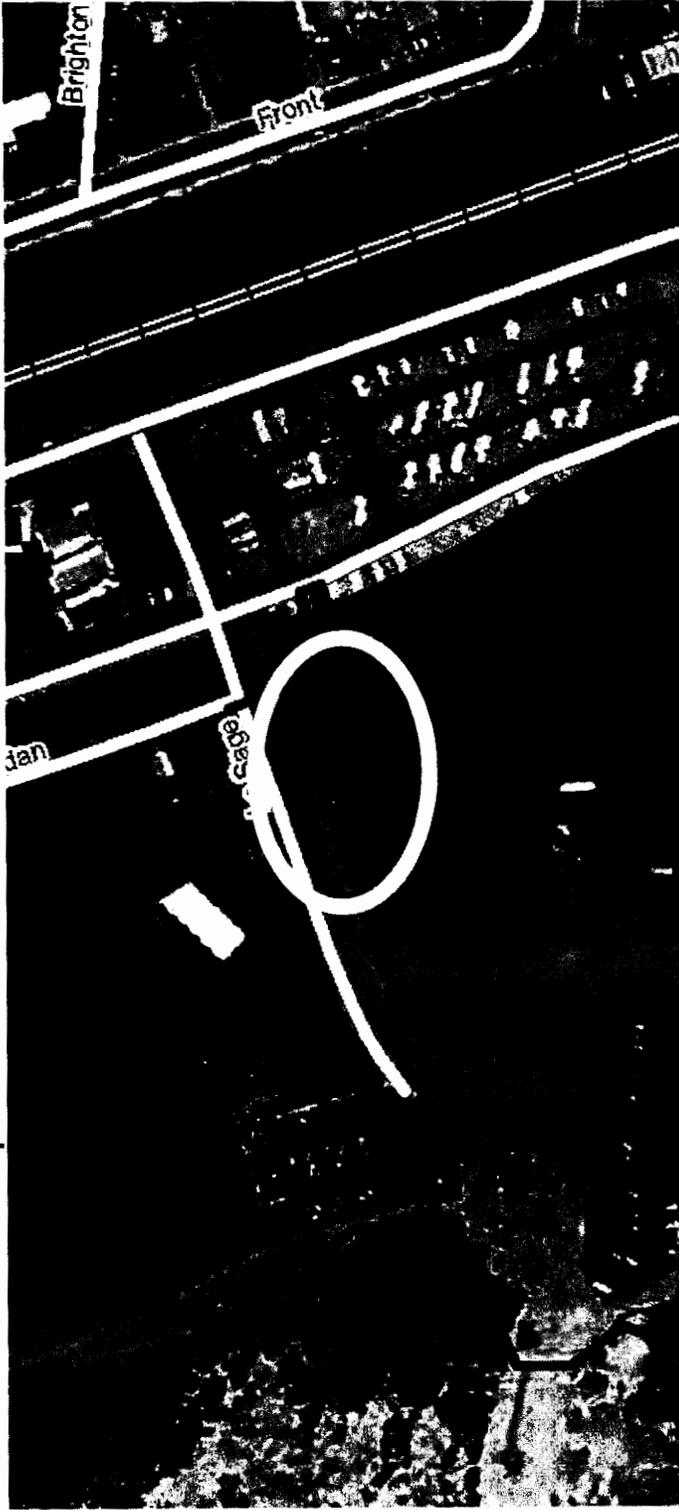
## 1. Loss of staging area



- Area identified to offset staging area is too small:
- Does not accommodate large vehicles (65' in length)
  - Busy weekends require more space for equestrians and OHV access
  - Not sure Coastal Commission will ever allow



2. Redirect of RV dump station

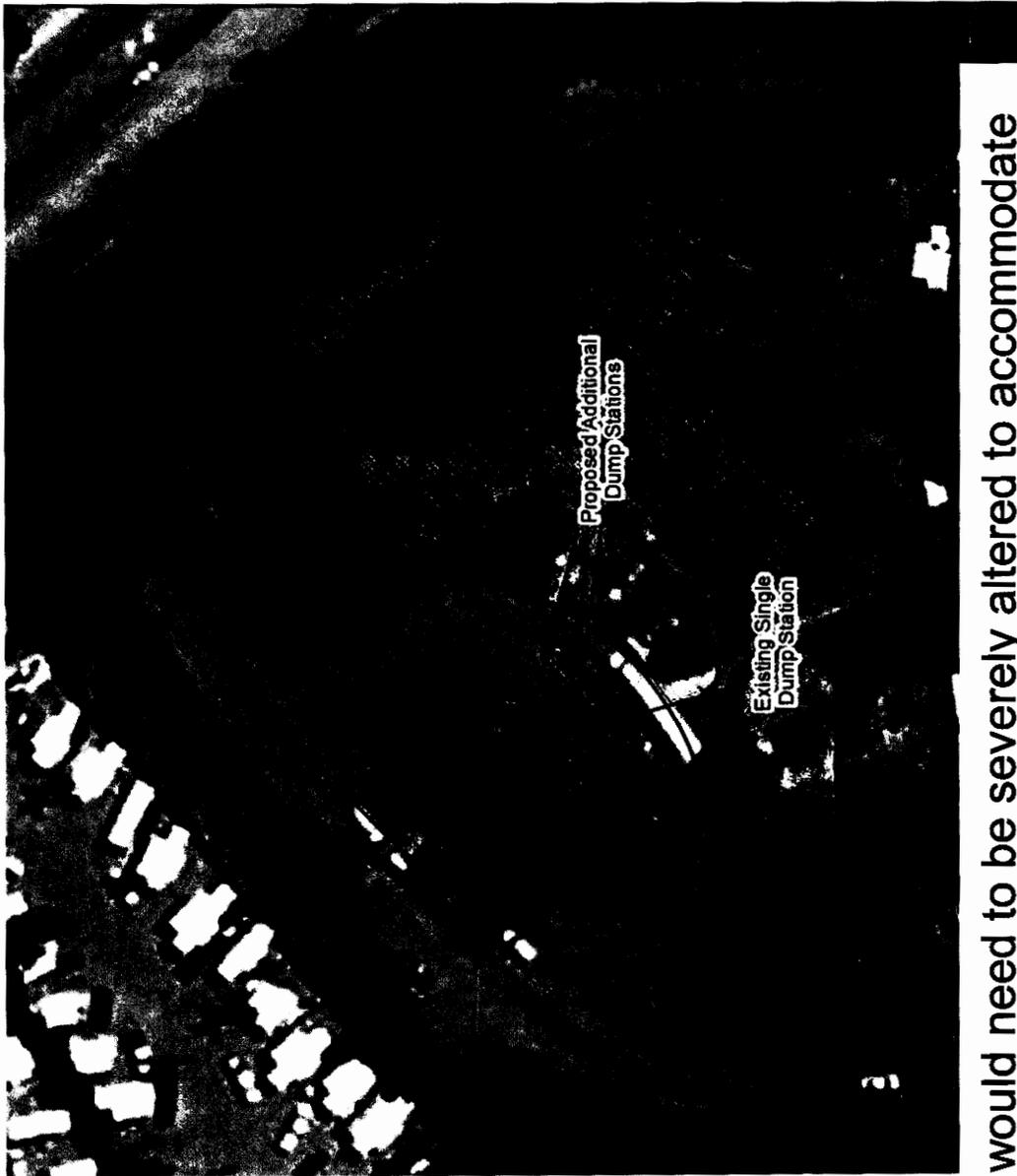
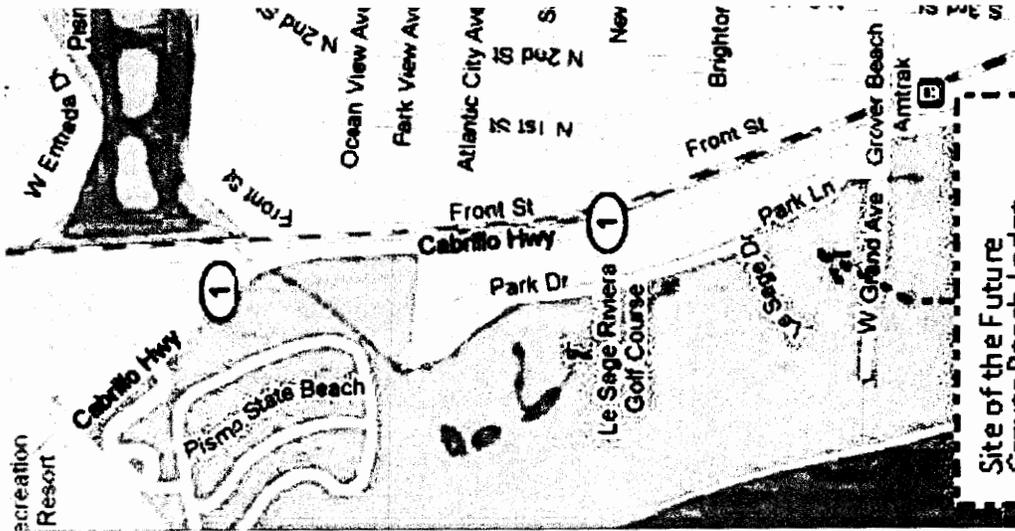


Area identified to offset dump station is North Beach Campground

- Requires all RVs to travel down Hwy 1 through Butterfly Grove
- Traffic on Hwy 1 will back up due to large demand on busy weekends
- Traffic will then leave down Hwy 1 through Pismo causing congestion
- No large gas stations on Hwy 1



## 2. Redirect of RV dump station



- North Beach campground would need to be severely altered to accommodate
- Not sure Coastal Commission will ever allow

Grover Beach 12/30/13



### 3. Construction impacts

We want to ensure that there will be no impacts from construction, especially during the major holiday weekends that would cause delays entering and exiting the park.



- Grand Avenue Master Plan

While preparing for this meeting, I was looking through the Grover Beach website and discovered the Grand Avenue Master Plan (GAMP). While reviewing the GAMP it came clear why we have been experiencing a reduction in our ability to maneuver our big RVs down Grand Avenue.

The GAMP was created and refined with many inputs which raises concerns:

*“The Consultant Team would like to extend its appreciation to the City Council, Planning Commission, City Staff, and the many community members who contributed their time to **create and refine the vision** for the West Grand Avenue corridor.”*



- Grand Avenue Master Plan
- The Perceived Problem
  - “Speed of Automobile Traffic The wide travel lanes and general lack of congestion contribute to rapid automobile movement along West Grand Avenue. The speed of traffic creates an unappealing and unsafe environment for pedestrians and cyclists and results in a less enjoyable public realm for outdoor dining, walking, cycling, and gathering.”

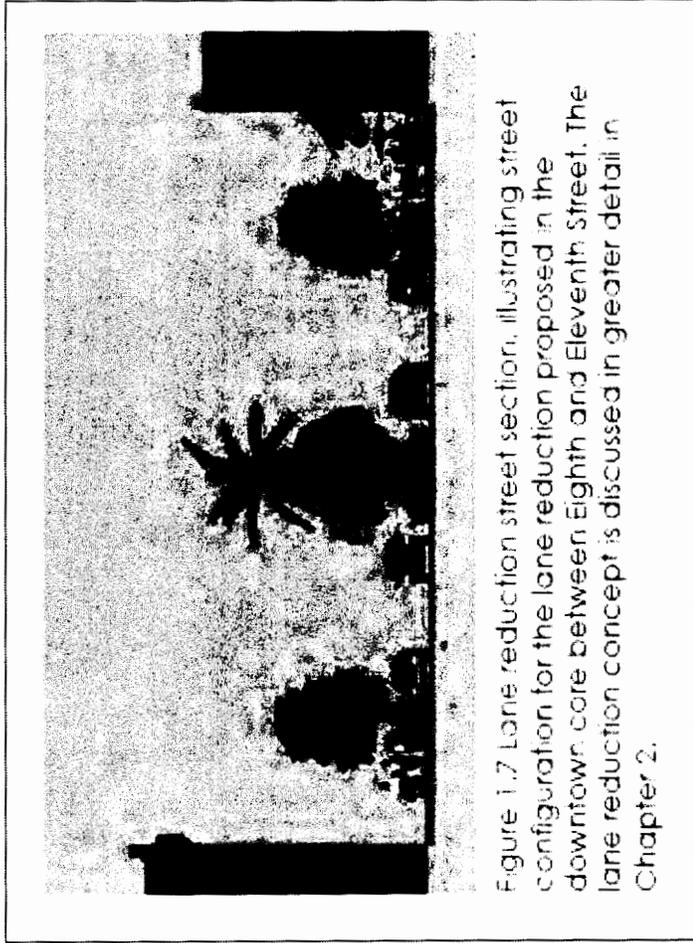


Figure 1.7 Lane reduction street section, illustrating street configuration for the lane reduction proposed in the downtown core between Eighth and Eleventh Street. The lane reduction concept is discussed in greater detail in Chapter 2.



- Grand Avenue Master Plan
- The Suggested Improvement
  - **“The lane reduction will slow traffic and allow for the opportunity to increase the sidewalk width, providing additional space for landscaping, outdoor cafes, and street vending. The lane reduction proposal includes a landscaped median.”**

### **Roundabouts**

*The Highway 1 and Fourth Street intersections serve as main entry points for the City and have the potential to be converted into roundabouts. **Roundabouts would create focal points for the District and can improve traffic flow toward the beach.** The roundabouts also facilitate easy U-turns, allowing visitors to circle back and find parking.*

- Grand Avenue Master Plan



- The Suggested Improvement

Gateway Feature. Fourth Street is one of three major arteries linking Grover Beach to the 101 Freeway. Automobiles travelling to Grover Beach from the north typically use the Fourth Street off-ramp to access the City and reach the beach. The lots on the sites at the Fourth Street intersection should be built to the parcel line with pedestrian-scale corner treatments and an architectural focal point in the intersection. Buildings should be two to three stories and offer a mix of uses including ground floor specialty retail and hotel rooms, apartments, or condominiums on the upper floors.

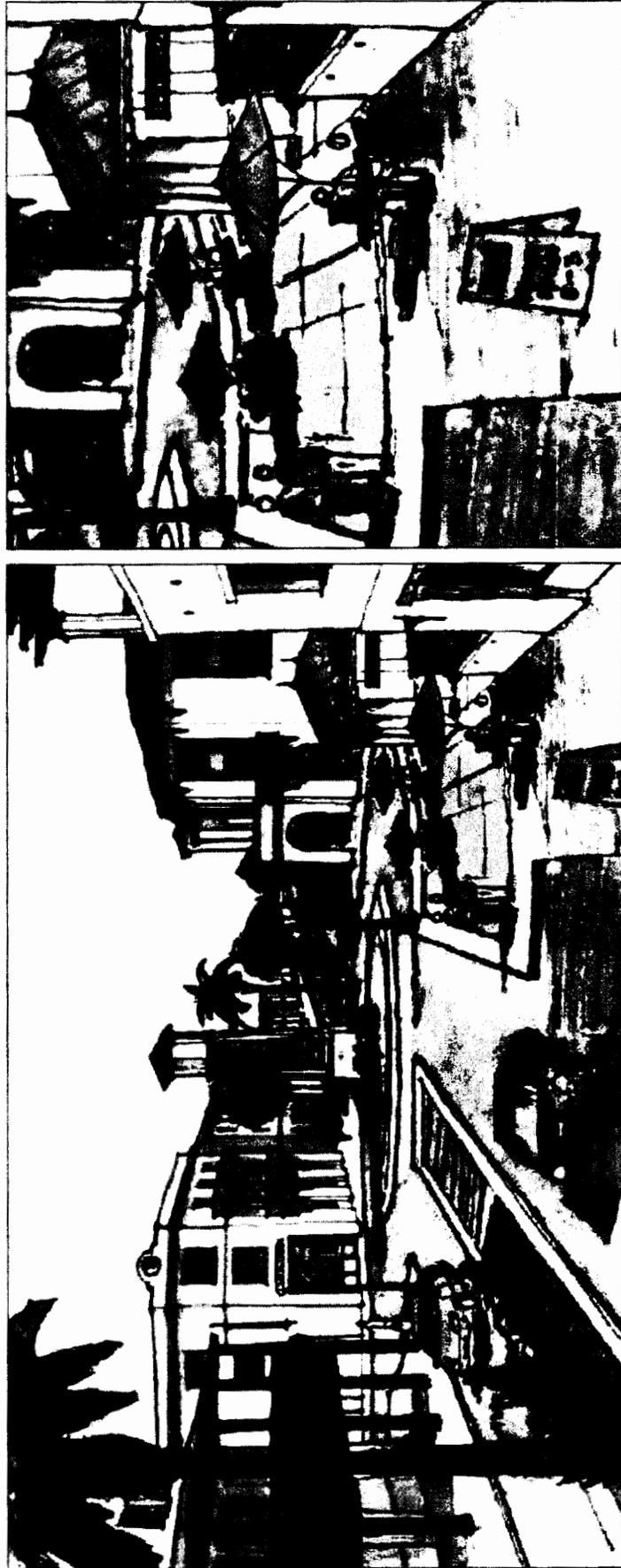


Figure 2.16 Conceptual illustration of a gateway, looking north Across West Grand Avenue, from Fourth Street.

# Grand Avenue Master Plan

- The GAMP seems to be at complete odds with the Grover Beach suggested Truck Route.





## City of Grover Beach





In order to protect city streets from adverse impacts, the City of Grover Beach has established a truck route. Truck routes limit truck use on local streets in order to protect residential areas from unnecessary truck traffic and protect the safety of drivers and pedestrians.

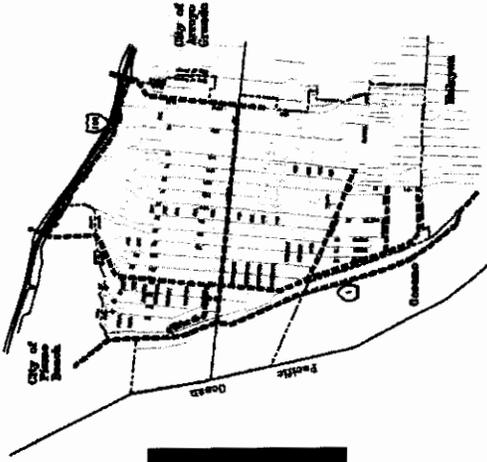
Per GBMC Section 3303(D), the following streets are declared truck routes for vehicles that exceed a maximum gross vehicle weight of three (3) tons:

- West Grand Avenue—within the City Limits
- Oak Park Boulevard—from Longbranch Avenue to US 101
- Farroll Road—from South 4th Street to South 14th Street
- Highland Way—from South 4th Street to South 13th Street
- 4th Street—within the City Limits
- El Camino Real—from North 4th Street to Oak Park Boulevard
- The Pike—from South 4th Street to South 13th Street
- Highway 1—within the City Limits
- Ramona Avenue—from North 4th Street to Front Street
- 3rd Street—from West Grand Avenue to Ramona Avenue
- Front Street—from Ramona Avenue to Newport Avenue

Trucks that exceed the maximum gross weight are permitted ingress and egress by direct routes to and from restricted streets when necessary for the purpose of making pickups and deliveries of goods.

TRUCK ROUTE





City of Grover Beach  
Truck Routes Legend

City Limit

Access Highway

Truck Route

If you have any questions regarding Truck Route enforcement efforts, please contact:  
Grover Beach Police Department ♦ 805.473.4511

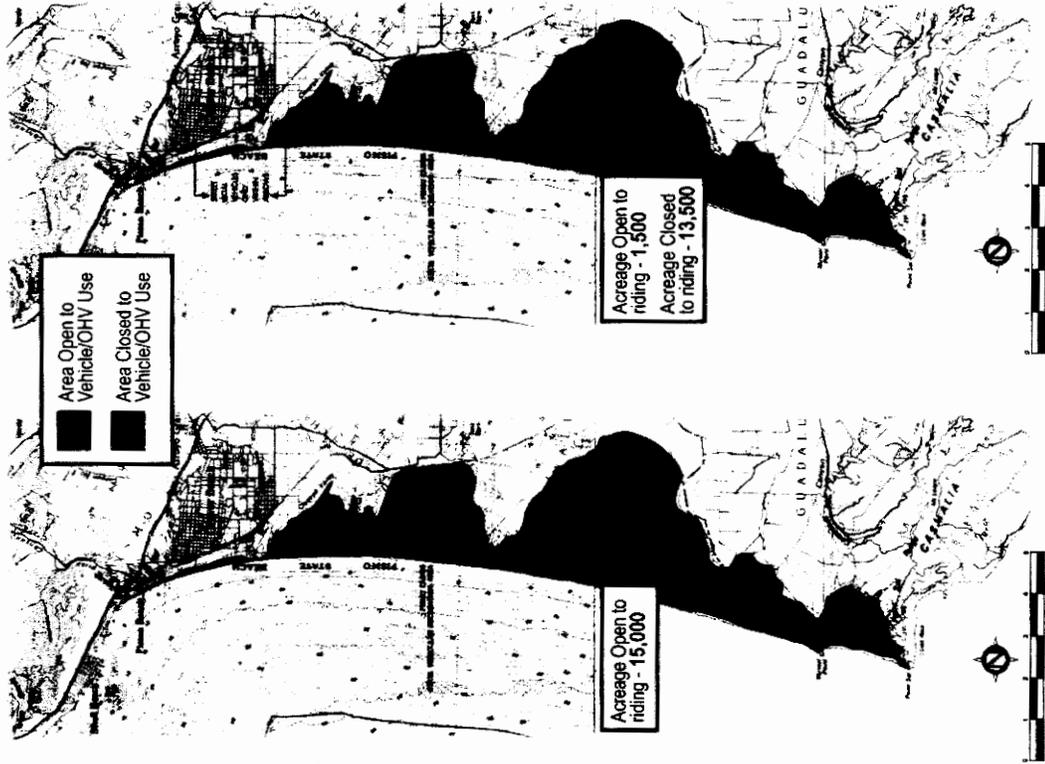


## Closing Comments

- FRIENDS is concerned that there is a continued threat to the access and use of the Oceano Dunes from many sides
- Grover Beach development seems to ignore negative impacts to the users and visitors of the park
- City appointments to APCD seem to contradict what we are verbally told
- FRIENDS desires a close working relationship with the local County and City... **We want to work together!**
- As a last resort, FRIENDS will take action if it believes any negative impact can occur to the park or the access and use of the park

Grover Beach 12/30/13

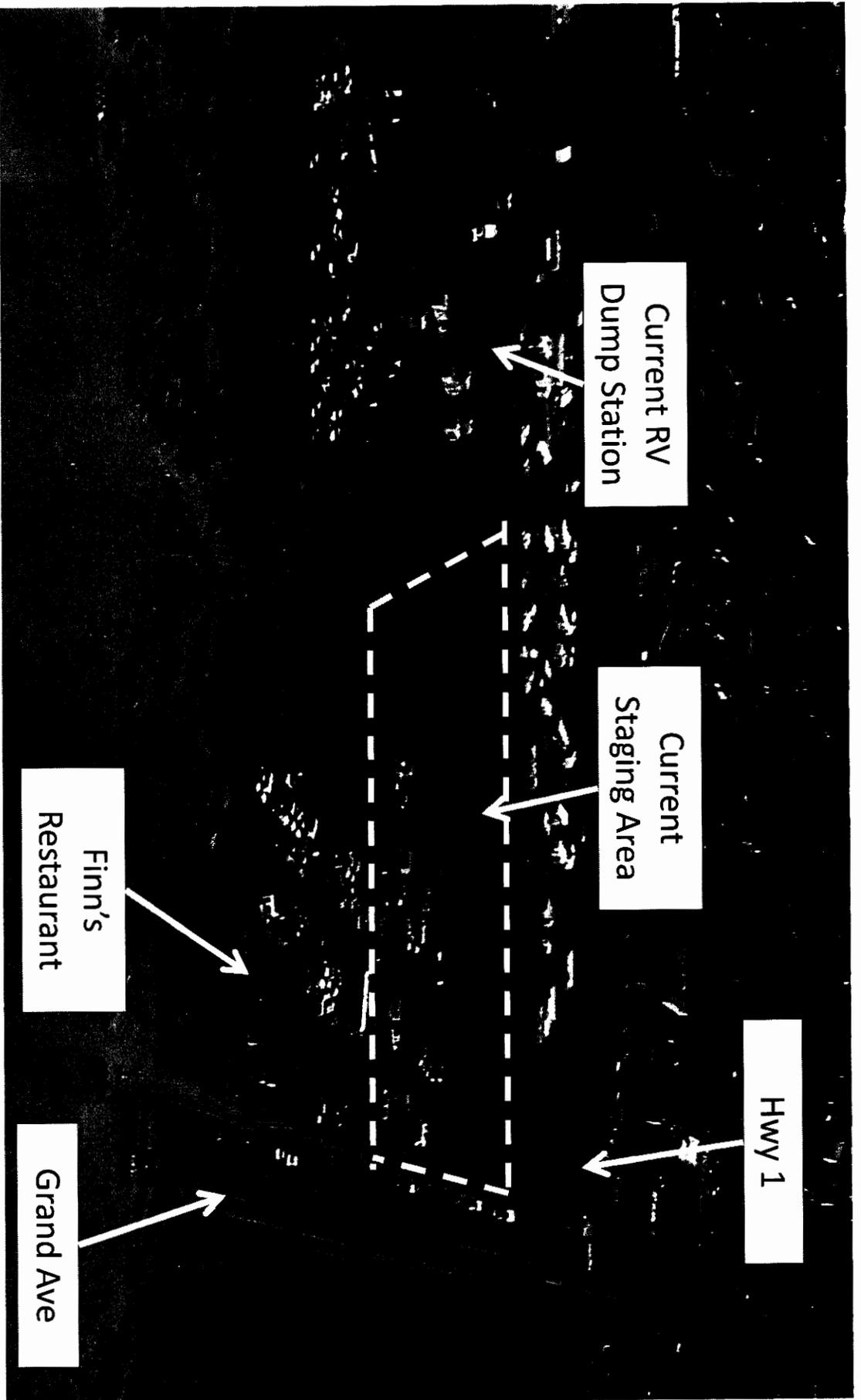
## Oceano Dunes



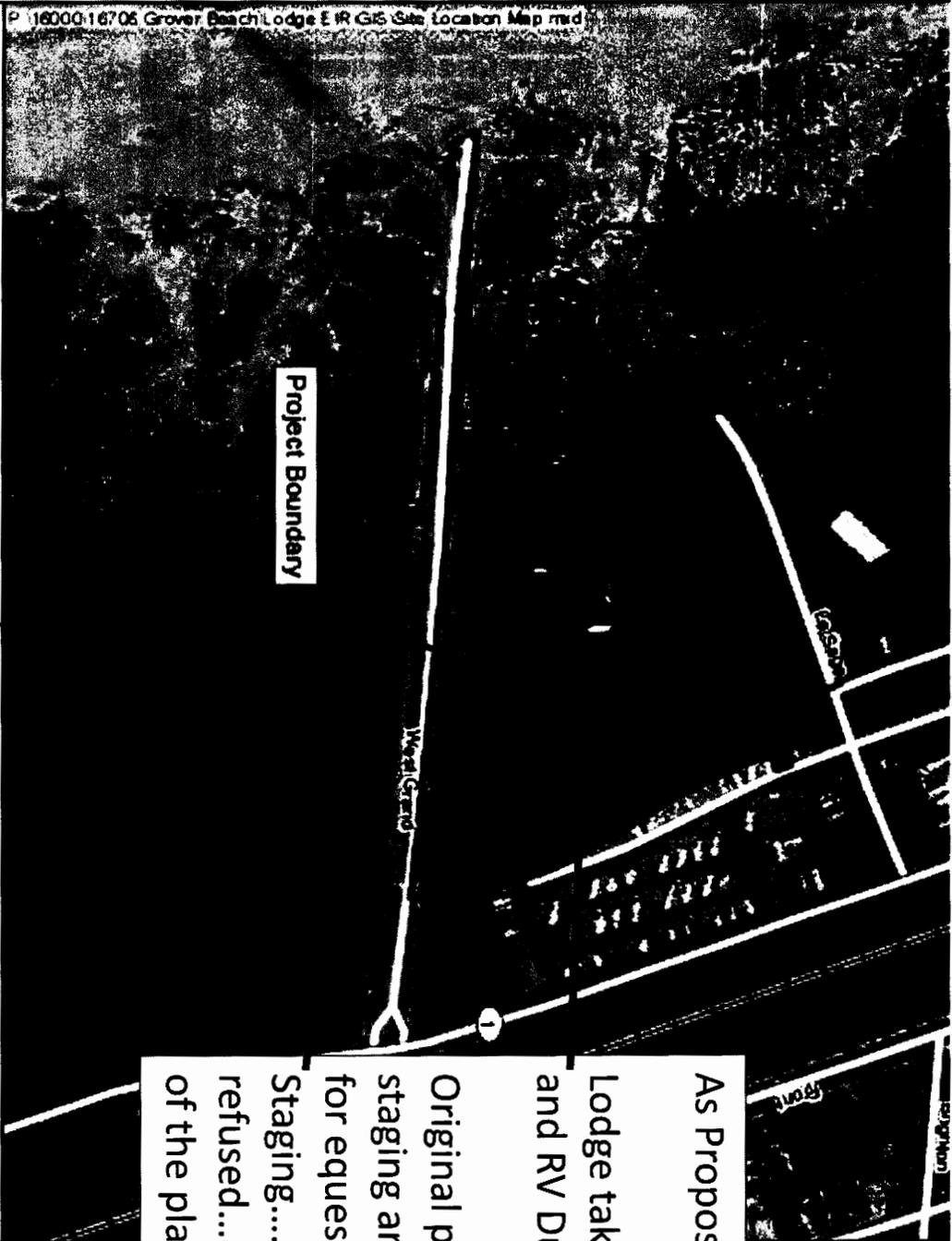
Pre - 1982

Post - 1982

**Ex. 8**



**This Picture is from 1982, but represents conditions today.**



**As Proposed:**  
 Lodge takes entire staging and RV Dump area..  
 Original plan offered a small staging area south of Grand for equestrian use and RV Staging....Coastal Commission refused...and is now not part of the plan

<b>Grover Beach Lodge EIR</b>	

As Proposed:

Original plan offered a small staging area south of Grand for equestrian use and RV Staging....Coastal Commission refused...and is now not part of the plan



Basement County/ Pacifica Motors, Inc.

Site Plan - Grover Beach

As Proposed:

We are told that they will dedicate several spots here for staging. Details have not been specified.

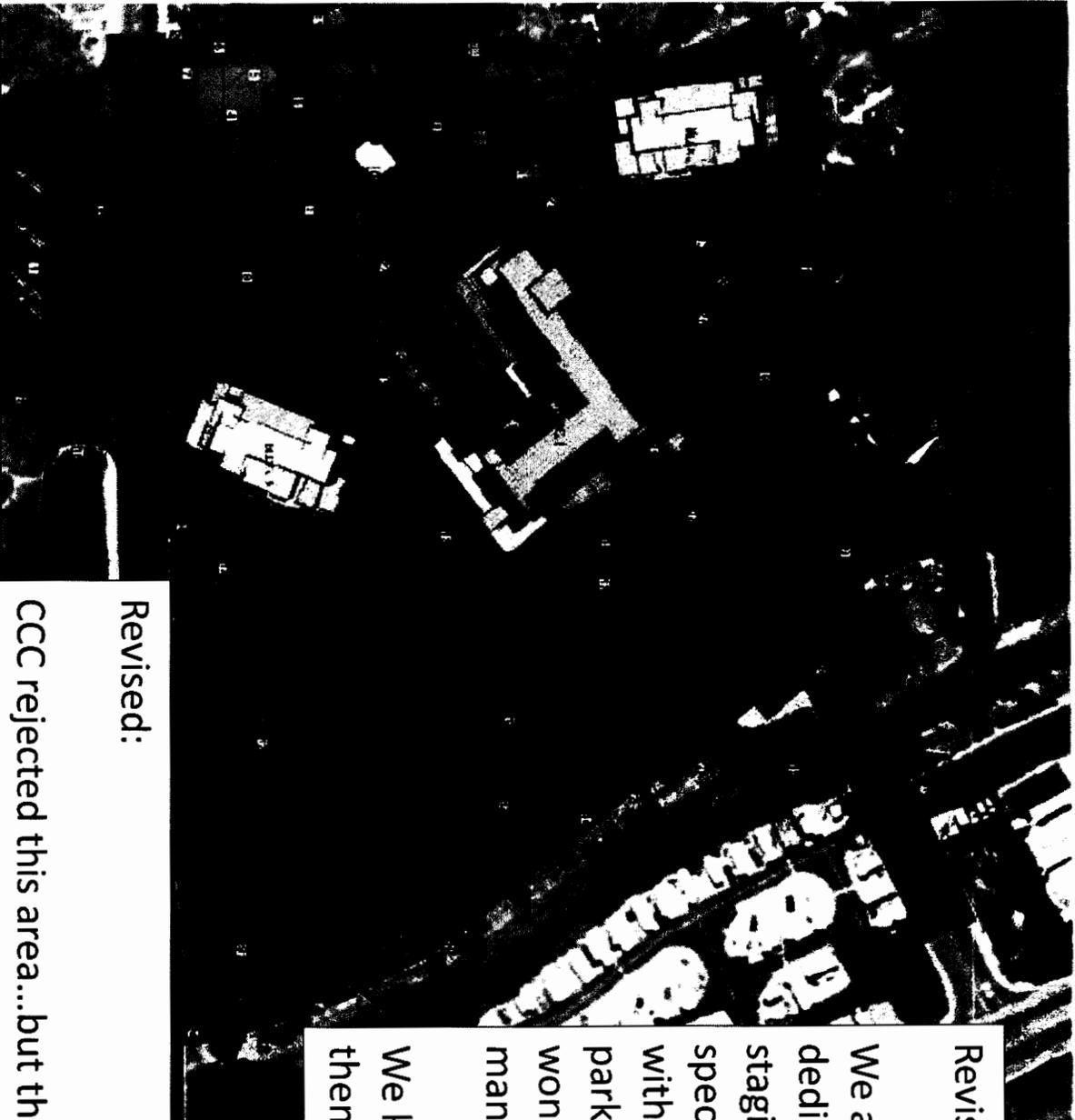
**NOTATION:**

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Figure 2-5g. Original Deneck



Figure 2-5b. Revised Development Plan



SEI PLAN (LELAND)  
1. EXISTING DEVELOPMENT  
2. PROPOSED DEVELOPMENT  
3. EXISTING OPEN SPACE

Revised:  
We are told that they will dedicate several spots here for staging. Details have not been specified. We have to share with the day use visitors to the park...first come first serve. It wont work and we can not maneuver in this small area!  
We keep being told to "trust them"....this will not work!

1. EXISTING DEVELOPMENT  
2. PROPOSED DEVELOPMENT  
3. EXISTING OPEN SPACE  
4. EXISTING OPEN SPACE  
5. EXISTING OPEN SPACE  
6. EXISTING OPEN SPACE  
7. EXISTING OPEN SPACE  
8. EXISTING OPEN SPACE  
9. EXISTING OPEN SPACE  
10. EXISTING OPEN SPACE  
11. EXISTING OPEN SPACE  
12. EXISTING OPEN SPACE

Revised:  
CCC rejected this area...but they have not removed it yet. This would have been a better approach.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060-4508  
VOICE (831) 427-4883 FAX (831) 427-4877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Deah Rudd  
Mailing Address: P.O. Box 7133  
City: Arroyo Grande, CA Zip Code: 93421 Phone: 805-710-2739

SECTION II. Decision Being Appealed

- Name of local/port government: Grover Beach City Council  
City of Grover Beach
- Brief description of development being appealed:  
Grover Beach Lodge and Conference Center
- Development's location (street address, assessor's parcel no., cross street, etc.): Grover Beach  
55 W. Grand Ave  
Ocean and Grand (La Sage to the North and Hwy 1 to the East) east boundary is Meadow Creek
- Description of decision being appealed (check one.):  
 Approval; no special conditions  
 Approval with special conditions:  
 Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

<u>TO BE COMPLETED BY COMMISSION:</u>	
APPEAL NO:	A-3-GRB-14-0024
DATE FILED:	April 28, 2014
DISTRICT:	Central Coast

RECEIVED

APR 28 2014

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA  
A-3-GRB-14-0024 (Grover Beach Lodge)  
Exhibit 4 - Deah Rudd Appeal  
Page 1 of 25

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)**

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision:

April 7, 2014

7. Local government's file number (if any):

Resolution Number 14-19  
Coastal Commission Permit #10-03

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Deah Rudd  
P.O. Box 7133  
Arroyo Grande, CA 93421

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) Deah Rudd  
P.O. Box 7133  
Arroyo Grande, CA 93421
- (2) Grover Beach City Council  
154 S. Eighth St,  
Grover Beach, CA 93433
- (3) Friends of Oceano (FOOD)  
P.O. Box 398  
Oceano, CA 93445
- (4)

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)**

**SECTION IV. Reasons Supporting This Appeal**

**PLEASE NOTE:**

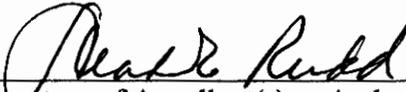
- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

*See attached*

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**

**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.

  
\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent  
Deah Rudd  
Date: 4-25-14

**Note:** If signed by agent, appellant(s) must also sign below.

**Section VI. Agent Authorization**

I/We hereby  
authorize \_\_\_\_\_

to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)  
Date: \_\_\_\_\_

**I. This development violates Section 30211 Development not to interfere with access, and Section 30252 Maintenance and enhancement of public access**

**"Oceano Dunes SVRA**

"This off road area is among the most popular and unique of California State Parks. The 5 1/2 miles of beach open for vehicle use and the sand dunes available for off highway motor vehicle recreation are attractions for visitors from throughout the United States.

Oceano Dunes is the only California State Park where vehicles may be driven on the beach. Passenger cars can easily drive on the northern portion of the beach."

**Weather** - Summer temperatures - Highs: 60's and 70's; Lows: 50's; Dense morning fog; Winter temperatures - Highs: 50's and 60's; Lows: 40's; high winds in Spring"

[http://www.parks.ca.gov/?page\\_id=406](http://www.parks.ca.gov/?page_id=406)"

The boundaries of the Oceano Dunes Vehicle Recreation State Park include all beach (sand and sand dunes), and ocean front property with shifting sands and rising tides that changes hourly and daily. It is the only SVRA Park without a hard-pack surface for staging within its boundaries. Considerable downsizing of the existing staging area and loss of the separate equestrian staging area (we now stage to the back of the lot away from the RVs) will have a SEVERELY negative impact on the public access to the State Park and beach as those that come from a long way away (and locals) will have no place to stage their large vehicles. RVs will be forced prematurely onto the sand or will have to leave. With no safe and adequate place to stage equestrians will have to leave and will quit using the park. The proposed site of the Grover Beach Lodge of the current approximate 4 acres of dirt staging and parking for Motorhomes, truck and trailers, RV buses, horse trailers to ride/drive on the Oceano Dunes SVRA California State Park.

**Factors:**

1. This is a vacation destination beach where working people come on holidays from the inland (Fresno, Bakersfield, Ventura, Santa Barbara, Los Angeles and from all over the US) to escape the heat; play in the water and sand, and ride horses and or ATVs, and camp. People come from all over the United States and the world to ride horses and ATVs on this beach.
2. The loss of a separate or distant equestrian staging area (see attached Cal Trans equestrian staging area plans) which allows 10 feet between horse trailers and clear rear and side access for horses is a major loss to the public equestrian park user.
  - a. Converting equestrian access to a shared parking lot (no reserved side and rear access for horses as in a staging area) with scary RVs with trailers of scary objects hauled behind it is a huge loss to the equestrian rider of the State Park.
  - b. A five space parking lot is only the equivalent to a 2 ½ spaces of staging area for horses.
  - c. A shared parking lot means rear and side access to our trailers as well as front access can be blocked by other vehicles.
  - d. Disabled equestrian users access to the park would be eliminated or greatly diminished by their inability to get their horses and carriage out the side access of their trailer. A disabled rider would need side access to his trailer to mount from the trailer fender which could or would be eliminated with group parking.
  - e. The turning radius of most RVs and Equestrian rigs exceed a 40' radius. A one way in and one way out area makes the space even more limiting.

- f. To haul horses to the beach to find these staging limitations and no place to safely stage will cause most equestrians to stop using the park.
3. Pismo Beach RV Parking <https://www.youtube.com/watch?v=vMqH3SBdRDw>
4. High Tide River Crossing <https://www.youtube.com/watch?v=p9wbmrxdRo>
5. The camping ATV/jeep/4x4 truck using beach requires the hard pack staging area to;
  - a. The 4 x 4 trucks that come off the beach at Grand must have some place to stop within a few hundred yards of the kiosk to unlock their locking hubs from 4 wheel drive back in to 2 wheel drive.
  - b. air down the tires on their vehicles to drive on the beach, to meet the rest of their camping group/family, to air up their tires in preparation of the drive home, to eat breakfast/lunch/dinner at Fin's Restaurant, to enjoy the beach before they head home after camping, to wait for the line at the dumpsite to clear out,
  - c. New Year's Day <https://www.youtube.com/watch?v=5C3QYqy-G6E>
  - d. Memorial Day weekend: Ronnie Renner and friends stormed into Pismo Beach on a packed Memorial Day weekend for the third stop of the Red Bull Ronnie Renner Freeride Tour. Renner and Red Bull created the Tour as a way for his fans to hang out with and ride with Renner and his crew, as well as get a firsthand look as to how these professionals get it done.
  - e. **October 17-18<sup>th</sup> : The Pismo Huckfest** brings you a safe family fun event at the Oceano Dunes SVRA. The event brings you some of the top off-road vehicles in the world, to compete in front of crowds at a safe distance. Huckfest was created by locals to bring the off-road community together and boost the local economy. The weekend will have monster trucks, trophy trucks, fmx demos, vendors, pit challenge, live music, campfire fun, bounce houses for the kids, free giveaways and more! <https://www.youtube.com/watch?v=qIAv6V1Cslw>
  - f. If the creek runs too high the large RV's must have an alternative place to park to wait for the creek to go down and to wait for the rest of their party to get across the creek.  
2011 Creek Crossing: <https://www.youtube.com/watch?v=o3-PJYPVCQ8>. Whats left of truck stuck in ocean <https://www.youtube.com/watch?v=fgRIEwZ8jRQ>

## II. The development violates all of Section 30253 Minimization of adverse impacts

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion,

Geologic instability, or destruction of the site or surrounding area or in any way require the construction of Protective devices that would substantially alter natural landforms along bluffs and cliffs. . .

1. Without a sea wall and the predictions of rising tidelines and Tsunamis this development would put at risk the lives of those using the lodge, conference center, and Park.
2. The project has too much impervious material (asphalt, cement, buildings) covering the existing marshland leaving serious issues with water diversion, pollution of the existing creek and run-off. There is not enough parking for Park users. The development puts too much of a human footprint on this land and water table is too high where the development and dump station are planned.

3. The two separate hotel buildings do not blend with the natural environment and don't belong on the dunes. They have a substantial adverse effect on the scenic vista from all directions. They degrade the existing visual character and quality of the site and its surroundings. That area of the dunes needs to remain in its natural environment with an unobstructed coast view and enjoyment of the public without any buildings in close proximity. They look like a "ship wreck" on the sand bar and are obstructing the ocean view. It would be better to cluster these two hotel buildings in close proximity to the proposed hotel main building to better use the space. For aesthetics, their heights/elevations could be graduated. The proposed hotel buildings have a visually negative impact on the community character.
4. The main hotel building also does not blend with its environment and is too tall and massive and obstructs the ocean view. It looks like an "ocean liner." The architecture and design does not blend with the surroundings and the natural environment. It degrades the existing visual character and quality of the site and its surroundings. I don't believe the Amendment to the General plan which "capped" this development at a maximum of 150 room hotel, and specified conference rooms and a cafeteria, intended this massive a structure(s) with a pool on the second floor of the main hotel (used I believe to increase the floor space of the main hotel to generate more revenue) and a convention center (conference rooms). This massive development will make too big of a foot print on this land. This development is way beyond the size, scope and mass of the intended development.
5. The development needs to be down scaled to allow more of this property to be used for (low cost) day use equestrian and RV users beach access/parking/staging. A hotel and conference rooms can fit but not on the scale being proposed. This is not only the present but the future of our public day use access to this stretch of the beach. This is a time when less (development) is more. I counted (and took pictures of) approximately 300 vehicles on July 4, 2012, of park users who had no access to the beach because it was sold out. These were just day users – no trailers. I also met a pregnant woman who had to walk ¼ of a mile from the dirt parking lot to the added 6 or more porta potty's by the kiosk because there was not enough room for parking so parking was not permitted in front of the porta pottys.

**6. Light and Glare:**

This project will significantly increase the light and glare that will affect day and night time views and require more than the mitigation measures provided for in the Mitigation. The building will have exterior and interior lighting which will then be evaluated by the City (the JP and applicant in this project).

7. The Arroyo Grande Creek watershed drains about 150 square miles. The watershed's tributaries include Tally Ho, Tar Springs and Los Berros Creeks. Meadow Creek is a remnant marsh drainage system that enters Arroyo Grande Creek, just upstream of the confluence with the ocean.

Meadow Creek at the dirt parking lot is a marsh which has marshland far outside it's creek boundaries and if disturbed by this development will cause pollution of the creek.

The creek in North beach where the new location of the dump site is also a marshland far outside it's creek boundaries and if disturbed by the new dump site will cause pollution of the creek.

**III. The development violates Section 30252 Maintenance and enhancement of public access**

## Grover Beach Lodge and Conference Center

1. The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

See all reasons in I – V listed above.

#### **IV. The development violates all of Section 30251 Scenic and visual qualities**

The project has too much impervious material (asphalt, cement, buildings) covering the existing marshland leaving serious issues with water diversion, pollution of the existing creek and run-off that has not been thoroughly addressed in the DEIR and I don't believe can be mitigated because of the size of the development. The development puts too much of a human footprint on this land.

The two separate hotel buildings do not blend with the natural environment and don't belong on the dunes. They have a substantial adverse effect on the scenic vista from all directions. They degrade the existing visual character and quality of the site and its surroundings. That area of the dunes needs to remain in its natural environment with an unobstructed coast view and enjoyment of the public without any buildings in close proximity. They look like a "ship wreck" on the sand bar and are obstructing the ocean view. It would be better to cluster these two hotel buildings in close proximity to the proposed hotel main building to better use the space. For aesthetics, their heights/elevations could be graduated. The proposed hotel buildings have a visually negative impact on the community character.

The main hotel building also does not blend with its environment and is too tall and massive and obstructs the ocean view. It looks like an "ocean liner." The architecture and design does not blend with the surroundings and the natural environment. It degrades the existing visual character and quality of the site and its surroundings. I don't believe the Amendment to the General plan which "capped" this development at a maximum of 150 room hotel, and specified conference rooms and a cafeteria, intended this massive a structure(s) with a pool on the second floor of the main hotel (used I believe to increase the floor space of the main hotel to generate more revenue) and a convention center (conference rooms). This massive development will make too big of a foot print on this land. This development is way beyond the size, scope and mass of the intended development.

The primary purpose of this property is and should be maintained as primarily low cost (no cost) day use and multi-use beach access/parking. A hotel and conference rooms can fit but not on the scale being proposed. This is not only the present but the future of our public day use access to this stretch of the beach. This is a time when less (development) is more. I counted (and took pictures of) approximately 300 vehicles on July 4, 2012, of park users who had no access to the beach because it was sold out. These were just day users – no trailers.

**Light and Glare:**

This project will significantly increase the light and glare that will affect day and night time views of residents and visitors.

Table – Count (Off season riding count – spring summer higher ride times)

**Table – Equestrian Trailer Count**  
Thursday - 1/20/2011

Key: BP = Bumper Pull  
GN= Goose Neck

<b>Extenuating Circumstances: rocket was launched from Vandenberg at 1:10 - some equestrians avoided riding the beach</b>				
<b>@ 10:35</b>	<b>6</b>	<b>2 horse trailers</b>		
	<b>1</b>	<b>3 horse trailer</b>		
	<b>2</b>	<b>4 horse trailers</b>		
<b>Total</b>	<b>9</b>			
<b>@ 2:15</b>	<b>2</b>	<b>2 horse trailers</b>		
<b>Total</b>	<b>2</b>			
			<b>Daily Total</b>	<b>11</b>

Friday - 1/21/2011

<b>Extenuating Circumstances: no afternoon count taken</b>				
<b>@ 11:00</b>	<b>4</b>	<b>2 horse BP trailers</b>		
	<b>2</b>	<b>2 horse GN trailers</b>		
	<b>2</b>	<b>3 horse GN trailers</b>		
<b>Total</b>	<b>8</b>		<b>AM Total</b>	<b>8</b>

Saturday - 1/22/2011

<b>Extenuating Circumstances: no afternoon count taken</b>				
<b>@ 10:00</b>	<b>5</b>	<b>2 horse BP trailers</b>		
	<b>1</b>	<b>2 horse GN trailer</b>		
	<b>1</b>	<b>3 horse GN trailers</b>		
	<b>1</b>	<b>4 horse GN</b>		
<b>Total</b>	<b>8</b>			
<b>@ 11:00</b>	<b>2</b>	<b>2 horse BP trailers</b>		
	<b>1</b>	<b>3 horse GN w/living quarters</b>		
<b>Total</b>	<b>3</b>			
			<b>Daily Total</b>	<b>11</b>

Sunday, 1/23/2011

<b>Extenuating Circumstances:</b>				
<b>@ 10:45</b>	<b>2</b>	<b>2 horse BP trailers</b>		
<b>Total</b>	<b>2</b>			
<b>@ 1:10</b>	<b>4</b>	<b>2 horse BP trailers</b>		
	<b>1</b>	<b>1 horse BP trailers</b>		
	<b>1</b>	<b>3 horse GN</b>		
<b>Total</b>	<b>6</b>		<b>Daily Total</b>	<b>8</b>

Monday - 1/24/2011

<b>Extenuating Circumstances: no afternoon count taken</b>				
<b>@ 11:00</b>	<b>1</b>	<b>2 horse BP trailer</b>		
	<b>1</b>	<b>3 horse BP trailer</b>		
	<b>2</b>	<b>4 horse GN trailers</b>		
<b>Total</b>	<b>4</b>		<b>AM Total</b>	<b>4</b>

Tuesday - 1/25/2011

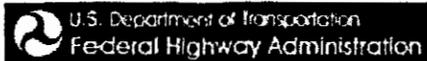
<b>Extenuating Circumstances: Grand Avenue RAMP ENTRANCE closed for paving - no afternoon count taken</b>				
<b>@ 11:10</b>	<b>2</b>	<b>2 horse BP trailers</b>		
			<b>AM Total</b>	<b>2</b>

Wednesday - 1/26/2011

<b>Extenuating Circumstances: Grand Avenue RAMP ENTRANCE closed for paving to dry - no afternoon count taken</b>				
<b>@ 11:00</b>	<b>1</b>	<b>6 horse GN trailer</b>		
	<b>2</b>	<b>2 horse BP trailers</b>		
	<b>1</b>	<b>3 horse X-long GN trailer</b>		
	<b>1</b>	<b>2 horse X-Long BP trailer</b>		
			<b>AM Total</b>	<b>5</b>

Thursday - 1/27/2011

<b>Extenuating Circumstances: Grand Avenue RAMP ENTRANCE closed for striping paving - no afternoon count taken; lot empty; horses staged on the street on Pier Avenue 3 other trailers turned around and left</b>				
<b>@ 11:30</b>	<b>2</b>	<b>2 horse GN trailer</b>		
	<b>1</b>	<b>2 horse BP trailers</b>		
			<b>AM Total</b>	<b>3</b>



Environment



# Equestrian Design Guidebook for Trails, Trailheads and Campgrounds

## Chapter 8--Designing Roads and Parking Areas

Proper road and parking area design is critical in recreation sites, especially for vehicles towing trailers. Traffic circulation should be simple, functional, and avoid dead ends.

### Road System Design

Designing roads is a complex process that is beyond the scope of this guidebook. Road geometry and components, including turning radii, sight distances, horizontal and vertical alignments, and intersections, must conform to AASHTO requirements and any other applicable standards. Consult with a qualified transportation engineer. Designers need to know not only engineering essentials, but also basic equestrian needs when designing recreation site roads.

### Recreation Site Entrances

The access to most recreation sites is from a State or county highway. Any work performed within the rights-of-way of Federal, State, or county roads requires applicable permits. The road agencies also may require acceleration, deceleration, or turning lanes. During design, carefully analyze the location of intersections. Use only one site entrance to minimize conflicts with highway traffic. One entrance also simplifies incoming traffic flow and makes site management easier. Safe exits avoid steep grades and have adequate clear sight distance for approaches and departures. Vehicles towing heavy horse trailers need a lot of time to merge with highway traffic, so make sure merge lanes are long enough.

Avoid locating intersections on sharp curves or at areas with awkward grade combinations. Carry the grade of the main road through the intersection and adjust the grade of the access road to it. The grade of the access road should be 6 percent or less where it approaches the main road. A maximum grade of 5 percent at intersections allows vehicles pulling horse trailers to accelerate more quickly so they can merge safely into highway traffic. The preferred grade is 1 to 2 percent.

For roads where snow and ice may create poor driving conditions, AASHTO (2001a) lists the preferred grade on the approach leg as 0.5 percent to no more than 2 percent, as practical. Avoid intersections that are slightly offset from each other on opposite sides of the main road. More than two roads intersecting at one location may cause traffic management problems.

### Design Vehicles

Road design is based on vehicle dimensions and operating characteristics. Transportation engineers must know which design vehicle is used at the site. In an equestrian recreation site, this is a passenger vehicle--a pickup truck--pulling a horse trailer. The standard design length for passenger vehicles is 19 feet (5.8 meters). Newer model pickup trucks range from about 15 feet (4.6 meters) long for a standard pickup to about 22.5 feet (6.8 meters) long for a pickup with an extended cab and long bed. Common horse trailers vary from 16 feet (4.9 meters) long for a two-horse, bumper-pull trailer, to about 49 feet (15 meters) long for a six-horse, gooseneck trailer with living quarters. Roads also may need to accommodate 32- to 46.5-foot (9.7- to 14.2-meter) motorhomes towing horse trailers. If a commercial waste management company services a facility, garbage trucks may be traveling through the site. Visit with the land management agency to determine the size of the expected vehicles and whether the site needs to accommodate maintenance equipment. The *Parking Area Layout* section in this chapter has more information on lengths of common vehicles and slant-load trailers.

Some turning radii guidelines are summarized in [table 8-1](#). Tight curves may have to be widened more than indicated--consult current AASHTO requirements for exact figures.

Table 8-1-Turning radii of some common design vehicles, rounded to the nearest 6 inches.

Vehicle type	Minimum inside turning radius (feet)	Minimum outside turning radius (feet)
Passenger vehicle with trailer 19-foot vehicle plus 30 feet total trailer length (including tongue-- 49 feet combined length	17.5	34.5

Motorhome with trailer 30-foot vehicle plus 23 feet total trailer length (including tongue)- -53 feet combined length	35	51.5
Garbage truck** Gross vehicle weight (GVW) 20,000 pounds with 25-foot 5-inch wheelbase	21	33.5
* A Policy on Geometric Design of Highways and Streets (AASHTO 2001)		
** Architectural Graphic Standards (American Institute of Architects 2000).		

## Trail Talk

### Forest Lanes

The number of constructed lanes appropriate for recreation site roads depends on safety concerns and the amount of traffic. Forest Service recreation site roads generally are narrow enough to minimize landscape impacts but wide enough for safe travel at up to 30 miles per hour (48.2 kilometers per hour).

The Forest Service requires single-lane roads to be at least 10 feet (3 meters) wide if they serve passenger vehicles moving no faster than 25 miles per hour (40.2 kilometers per hour). Riders often drive pickup trucks or motorhomes towing horse trailers. Because these vehicles require more maneuvering space than passenger vehicles, many Forest Service recreation site roads are wider than 10 feet (3 meters). Single-lane recreation site roads are often 12 feet (3.6 meters) wide, and double-lane recreation site roads are often 24 feet (7.3 meters) wide (figure 8-1). Shoulder width depends on available space--1 to 2 feet (0.3 to 0.6 meter) usually is adequate. Curves need to be widened on singlelane roads to accommodate trailers. In most cases, single-lane roads are constructed no wider than 14 feet (4.3 meters). If they are wider, drivers may mistake them for narrow two-lane roads.

In a few situations, two-way traffic may be routed along a single-lane recreation site road. Appropriate situations include recreation sites where traffic volume is very low, where the distance is short, or where minimal environmental impact is desired. When routing two-way traffic along a single-lane road, the Forest Service constructs turnouts. The dimensions and locations of turnouts must follow established guidelines. Chapter 4 of the Road Preconstruction Handbook FSH 7709.56 (U.S. Department of Agriculture Forest Service 1987) has more information on Forest Service design and standards. The handbook is available at [http://www.fs.fed.us/cqi-bin/Directives/get\\_dirs/fsh?7709.56](http://www.fs.fed.us/cqi-bin/Directives/get_dirs/fsh?7709.56).

Recreation roads on public lands are subject to the AASHTO guidelines for local roads with very low traffic volume. On low-volume two-lane roads where the maximum speed is 30 miles per hour (48.3 kilometers per hour), AASHTO (2001b) recommends a width of 18 feet (5.5 meters). Singlelane roads with two-way traffic often range from 11.5 to 13 feet (3.5 to 4 meters) wide.

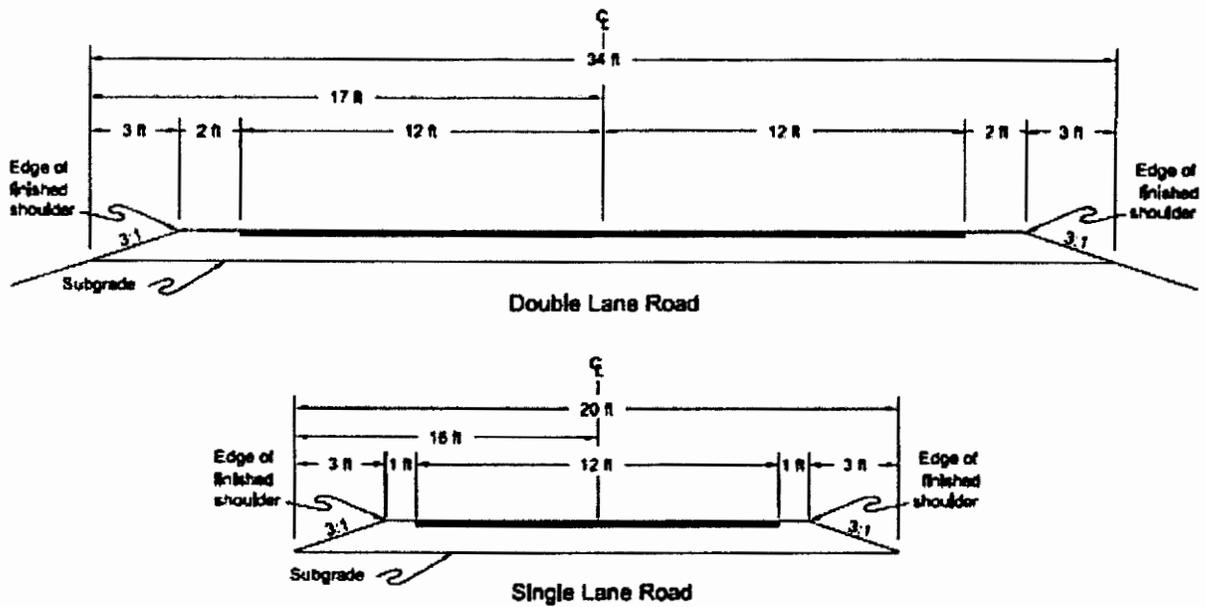


Figure 8-1--Typical cross sections for roads at recreation sites.

## Road Alignment

Minimize landscape alterations by allowing recreation site roads to complement the site's natural landforms. Visitors prefer curves to long straight stretches when they are driving through a recreation site. However, roads with curves must provide adequate stopping sight distance. Where feasible, roads should follow the contour, avoiding areas of steep terrain. Try not to disturb appealing vegetation or significant natural features. In some places, new road alignments can take advantage of abandoned roads.

Single-lane, one-way loop roads are best for single-party campgrounds or group sites with individual camp units. Loop roads make it easy for visitors to get oriented. Managers like loops because they can be closed as needed. Fit the loops between landforms, dense stands of vegetation, streams, or drainages. These barriers will screen noise and provide privacy. Reduce road and trail duplication by aligning loop roads so they lead to site attractions, such as trail access points or a lake (figure 8-2). Field experience shows that to provide an adequate buffer for camp units, the loop road should enclose an area that is at least 300 feet (91.4 meters) across. If vegetation is sparse, allow more distance between the roads.

In areas with restricted space, consider incorporating a double-lane road with a loop turnaround--a *cul-de-sac*-- at the end (figure 8-3). Make sure the *cul-de-sac*'s turning radius accommodates the expected sizes of vehicles. Unless the *cul-de-sac* is large enough, avoid locating parking pads on the turnaround, because it is difficult to maneuver vehicles with trailers in and out of such areas. An oval-shaped *cul-de-sac* accommodates parking pads well. Consult [Chapter 9--Designing Camp and Picnic Units](#) for more information on parking pads. Another concept suitable for tight spaces is shown in [figure 8-4](#).

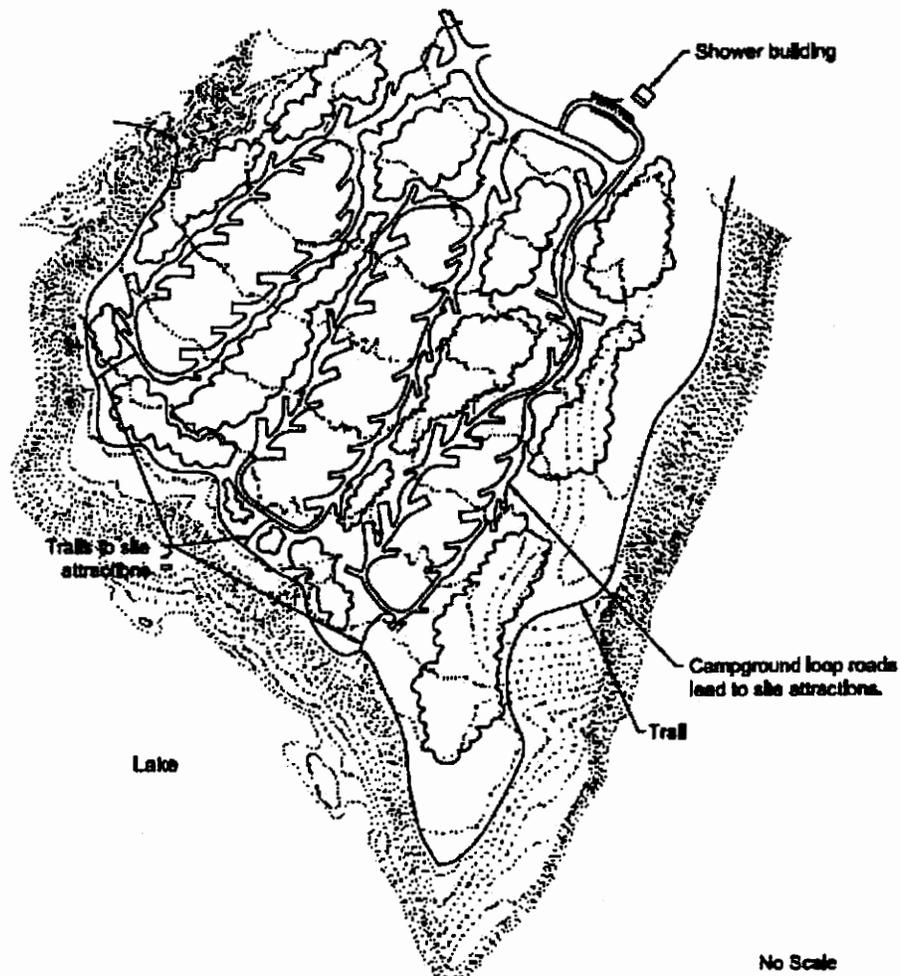


Figure 8-2--Loop roads lead to the lake. The campground loop roads fit between existing vegetation and drainages.

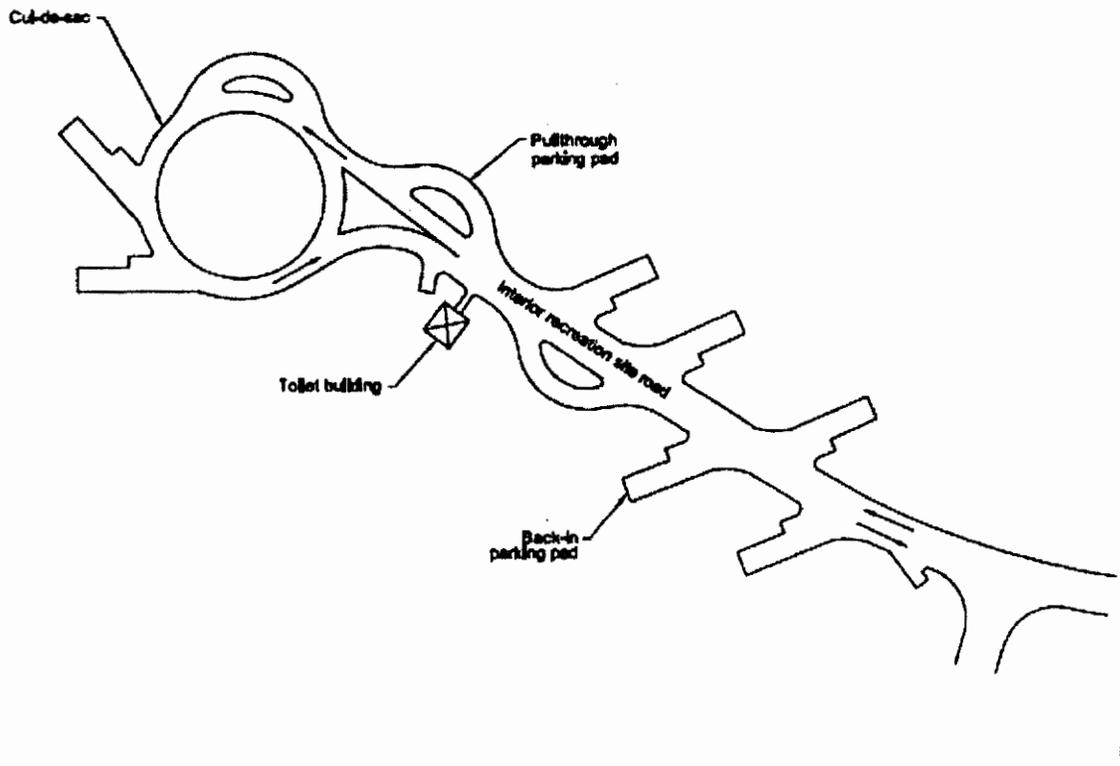


Figure 8-3--This cul-de-sac is large enough to accommodate parking pads.

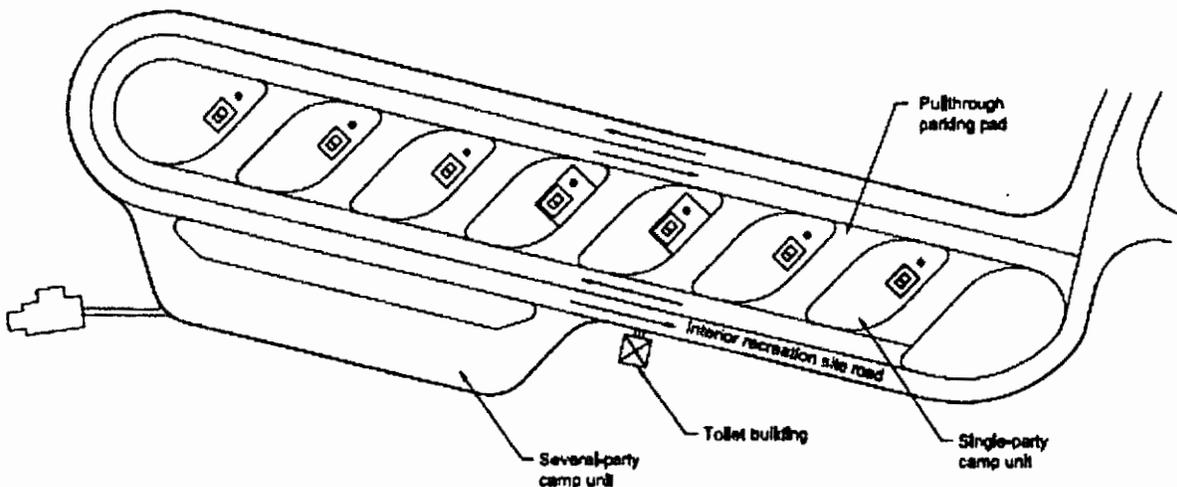


Figure 8-4—A campground loop road in a restricted space with a high level of development.

No Scale

### Road Grade

Design recreation site roads with minimal grades. Wayne Iverson (1985) suggests that the maximum road grade be 10 percent. A grade up to 12 percent may be allowed for no more than 100 feet (30.5 meters). When the route is considered a pedestrian access route, accessibility requirements apply. The *Forest Service Outdoor Recreation Accessibility Guidelines (FSORAG)* define an *outdoor recreation access route (ORAR)* as a continuous, unobstructed path intended for pedestrian use that connects constructed features within a picnic area, campground, or trailhead. The running slope on ORARs should be 5 percent or less. On steeper terrain, running slopes up to 8.3 percent are permitted for as long as 50 feet (15.2 meters). Running slopes up to 10 percent are permitted for as long as 30 feet (9.1 meters). Additional accessibility requirements apply and are detailed in the FSORAG. The suggested road grades are summarized in [table 8-2](#).

Table 8-2-Suggested road grades for equestrian recreation site roads.

Road element	Minimum grade (percent)	Maximum grade (percent)	Preferred grade (percent)
Interior recreation site roads	0	10	2 to 5
Site entrance or exit	0	5	1 to 2
Road cross slope (to allow adequate drainage)	1	2	1 to 2

### Road Profile

Maintain landscape character by fitting recreation site roads to the natural terrain. The objectives are to keep cuts and fills to a minimum, ease pedestrian flow to facilities, and reduce construction costs. Keep cuts and fills less than 3 feet (0.9 meter). Wayne Iverson (1985) indicates it is usually possible to raise the finished grade about 6 to 12 inches (152 to 305 millimeters) above the natural grade to provide drainage in areas with gentle terrain.

### Road Drainage

Avoid site damage by incorporating unobtrusive drainage structures to carry surface water off recreation site roads. Use culverts, drop inlets, dips, dikes, curbs, paved or unpaved ditches, and similar structures where needed. Low-profile culverts and drainage structures reduce fill requirements. After evaluating potential adverse environmental impacts, consider using a ford as a low-water crossing.

### Resource Roundup

#### *The Green Book*

Recreation site roads are subject to guidelines published and regularly updated by AASHTO. Be sure to use the most recent editions. *A Policy on Geometric Design of Streets and*

A-3-GRB-14-0024 (Grover Beach Lodge)

Exhibit 4 - Deah Rudd Appeal

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*Highways* addresses special-purpose roads that serve recreation sites. This comprehensive volume, sometimes called *The Green Book*, covers design speed, design vehicle, sight distance, grades, alignments, lane width, cross slopes, barriers, and related subjects.

A companion volume, *Guidelines for Geometric Design of Very Low-Volume Local Roads* (ADT  $\leq$  400), addresses design philosophy and guidelines. It also shows examples of unpaved roads and two-way single-lane roads. These AASHTO publications are available from the bookstore at [https://bookstore.transportation.org/item\\_details.aspx?ID=157](https://bookstore.transportation.org/item_details.aspx?ID=157).

### Parking Area Design

Design parking areas to provide smoothly flowing traffic circulation for vehicles pulling trailers. Avoid dead ends and allow the site's terrain and vegetation to guide the shape of parking areas. Consult Chapter 6--Choosing Horse-Friendly Surface Materials for information regarding surface options. The difference between equestrian parking areas and standard parking is the size of the parking spaces.

Because riders share most trailheads with many users, prevent conflicts by separating equestrian parking areas from other parking areas. Consult Chapter 7--Planning Recreation Sites for more information regarding separation. If the trailhead accommodates hikers, mountain bikers, or picnickers, provide passenger-vehicle parking spaces. According to Wayne Iverson (1985), the minimum size for passenger-vehicle parking spaces in recreation sites is 10 feet (3 meters) wide by 20 feet (6.1 meters) long. Make some parking spaces longer to accommodate longer pickup trucks. Provide accessible parking spaces. Forest Service parking areas must comply with the FSORAG. Figure 8-5 shows parking area dimensions for standard passenger vehicles. If nonequestrians in motorhomes frequent the area, provide spaces for them. While motorhomes fit into equestrian parking spaces, it is better to separate the conflicting uses.

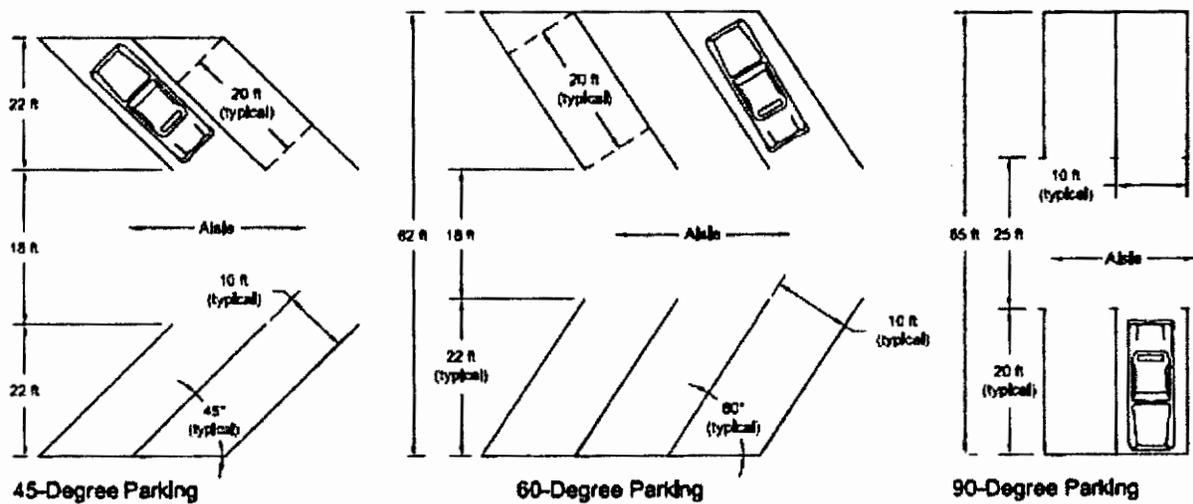


Figure 8-5--Parking dimensions and patterns for standard passenger vehicles. Increase the length of parking spaces if they will be used by pickup trucks with extended cabs and long beds. Forest Service parking areas must comply with the FSORAG.

Most drivers prefer pullthrough parking spaces that are angled 45 or 60 degrees, because the angled space is easier to navigate. Experience shows that this is true for both equestrian and nonequestrian drivers. Consider parking spaces angled at 90-degrees only for nonequestrian parking.

If space is limited, consider incorporating back-in parking spaces angled at 45 or 60 degrees. If angled back-in spaces are used on single-lane roads, locate the spaces on the driver's side of the road. As drivers back into the spaces, they can see obstacles on the inside of the turn more easily. The parking configuration is more obvious when back-in parking spaces contain wheel stops. Install the wheelstops in the parking space, 2 feet (0.6 meter) from the end. Parallel parking spaces, while less desirable than pullthrough spaces, also may be incorporated. Figure 8-6 shows an equestrian parking area where space restrictions dictated the use of back-in and parallel parking spaces. A separate entrance and exit make the most efficient use of space. Landscape islands and exit and entrance signs guide parking.

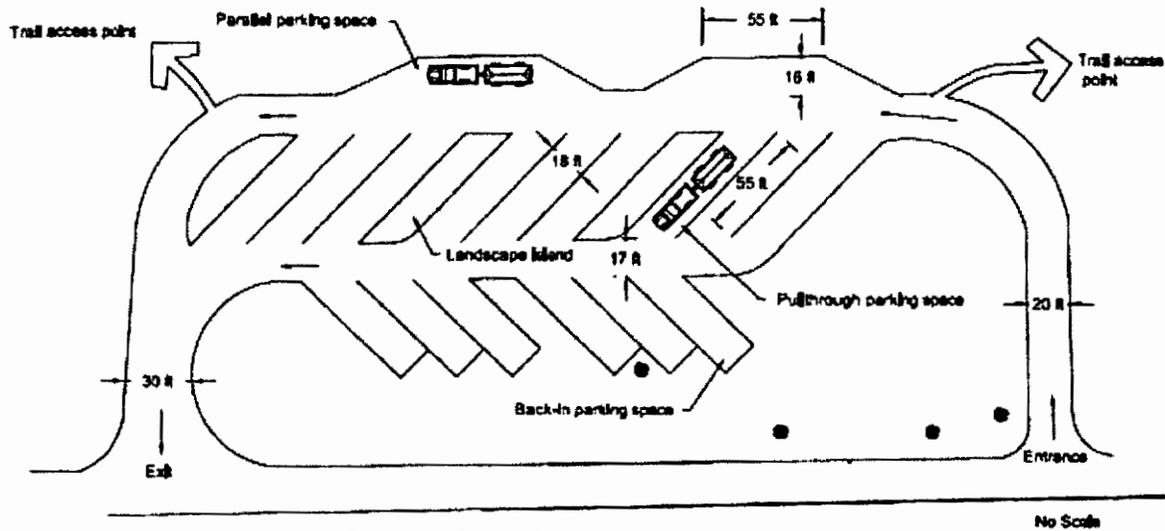


Figure 8-6--Equestrian parking in restricted spaces.

### Parking Area Grade

For the safety and comfort of riders and their stock, equestrian parking areas need to be somewhat level. This makes it easier to unload stock and gear, to saddle an animal, or to spend time in mobile living quarters. Horses or mules tied to trailers are much happier standing for an extended period in a level area. The recommended grade for a parking area is 1 to 2 percent, a comfortable range that allows proper drainage of rainwater and animal urine. Accessibility requirements also stipulate grades within this range.

### Parking Area Layout

The appropriate parking configuration depends on drivers' parking preferences, the number of parking spaces desired, and the size of the site. In a group camp, some riders are satisfied with an open area where they can park as they wish. Others prefer to have individual camp units, each with its own parking pad. Because preferences vary, visit with local horse organizations to discover their members' preferred configuration for group parking.

### Staging Areas

Popular equestrian sites need staging areas where it is easy and safe to unload, groom, and saddle stock. This means providing extra length and width in parking spaces. Extra length allows riders to unload stock and tie them at the rear of the trailer. Extra width allows stock to be tied at the trailer's side. [Figure 8-7](#) shows a rider saddling a horse in an area with inadequate space. The horse must stand close to the trailer, making it difficult to saddle the animal properly and safely. [Figure 8-8](#) shows horses tied to a trailer with adequate staging area.



Figure 8-7--Saddling a horse or mule requires access to all sides of the animal, and tight quarters make the job difficult. Note the difference in the horse trailers. The trailer on the left has parallel horse stalls, and the trailer on the right has slant-load--or angled--stalls with a storage area behind the partially closed door.



Figure 8-8--Adequate space in parking areas makes it easier and safer to saddle and care for horses and mules. They are more comfortable and are more apt to wait quietly.

To determine the optimum width for parking spaces, consider the trailer width, stock requirements, and space needed for walking behind the stock. Generally, trailers are 8 feet (2.4 meters) wide. Stock tied to the side of the trailer need about 12 feet (3.6 meters) at the side of the trailer, if they stand perpendicular to the trailer. Another 4 feet (1.2 meters) is needed for a person to safely walk or lead an animal behind tied stock. Where space allows, add an extra 4 feet for open doors on neighboring vehicles, for a parking space that is 28 feet (8.5 meters) wide. Figure 8-9 illustrates parking and staging dimensions for several vehicle and horse trailer combinations.

Determining the length of a parking space with staging area is similar to figuring its width. The minimum length required for safely unloading a horse or mule from the rear of a horse trailer with an open door or ramp is 15 feet (4.6 meters). Table 8-3 gives lengths of common vehicles and slant-load trailers, as provided by several horse trailer manufacturers. A slant-load trailer allows stock to stand diagonal to the sidewall instead of parallel (see figure 8-7). A gooseneck trailer is similar to a fifth-wheel trailer. An extension (the gooseneck) extends over the pickup bed and is attached to a ball hitch in the truck bed. Vehicle lengths range from a standard pickup truck pulling a two-horse trailer to a 44-foot (13.4-meter) motorhome towing a six-horse trailer with living quarters and tack room. Because many campgrounds use a garbage service, the length of a standard garbage truck is provided.

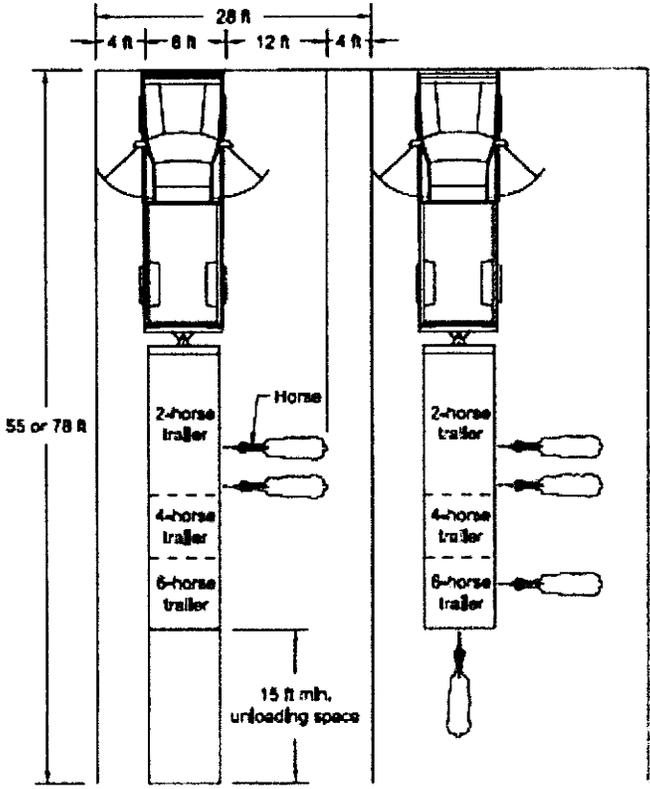


Figure 8-9--Optimum parking and staging dimensions for vehicles towing horse trailers.

Table 8-3--Lengths of vehicles, trailers, and a standard garbage truck. All trailers are slant loading.

Vehicle	Length (feet)
2-horse bumper-pull trailer	16*

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3-horse bumper-pull trailer	19*
4-horse bumper-pull trailer	23*
6-horse bumper-pull trailer	32*
2-horse gooseneck trailer	26 to 33**
3-horse gooseneck trailer	28 to 35**
4-horse gooseneck trailer	32 to 39**
6-horse gooseneck trailer	42 to 49**
Pickup truck	15 to 22.5
Motorhome	32 to 46.5
Garbage truck	28
* Measurements for bumper-pull trailers include the length of the hitch.	
** Measurements for gooseneck trailers do not include the overhang above the truck bed.	

A 19-foot (5.8-meter) pickup truck towing a bumperpull, two-horse trailer would need a total length of 55 feet (16.8 meters) to park and unload safely. This includes a 15-foot (4.6-meter) unloading area plus walking space at both ends of the vehicle. A fourhorse gooseneck trailer drawn by a 19-foot pickup truck would need 78 feet (23.8 meters) for parking and loading. A 78-foot-long parking space covers most parking and loading needs. Forty-two-foot (12.8-meter) motorhomes pulling six-horse trailers with interior living quarters may need a space 110 feet (33.5 meters) long (figures 8-10 and 8-11). If these long trailers are common or expected in the facility, provide several longer spaces for them. If local riders commonly use two-horse trailers, provide some 55-foot- (16.8-meter-) long spaces for them.

### Trail Talk

#### *Spatially Challenged*

Designers laying out the Blue Mountain Horse Trailhead near Missoula, MT, had very little space to provide rider, pedestrian, and bicyclist facilities. Local riders wanted parking areas that were 30 feet (9.1 meters) wide to accommodate stock tied to the sides of trailers. Doing so would have greatly reduced the number of equestrian parking spaces. To resolve the problem, planners chose 18-foot- (5.5-meter-) wide parking spaces and provided ample hitch rails nearby. For more information about this trailhead, see [Chapter 16--Learning From Others](#).



Figure 8-10--Horse trailers come in many different sizes and configurations. Common slant-load gooseneck trailers range from about 26 to 49 feet long.



Figure 8-11--Some vehicles carry up to eight horses, contain living quarters, and include storage space.

### Open Parking Areas

Some riders prefer a parking area that does not have defined parking spaces. This allows drivers to arrange vehicles in a manner that best suits their needs. When space is plentiful and riders want flexibility, an open parking area is appropriate for a group camp or trailhead. Where possible, locate open parking areas in a large, sparsely vegetated area with a slope no steeper than 4 percent.

Riders want to park facing the exit as they arrive, orienting their vehicles for an easy departure. The parking area should be large enough for undefined parking spaces 28 feet by 78 feet (8.5 meters by 23.8 meters) and aisles that are 15 feet (4.6 meters) wide per lane. The generously sized parking area will allow many parking configurations. Designers may plan one parking configuration and riders may park in a very different way. Figure 8-12 illustrates the planned configuration for a group camp and how horse groups, such as 4-H clubs, often park in the allotted space. The impromptu arrangement opens the center area for the club's activities.

A variation of the open parking area concept incorporates several small parking areas (figures 8-13 and 8-14). The small areas help break up the expanse of a large parking area and may be more attractive. In a group camp, having more than one parking area provides flexibility. A few different groups could use the site simultaneously or one large group could occupy all the parking areas.

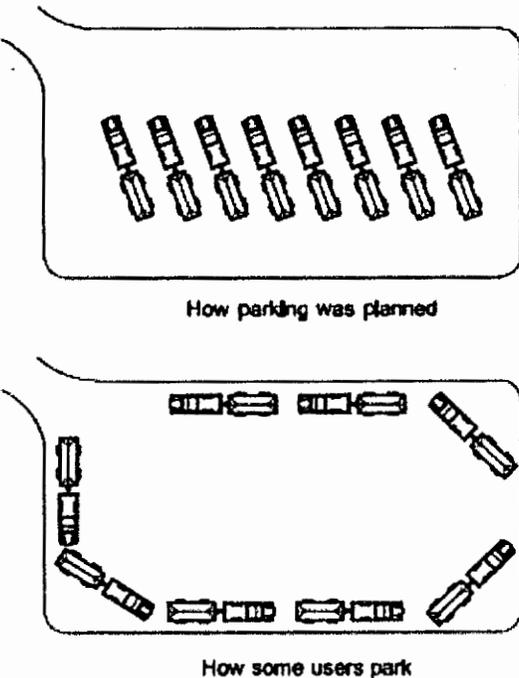


Figure 8-12--Designed parking compared to actual parking patterns.

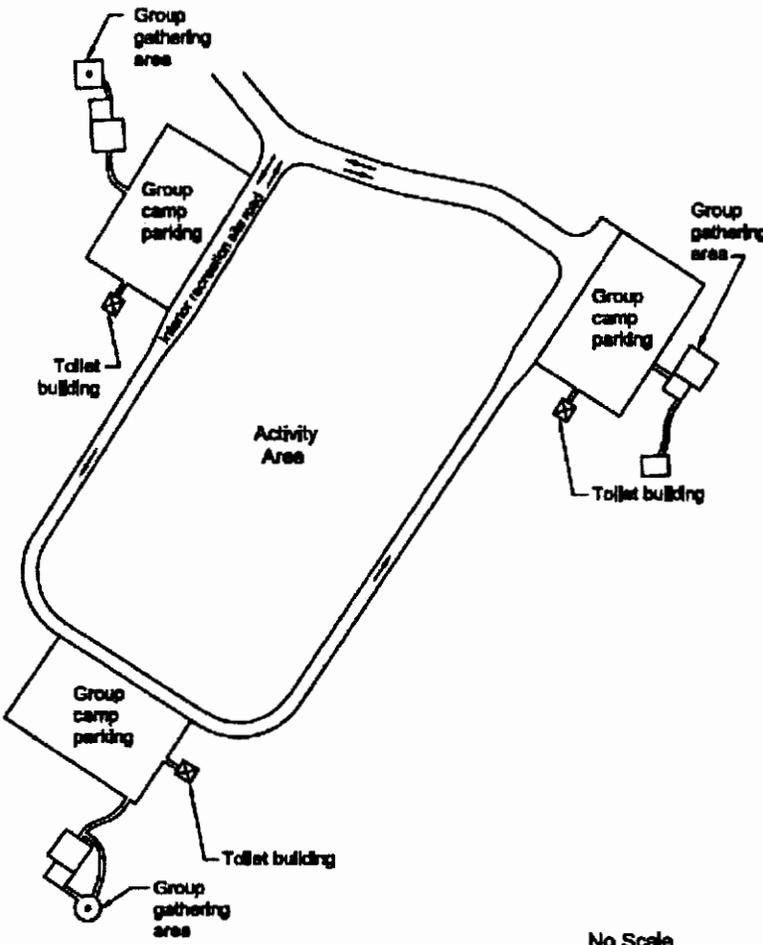


Figure 8-13--A recreation site for three small groups or one large group. An activity area is located in the center.

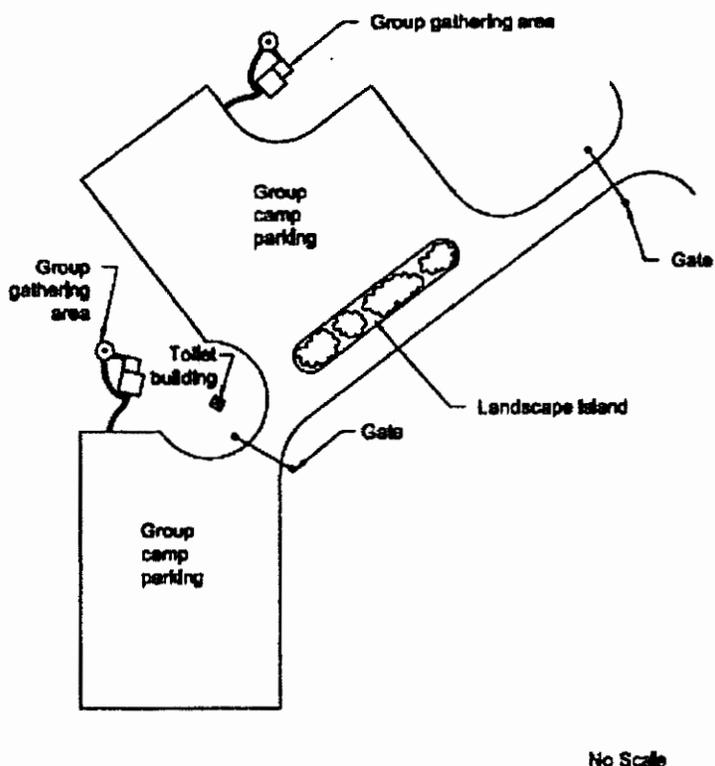


Figure 8-14--A group camp parking area that can be used by two small groups or one large group.

## Small Parking Areas

**Figure 8-15** shows a parking concept appropriate for small trailheads. The circulation pattern includes a loop turnaround to prevent vehicles from becoming trapped when all parking spaces are full. Because the parking area is not paved, arrows cannot mark the direction of traffic flow. In the United States, designers can use a counter-clockwise traffic flow that takes advantage of the familiar right-hand driving pattern. Landscape islands guide vehicle traffic and determine parking orientation. Directional signs may be a helpful addition, along with wheel stops.

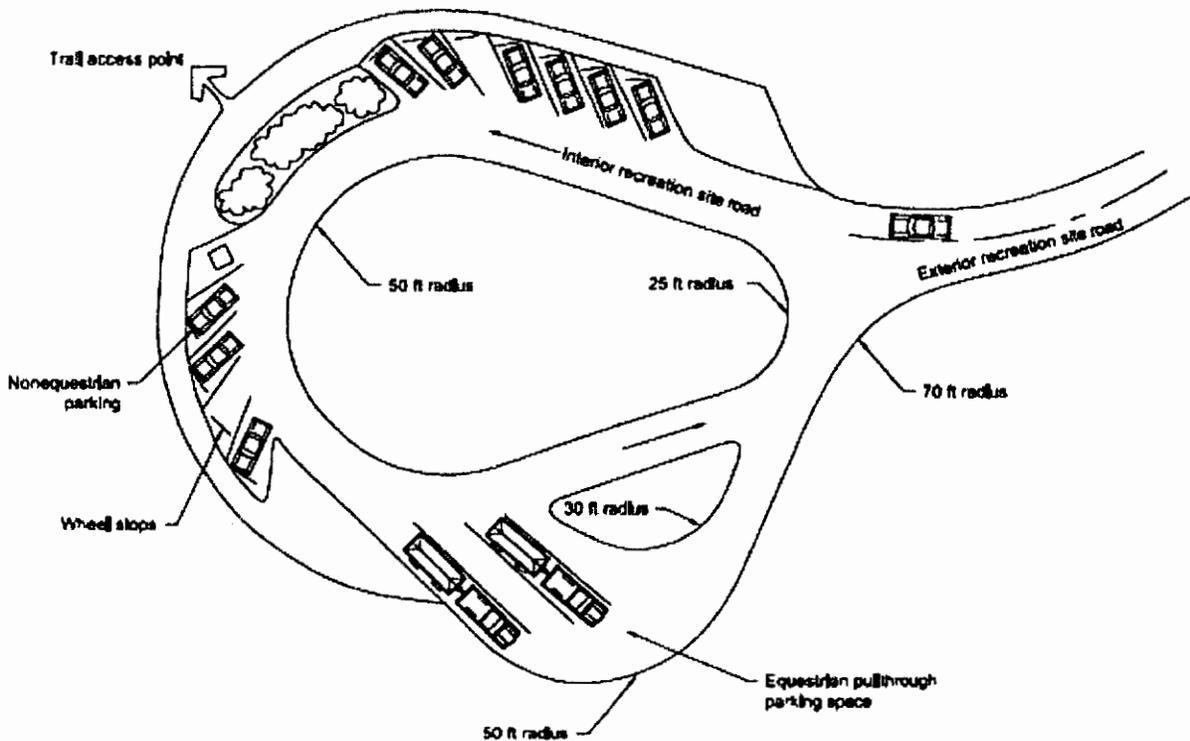


Figure 8-15--Loop parking at a trailhead.

No Scale

## Parking Delineation

Because paved equestrian parking areas are not recommended, delineating the parking spaces becomes a challenge. Many agencies don't delineate parking spaces. Where delineation is necessary, striping is just one of several alternatives.

### Trail Talk

#### *Delineating With Concrete*

In the Southwest, where plowing and grading are uncommon, some land management agencies use concrete delineators ([figure 8-16](#)). The delineators are durable enough to resist chipping or breaking when an animal steps on them. Because they are buried in the ground, they will be damaged if areas are graded. To reduce tripping, they are maintained flush with the road or parking surface ([figure 8-17](#)). When painted with white reflective traffic paint, the markers are easily visible.

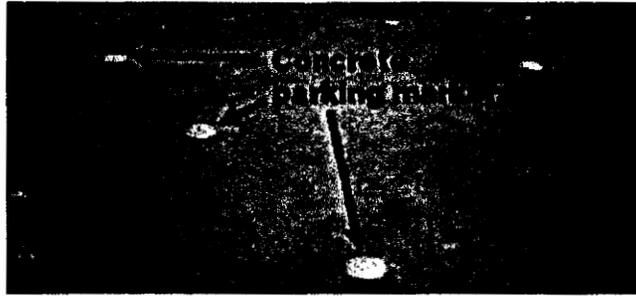


Figure 8-16--Concrete markers are used to delineate unpaved parking spaces in some areas of the country.

## Resource Roundup

### Marking the Spot

In 2002, the San Dimas Technology and Development Center (SDTDC) conducted a search for ways to designate parking on unpaved and gravel parking areas. The ideal solution would reduce traffic and eliminate confusion and other parking problems. The study investigated wheel stops, striping, construction whiskers, and a soil stabilizer. Designating Parking Areas on Unpaved Surfaces describes the results of the study and is available at <http://www.fs.fed.us/eng/pubs/html/02231314/02231314.html>

## Existing Vegetation

If there is natural vegetation in a planned parking area, consider preserving it and turning the surrounding area into a landscape island (see [figures 8-14](#) and [8-15](#)). The vegetation visually breaks up the parking area, and the landscape island can guide motorized traffic and provide a spot for drainage basins. Where vegetation is sparse, preserve or plant trees and shrubs along parking area perimeters and in islands. The plantings relieve visual monotony, and the shade is invaluable in hot weather.

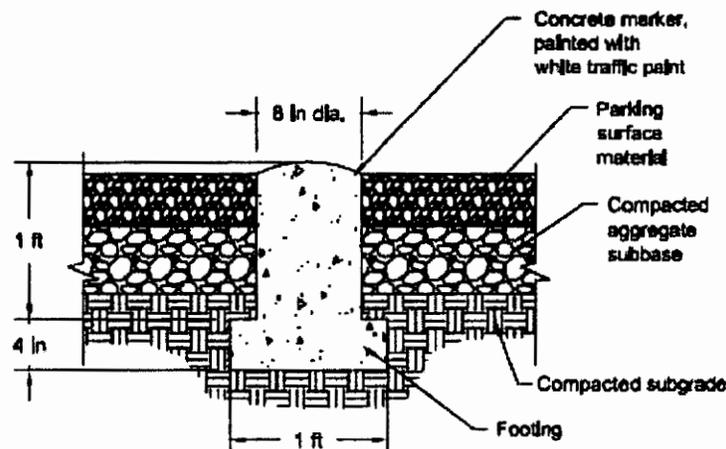


Figure 8-17--A concrete parking marker.

## Road and Parking Area Surfaces

Equestrians frequently ride or stand on interior recreation site roads, in parking areas, and on parking pads. Many times these areas are paved with asphalt, chip seal, or concrete--surfaces that are not recommended for equestrian use. Pavement and stock don't mix well because the hard surface provides poor traction for metal horseshoes. Aggregate is the recommended surface for equestrian recreation areas, because it is slip-resistant, doesn't allow water to pool, and is comfortable to stand or walk on.

Pavement can be used for exterior recreation site roads, which often receive more traffic than interior roads ([figure 8-18](#)). Major benefits to paving exterior roads include minimizing dust and reducing maintenance requirements. Because horses usually don't use exterior recreation site roads, pavement there generally doesn't pose a hazard. If paved exterior roads lead to trail access points, construct an adjacent, unpaved trail for horses and mules.

At a trailhead intended for shared use, apply aggregate only in the section where riders unload and saddle stock before a ride. Pave the remaining nonequestrian sections of the parking area ([figure 8-19](#)). Consult [Chapter 6--Choosing Horse-Friendly Surface Materials](#) for more information regarding surfaces.

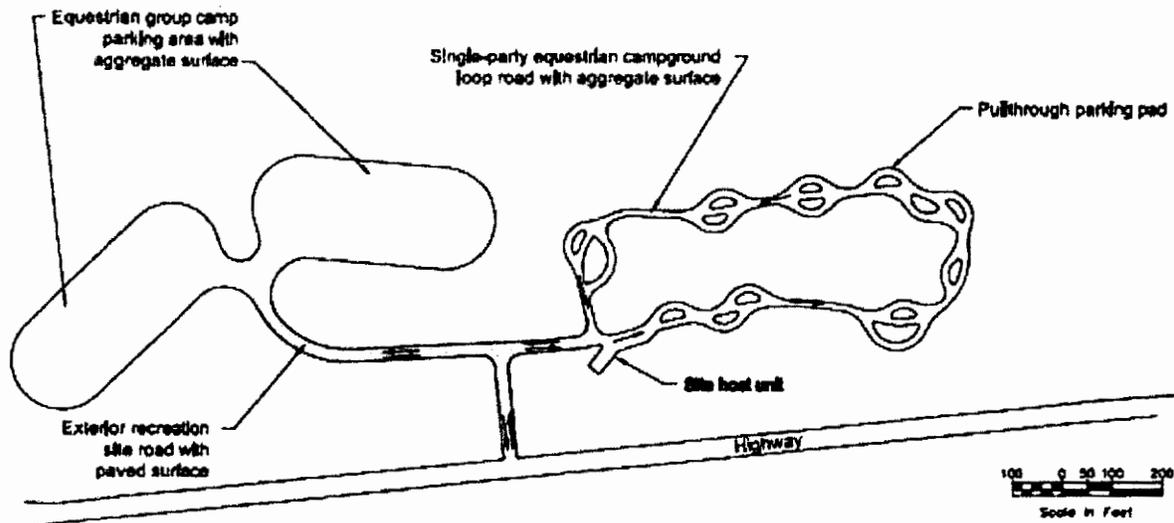


Figure 8-18—Pavement should not be used in equestrian areas. Paving the exterior recreation site road is an exception to this rule because stock seldom travel there.

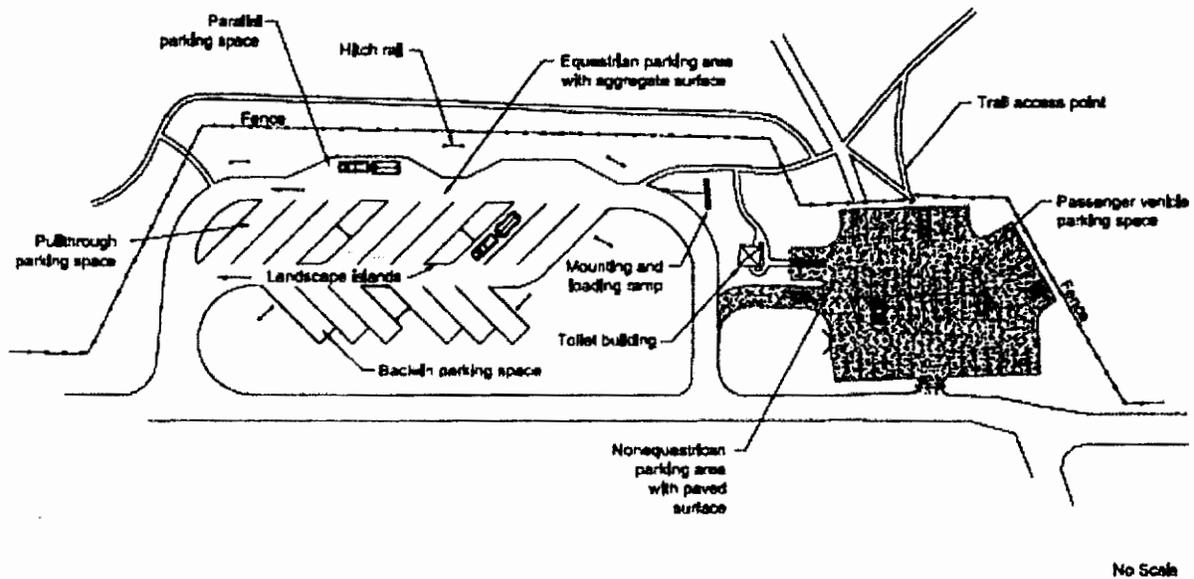


Figure 8-19—When user groups are separated, surface materials can match the needs of different groups. In this illustration, the equestrian parking area is surfaced with aggregate and the nonequestrian parking area is paved.

### Traffic Control

Avoid placing barriers that restrict vehicles along the perimeters of site roads and parking areas that are traveled by stock. Barriers in these areas can be dangerous for stock and riders. Some stock may become nervous around barriers, such as wood bollards. This is especially true if the passageway between the bollards is constricted. Attempts to ride or lead a nervous animal through the barrier may produce a rodeo. While there are no completely horse-safe barriers, a wood or steel railing is suitable (figure 8-20). Make sure barriers have no sharp edges or other potential hazards. Large boulders appear more natural to a horse or mule and may be an alternative to bollards.

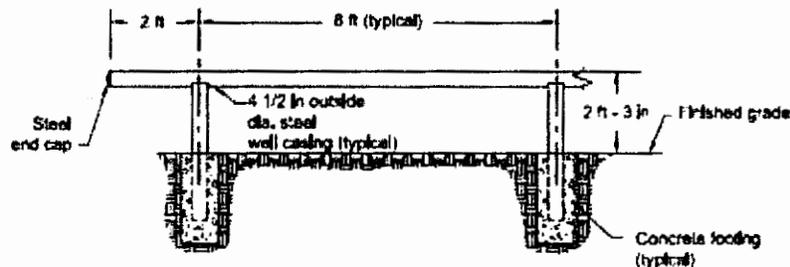
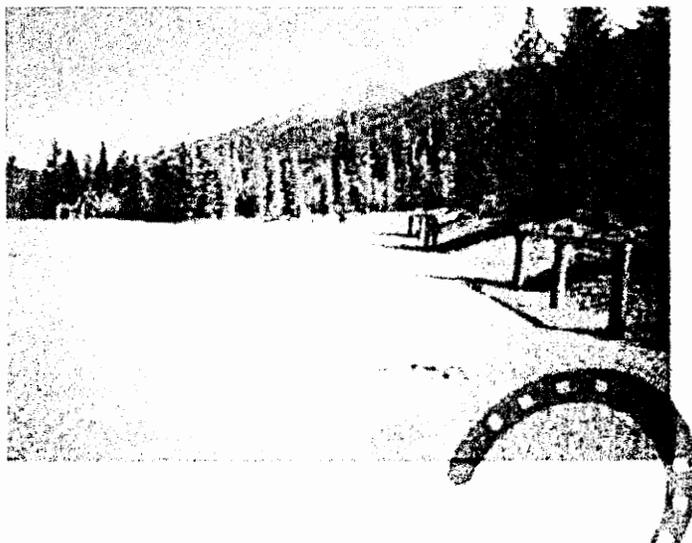


Figure 8-20—A horse-friendly steel barrier.



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 **FHWA**

United States Department of Transportation - **Federal Highway Administration**

## FIRST SUPPLEMENTAL DECLARATION OF JOEL SUTY

I, Joel Suty, declare that the following declaration is true and accurate. The following is based on my personal knowledge and if called upon, I can competently testify as to the truthfulness of this declaration.

1. I am a member of the Friends of Oceano Dunes (Friends).

2. Friends is a not-for-profit public benefit corporation and association representing users of Oceano Dunes SVRA, and is the only entity exclusively representing the interests of OHV users and visitors to the park. According to its Articles of Incorporation, Friends was formed for the express purpose of preserving and developing recreational uses in the Oceano Dunes SVRA area of San Luis Obispo County. Friends is dedicated to ensuring continued access to the beach and dune areas at Oceano Dunes SVRA for the park's statutorily dedicated use for OHV as authorized under Public Resources Code, § 5090 et seq.

3. Friends' members --- including myself, my wife, and my children --- are frequent users of Oceano Dunes SVRA, visiting several times a year to enjoy the recreational elements unique to the beach and dune setting at the park. For decades, beginning in the early 1960s, my family and I have enjoyed Oceano Dunes SVRA each year and intend to continue to frequent Oceano Dunes for OHV and beach camping recreation in the future. I, my family and other Friends' members regularly engage in OHV and beach camping recreational activities at Oceano Dunes SVRA.

4. The proposed project for the Grover Beach Lodge & Conference Center (Project) is seeking to relocate the long-standing staging area (on Grand Avenue near the entrance to the beach) for OHV that has currently and historically been used by the public and users of Oceano Dunes as a recreational staging area.

5. My family and I have used the staging area on Grand Avenue near the entrance to the beach consistently since 1964. My family and I use, and have used, the location to change our vehicle's street tires to sand tires and/or for other vehicle preparation before entering Oceano Dunes.

6. Over the years, and continuing through to today, there has been wide-spread use of the staging area by members of the public for staging and vehicle prep for recreational use at Oceano Dunes. I have witnessed hundreds of other individuals of the public performing activities at the staging area in preparation for entering the SVRA for swimming, riding horses, riding bikes, viewing the ocean, OHV riding, or fishing on the beach and when exiting the SVRA by persons engaged in all the recreational pursuits available at SVRA. Use of the staging area is a routine practice before proceeding with entering the SVRA. For example, we witnessed people unloading OHVs from recreational vehicles, trucks or trailers so that the staging area allowed or enabled the public access to the OHV riding areas of SVRA. My observations of people using the staging area are not limited to friends and family or members of Friends. Rather, various different groups of people used the staging area, young and old, families, and tourists who had out-of-state license plates. Prior to becoming state land, and when the area was in private ownership, we used and observed others using the staging area for public recreational uses for more than 5 years without permission, objection, protest or interference by anyone, including the private property owner. Our use of the staging area has been continuous, open, public and uninterrupted since 1964 for public recreational purposes and uses of the SVRA.

7. We used the staging area in public ways, and observed hundreds of others using the staging area, as we would use any public recreational area, people entering and exiting as they pleased. My family and I used the staging area believing that the public has a right to such use. My family and I used the staging area whenever we wished to do so – it was continuous, regular, open and public use. I never experienced any restrictions or warnings from the property owner, and never asked or received permission or saw anyone asking permission to use the staging area. I never saw any signs that use of the staging area was prohibited, never saw any "No Trespassing" signs, and never saw any structures, fencing or barricades preventing access to the staging area. We entered and used the staging area

freely as we pleased and without any thought or worry just as you would use any recreational support facility or area that was open and available to the public. I never even saw any attempts to prevent, obstruct, object or interfere with public use of the staging area and never saw anyone or their vehicles ejected from the staging area.

I declare under penalty of perjury under the laws of the State of California that the forgoing is true and correct.

Executed this 16<sup>th</sup> day of March, 2014 at San Jose, California.

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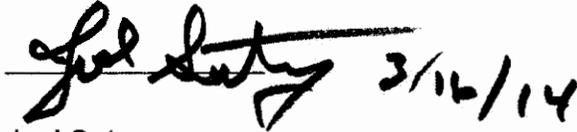
Joel Suty

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## Coastal Act Policies

### 30001.5

*The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:*

*(c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionality protected rights of private property owners.*

### 30210

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural areas from overuse.*

### 30211

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

### 30212

- (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*
- (b) For purposes of this section, "new development" does not include:*
- (1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.*
  - (2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.*
  - (3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.*
  - (4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not a seaward of the location of the former structure.*
  - (5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.*

*As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.*

*(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.*

### **30212.5**

*Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.*

### **30213**

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.*

### **30214**

- (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:*
- (1) Topographic and geologic site characteristics.*
  - (2) The capacity of the site to sustain use and at what level of intensity.*
  - (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*
  - (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*
- (b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.*
- (c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.*

### **30221**

*Oceanfront land suitable for recreational use shall be protected for recreational use and*

*development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

**30223.**

*Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

**30252 - Maintenance and enhancement of public access.**

*The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreation needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.*

**LCP Policies**

**5.5.1 MAXIMUM ACCESS AND RECREATION OPPORTUNITIES**

*Section 30210 of the Coastal Act is the most comprehensive of the Act's policies concerning shoreline access and recreation. For this reason, in order to determine the extent to which the City and the California Department of Parks and Recreation are or are not in compliance with this policy, several points will need to be addressed.*

**A. MAXIMUM ACCESS**

*Provision of "maximum access" to the shoreline is, of course, one of the cornerstones of the Coastal Act. There are points of access to various interconnected parts of Pismo State Beach and the adjoining Vehicular Recreation Area. One of these accessways, the ramp entrance which lies at the foot of Grand Avenue, is located within Grover Beach limits. This entrance to the State Beach is the most intensively used of the access points, serving over 50 percent of the beach's visitors each year. The Grand Avenue ramp, which provides access for both pedestrians and vehicles, is located approximately one mile from the nearest ramp accessway to the south. At peak use periods the ramp sometimes becomes congested and contributes to traffic congestion farther inland on Grand Avenue and Highway 1. Beach access for pedestrians near the Grand Avenue Ramp entrance but separate from the accessway used by vehicles is available from the parking lot.*

## **5.7 Recommendations**

### **A. Maximum Access**

*Ensure that maximum public coastal access be provided through:*

#### **1. Policies**

- a. *No future development shall be permitted which obstructs access to the dunes, beach and shoreline from Highway 1 within City limits. New development west of Highway 1 shall provide access to the dunes, beach and shoreline if adequate access does not already exist nearby.*
- b. *The City, in cooperation with the California Department of Parks and Recreation and other public agencies and private interests, shall utilize all opportunities to provide additional public access except if it is inconsistent with public safety or the protection of fragile coastal resources or if adequate access exists nearby.*
- c. *The provision of vehicular and pedestrian access to the beach from Grand Avenue shall be maintained.*

#### **2. Actions**

- a. *The California Department of Parks and Recreation shall provide off-beach, off-road parking in the general vicinity of the existing restaurant and the existing golf course. This area should have about 160 public parking spaces.*

### **D. Recreational Support Facilities**

*Ensure that adequate parking and other recreational support facilities are available to the public.*

#### **1. Policies**

- a. *Public amenities, such as public parking, additional public restrooms, day-use picnic units (20 minimum), and beach fire rings (20 minimum) shall be provided by the State Department of Parks and Recreation prior to or concurrent with the development proposed for the Coastal Planned Commercial area between LeSage Drive and Grand Avenue...*
- b. *Development in the Coastal Planned Commercial zone adjacent to the environmentally sensitive habitat area which will be sited and designed to prevent impacts which would significantly degrade such areas shall provide additional public parking for beach users. Exact number of spaces designated for public use shall be determined at the time of project review and depend upon project size and feasibility.*

#### **2. Actions**

- b. *Existing and future sanitation stations shall be well signed in the vicinity of the beach and on all coastal access routes. The provision of the existing public dumping station with sewer services by the San Luis Obispo County Sanitation District should be facilitated to make more hours of station service economically feasible.*

### **E. Public Visitor-Serving and Recreation Facilities**

*Ensure the protection of lower cost visitor and recreational facilities.*

#### **1. Policies**

- b. *Existing public recreational facilities should be preserved. The City in*

*cooperation with the California Department of Parks and Recreation should pursue every opportunity to provide additional lower-cost recreational facilities.*

#### **5.7.F. Visitor-Serving Recreational Facilities**

*Ensure that commercial visitor-serving and recreational uses are given priority over residential, general industrial and general commercial development on lands suitable for visitor-serving commercial, public recreational access, and beach-related uses.*

##### **1. Policies**

- a. *The City shall ensure that visitors to the Pismo State Beach are provided with easily accessible visitor-serving commercial and public recreational access services, particularly those relating to provision of food and lodging and beach related uses, in any new development in the Coastal Planned Commercial area west of Highway 1. In the Coastal Visitor Services area along Grand Avenue east of the railroad tracks, the City shall ensure that visitors are provided with easily accessible visitor-serving commercial services, particularly those relating to provision of food and lodging. The area west of Highway 1 shall be developed with visitor serving uses, including a lodge and conference center within the portion of Pismo State Beach shown in Figure 3.*

- (1) *Density. The project shall be limited to a maximum room/acre density of 15 rooms/acre.*

- (2) *Height. 60% of the project may extend to a maximum height of 40 feet, and 40% of the project may extend to a maximum height of 28 feet. In the area seaward of the viewshed setback line, as illustrated in LCP Figure 3, the project shall be limited to a maximum of 24 feet in height, with an allowance for minor architectural projections and articulations (such as eaves, gables and cupolas) to extend to a maximum of 26 feet. All such height limits are maximums, and not entitlements, that must be understood in relation to the public viewshed context, and may be adjusted downwards as necessary to meet LCP public view requirements.*

- (3) *View Corridors. The project shall be sited and designed to provide public view corridors from along Grand Avenue, Highway 1, and Le Sage Drive that will adequately break up project massing and provide views of the shoreline.*

- (4) *Design. The project, including all architectural, landscape and design elements, shall be sited and designed to seamlessly blend into and complement the surrounding natural dune environment (including through the use of natural and natural appearing materials as much as possible). Structures shall be subservient to the natural dune landscape as much as possible, and shall employ measures to increase visual interest and to decrease perceived massing (e.g., low slung structures, areas of offsets and indents, upper stories pulled back from lower stories, landscaped berms, etc.). Lighting shall be limited as much as*

*possible to avoid nighttime glares while still providing adequate lighting for public safety purposes.*

*(5) Landscaping. Landscaping throughout the project site shall be limited to native dune species. In the areas designated as necessary for detention basins, native riparian species shall be allowed. All landscaping shall be kept in good growing condition. All areas not committed to structural development shall be landscaped to emulate a dune, riparian and/or back-beach environment.*

*(6) Ingress/Egress. Road access to the project shall be from Highway 1, Le Sage Drive and Grand Avenue and shall be designed in such a way as to facilitate all forms of access to the project and to the beach area (including vehicular, pedestrian, bicycle, etc.).*

*(7) Coverage. The project shall have a maximum site coverage (i.e., structures, pavement, paths, etc. – anything not landscaped) of 60%, the remaining minimum of 40% shall be in landscaped open areas. All paved areas shall be pervious to the extent feasible. All runoff shall be filtered and treated prior to discharge from the site, including that high pollutant generation areas shall require pollutant specific BMPs (e.g., restaurant wash down plumbed to sanitary sewer, etc).*

*(8) Food Service. The project shall include restaurant facilities, including providing for lower-cost eating options, such as coffee shops and snack bars.*

*(9) Parking. Public recreational access parking (including for day use of the beach) shall be provided at a volume commensurate with such demand and free of charge.*

*(10) Public Availability. All project facilities shall be open to the general public, and shall include as many integrated and defined areas within which public access is provided free of charge (e.g., viewing decks, etc.) as possible while still addressing paying guest needs.*

*(11) Overnight Units. All overnight units shall be provided as traditional overnight units (e.g., traditional hotel accommodations). Timeshare residential uses and quasi-residential visitor-serving uses (including condominium hotels, private unit ownership, fractional ownership, and similar use and ownership structures) shall be prohibited. Rooms may not be rented to any individual, family, or group for more than 29 days per year nor for more than 14 days between Memorial Day and Labor Day.*

*(12) Public access paths. The project shall provide continuous public*

*access path connectivity from Highway One, Grand Avenue, and Le Sage Drive to the shoreline along the perimeter of and through the project site, including connections to the boardwalk to Pismo Beach. All such paths shall be sited and designed to maximize their public utility and value (including for connectivity, views, etc.).*

*(13) Public Access Management Plan. The project shall include a public access management plan that clearly describes the manner in which general public access associated with the project is to be managed and provided, with the objective of maximizing public access to the public access areas of the site (including all walkways, benches, boardwalks, stairs and all other public access amenities).*

*b. Armoring (including but not limited to seawalls, revetments, retaining walls, etc.) and similar responses to coastal hazards intended to protect development in the area west of Highway 1 (as shown on Figure 3) from coastal hazards (including but not limited to hazards from episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, flooding, and the interaction of same) shall be prohibited. All development in such area shall be conditioned to require that property owners expressly waive any future right to construct such armoring or similar hazard responses that may exist pursuant to Public Resources Code Section 30235 and the City of Grover Beach certified LCP. Prior to issuance of a coastal development permit, any private property owner shall execute and record a deed restriction against the property that ensures that no such armoring or similar hazard responses shall be proposed or constructed to protect the development, and which includes their waiver, on behalf of themselves and any successors or assigns, of a future right to such armoring.*

*In addition, as a condition of approval of any development in the area west of Highway 1 (as shown on Figure 3) the property owner shall be required to acknowledge and assume all risks from coastal hazards (including but not limited to hazards from episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, flooding, and the interaction of same) associated with development at this location, waive any claims of damage or liability against the permitting agency, and agree to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards. Prior to issuance of a coastal development permit, any private property owner shall execute and record a deed restriction against the property that explicitly assumes these risks, on behalf of themselves and any successors or assigns.*

*c. The area west of Highway 1 (as shown on Figure 3) is in the San Luis Obispo County Tsunami Inundation Area. Therefore, as a condition of approval of any development in the area west of Highway 1 (as shown on Figure 3), all property owners must submit a tsunami safety plan for review and approval. The tsunami*

*safety plan shall clearly describe the manner in which hazards associated with tsunamis will be addressed, including that: the existence of threat from both distant and local source tsunamis will be communicated to all guests, information regarding personal safety measures to be undertaken in the event of a tsunami in the area will be made available, efforts will be provided to assist those physically less mobile in seeking evacuation during a tsunami event and that staff have been adequately trained to carry out the safety plan. At a minimum, the plan shall be prepared in cooperation with the San Luis Obispo County Office of Emergency Services, and shall be in general conformance with any area-wide tsunami safety plan that has been prepared for this section of the coast; the plan shall detail the posting of placards, flyers, or other materials at conspicuous locations within each room, provided in an appropriate variety of languages and formats (e.g., embossed braille, tape recordings, etc.), explaining tsunami risks, the need for evacuation if strong earthquake motion is felt or alarms are sounded, and the location of evacuation routes; the plan shall detail the efforts to be undertaken by staff to assist the evacuation of physically less mobile persons during a tsunami event; and the plan shall detail the instruction to be provided to all employees to assure that the Tsunami Safety Plan is effectively implemented.*

*d. The City should ensure that the appearance of commercial structures within the Coastal Zone contribute to an attractive, beach-oriented, visual theme which enhances the quality of the recreational experience within the Coastal Zone.*

*e. Lower-Cost Visitor and Recreational Facilities. Existing lower-cost visitor serving and recreational facilities shall be projected and enhanced, and new lower-cost visitor and recreational facilities shall be encouraged and provided in the City.*

## **6.0 Public Works Component**

### **6.7.3. Circulation**

- 2. Action: In cooperation with the California Department of Transportation, Transportation Management Strategies recommended by the State for Grand Avenue should be implemented to reduce present and future conflicts between design capacity and peak use demand on this street.*
- 4. Policy: To protect public access to the shoreline and reserve limited road capacity for coastal priority uses, development shall be required to identify and appropriately offset all circulation impacts, with preference given to mitigation measures designed to improve public recreational access and visitor-serving circulation.*
- 5. Policy: All development shall be sited and designed to maximize public recreational access opportunities, including through providing meaningful and useful connections to and from roads, trails, and other such facilities and areas that provide access to and through the City's coastal zone and along the shoreline. Development shall accommodate all modes of circulation (including vehicular, pedestrian, bicycle, etc.) in a way that facilitates and enhances public recreational access to and along the shoreline.*
- 6. Policy: In compliance with Section 30254 of the Coastal Act, proposed new development*

*within the Coastal Zone that provides: services to coastal-dependent land uses; essential public services; basic industries vital to the economic health of the region, state, or nation; public recreation; commercial recreation, and visitor-serving land uses, shall be given priority over other development in the Coastal Zone in the event that existing or planned public works facilities serving the Coastal Zone can accommodate only limited amounts of new development.*

## **2.2 Visual Resource Areas**

### **2.2.4 Recommendations**

#### **A. Area 1**

- 1. Policy: Dunes, beach and shoreline shall continue to dominate the area visually, All structures shall be subordinate or complimentary to these natural features and to existing structures.*
- 2. Policy: In the relatively small portion of Area 1 where development may occur, development shall be sited and designed to protect views to and along the shoreline and dunes. The scenic and visual quality of this area shall be considered, protected, and enhanced where feasible.*

#### **C. Area 3**

- 1. Policy: As the Coastal Planned Commercial area west of Highway 1 redevelops into consistent visitor serving uses, the allowed development shall be sited and designed to protect the existing view corridors perpendicular to Highway 1, along Grand Avenue and LeSage Drive, and create one to three additional view corridors perpendicular to Highway 1 north of Le Sage Drive. The development in this area shall be complimentary and subordinate to the character of the shoreline and dune setting to the fullest extent feasible.*