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Hearing Date: January 11, 2006

## STAFF REPORT – APPEAL SUBSTANTIAL ISSUE & DE NOVO REVIEW

**APPEAL NO.:** A-2-PAC-05-018

**APPLICANT:** North Pacifica LLC

**LOCAL GOVERNMENT:** City of Pacifica

**ACTION:** Approval with Conditions

**PROJECT LOCATION:** 4000 Block of Palmetto Avenue, Pacifica, San Mateo County  
APNs 009-402-250 and -260

**PROJECT DESCRIPTION:** Subdivision and construction of a 43 residential unit development, including 19 single-family detached homes and 24 townhouses, 72,000 cubic yards of grading and related infrastructure improvements on 5.8 acres of vacant land

**APPELLANT:** John Curtis

**SUBSTANTIVE FILE DOCUMENTS:** See Appendix A

**STAFF RECOMMENDATION:** Substantial Issue Exists; Denial

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## Executive Summary

The staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed and deny the permit application because the project is inconsistent with the policies of the Pacifica Local Coastal Program (LCP) concerning protection of wetlands and water quality.

The project would fill wetlands for residential development and would include substantial grading, vegetation removal, residential development, and road construction within the 100-foot buffer of wetlands located on and adjacent to the project site. Pacifica LUP Policy 14 does not permit filling of wetlands for residential development and restricts development within wetland habitat buffers. As such, the staff recommends that the Commission find that the appeal raises a substantial issue and deny the permit on the grounds that the proposed development is inconsistent with Pacifica LCP wetland protection policies.

The project does not include feasible site design, source control, or treatment control best management practices (BMPs) to reduce the volume or pollutant load of storm water leaving the

site. As a result, the project would result in a 70% increase in runoff of polluted storm water from the site, which would be discharged to the ocean without treatment. As such, the project is not designed or conditioned to protect the biological productivity and quality of coastal waters as required by LUP Policy 12. Therefore, the staff recommends that the Commission find that the appeal raises a substantial issue and deny the permit on the grounds that the project is inconsistent with Pacifica LCP water quality protection policies.

Grading associated with the proposed development would directly impact coastal terrace prairie habitat on the adjacent “Fish” parcel. Grading in coastal terrace prairie habitat would conflict with the certified LCP because coastal terrace prairie meets the LCP definition of *environmentally sensitive habitat* (ESHA) and LUP Policy 18 prohibits development in ESHA. Although the appeal does not raise this issue, the Commission must consider whether the proposed development meets other applicable policies of the certified LCP in evaluating the proposed development de novo. Therefore, the staff recommends that the Commission find that the appeal raises a substantial issue on the grounds that the appeal is filed and deny the permit on the additional grounds that the project is inconsistent with Pacifica LCP ESHA protection policies.

Denial of the proposed permit will not eliminate all economically beneficial or productive use of the applicant’s property or unreasonably limit the owner’s reasonable investment backed expectations of the subject property. Denial of this coastal development permit application would still leave the applicant available alternatives to use the property in a manner that would be consistent with the policies of the LCP.

For example, since the wetlands are all located on or near the southeastern and southern boundaries of the project site, development could be clustered in the northwestern portion of the site, allowing a similar number of residential units as approved by the City to be developed while avoiding the wetlands. Realignment of a portion of Edgemar Road and changes to the grading plan would also be necessary to avoid impacts to coastal terrace prairie ESHA on the adjacent “Fish” parcel. A clustered design would also reduce impervious surface coverage, which along with other feasible site design, source control and treatment control BMPs would allow the site to be developed in a manner that meets the water quality requirements of the LCP.

Project revisions necessary to bring the development into conformity with the certified LCP while feasible, would involve substantial site design and engineering work. Such fundamental project revisions are beyond the scope of project changes typically achieved through Commission-imposed conditions of approval on a permit application. Rather, it is the project applicant’s responsibility to revise the project plans to address the issues that the Commission has identified.

## **1.0 Substantial Issue Determination**

### **1.1 Staff Recommendation on Substantial Issue**

Pursuant to Section 30603(b) of the Coastal Act and as discussed in the findings below, the staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeals have been filed. The proper motion is:

### **1.1.1 Motion**

*I move that the Commission determine that Appeal No. A-2-PAC-05-018 raises NO substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.*

### **1.1.2 Staff Recommendation of Substantial Issue**

Staff recommends a NO vote. Failure to pass this motion will result in a finding of Substantial Issue and adoption of the following resolution and findings. If the Commission finds Substantial Issue, the Commission will hear the application de novo. The motion may pass only by an affirmative vote of a majority of the Commissioners present.

### **1.1.3 Resolution to Find Substantial Issue**

The Commission finds that Appeal No. A-2-PAC-05-018 presents 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 (LCP) and/or the public access and recreation policies of the Coastal Act.

## **1.2 Findings and Declarations**

The Commission hereby finds and declares:

### **1.2.1 Local Government Action**

On August 12, 2002, on appeal from the Pacifica Planning Commission, the Pacifica City Council approved CDP-203-01 for a 43-unit subdivision and residential development including roadway and infrastructure improvements. The Commission received a Notice of Final Local Action from the City on August 21, 2002. The City designated the project as non-appealable. Commission staff disagreed with the City's determination that the project was not appealable, and informed the City and applicant that the CDP approved by the City would remain suspended and would not become effective until the dispute concerning appealability and any subsequent appeals of the City's permit were resolved. On December 16, 2005, the Commission determined consistent with Section 13569 of the Commission's regulations that the local approval is appealable to the Commission. The Commission hereby incorporates by reference the findings in support of the December 16, 2005 determination of appealability as if set forth in full.

### **1.2.2 Appeal Process**

After certification of an LCP, Coastal Act Section 30603 provides for appeals to the Coastal Commission of certain local government actions on coastal development permit applications. Section 30603 states that an action taken by a local government on a CDP application may be appealed to the Commission for certain kinds of developments, including the approval of developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, those within 100 feet of any wetland, estuary or stream, those within 300 feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff, or those located in a sensitive coastal resource area. Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified zoning ordinance or zoning district map. Finally,

developments that constitute major public works or major energy facilities may be appealed, whether such facilities are approved or denied by the local government.

The Commission received notice from the City on August 21, 2002 designating this project as non-appealable. Pursuant to 14 CCR Section 13569, the Commission has determined that this project is appealable because wetlands as defined in 14 CCR Section 13577(a)(1) are located within 100 feet of the project and because a portion of the approved development is located between the first public road and the sea.

### **1.2.3 Filing of Appeal**

As stated above, the Commission resolved the dispute concerning appealability of the City's action on the local CDP on December 16, 2005. Accordingly, the ten-working-day appeal period ran from December 19, 2005 (the next business-day following the determination of appealability) through January 3, 2006.

On September 5, 2002, John Curtis appealed the City's approval of CDP-203-01 to the Commission. The Commission held the appeal pending resolution of the question of appealability. Curtis' appeal, received on September 5, 2002, was filed on the first day of the appeal period, which commenced on December 19, 2005. Pursuant to Section 30621 of the Coastal Act, the appeal hearing must be set within 49 days from the date on which an appeal is filed.

In accordance with the Commission's regulations, on December 20, 2005, staff requested all relevant documents and materials regarding the subject permit from the City to enable staff to analyze the appeal and prepare a recommendation as to whether a substantial issue exists. The regulations provide that a local government has five working days from receipt of such a request from the Commission to provide the relevant documents and materials.

### **1.2.4 Appellants' Contentions**

The appellant contends that the approved development is inconsistent with the policies of the certified LCP concerning (1) wetlands, (2) water quality, (3) public access, (4) visual resources, (5) geological hazards, and (6) traffic. These contentions are summarized and discussed in greater detail below. (See Exhibit 7 for the full text of the appeal).

### **1.2.5 Project Description and Location**

The project approved by the City consists of a subdivision and development of 43 residential units, including 19 single-family detached homes and 24 townhouses, an interior driveway and road network (including the improvement of the Edgemar Road right-of-way), necessary infrastructure and a private park/open space area on a total of 5.8 acres of land (the 4.2-acre bowl site plus approximately 1.6 acres of roadway construction and grading) at the 4000 block of Palmetto Avenue in Pacifica (APNs 009-402-250 and -260) (Exhibits 1-4). The project would involve in excess of 36,000 cubic yards each of cut and fill and substantial grading of the sloped site to create building pads. As part of the project, an existing 18-inch culvert draining to the ocean would be capped and buried and would not be incorporated into the new drainage system.

In November 2003, the applicant cleared and grubbed the site removing vegetation and disturbing the soil. The clearing and grubbing was the first stage of the development approved under the City's CDP. Because the CDP has been suspended pending the outcome of the

Commission’s determination of appealability and final resolution of any appeals, the clearing and grubbing was unpermitted development. For purposes of evaluating the development for conformity with the policies of the certified LCP for both the substantial issue determination of the appeal and any subsequent de novo review of the project, the Commission will review the project as if this unpermitted development had not occurred.

The approved project is located in the City of Pacifica north of Highway 1, east of Palmetto Avenue and west of the Pacific Point housing site. The project area is in the Fairmont West Neighborhood and is zoned R-3-G (Multiple-Family Residential Garden District), which allows for an average density of 10 to 15 dwelling units per acre. However, as stated in both the Land Use Plan (LUP) portion of the City’s certified LCP and the City’s General Plan:

Site conditions will determine specific density and building type. Site conditions include slope, geology, soils, access, available utilities, public safety, visibility, and environmental sensitivity.

The site consists of two parcels: a 4.2-acre sloping, bowl-shaped parcel (“the Bowl”) and a 1.6-acre parcel comprised of the Edgemar Road right-of-way. The land to the west of the project area, between Palmetto Avenue and the shoreline, is presently undeveloped and consists of coastal scrub habitat.

### **1.3 Substantial Issue Analysis**

Section 30603(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation 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 this division.

The contentions discussed below present valid grounds for appeal in that they allege the project’s inconsistency with policies of the certified LCP. These contentions allege that the approval of the project by the City raises issues related to LCP provisions regarding wetlands, water quality, public access, visual resources, geological hazards, and traffic.

Section 30625(b) of the Coastal Act states that the Commission shall hear an appeal unless it determines

[w]ith respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

The term “substantial issue” is not defined in the Coastal Act. The Commission’s regulations simply indicate that the Commission will hear an appeal unless it “finds that the appeal raises no significant question” (Cal. Code Regs., title 14, section 13115(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Unless the Commission finds that none of the contentions in the appeal raises a substantial issue, the Commission must review the project on appeal de novo. Even where the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for writ of mandate pursuant to Code of Civil Procedure Section 1094.5.

In this case, for the reasons discussed below, the Commission determines that the development as approved by the City raises a substantial issue with regard to the appellant's contentions regarding wetlands and water quality.

### **1.3.1 Wetlands**

The appellant contends that the approved development is inconsistent with Pacifica LUP Policy 14 because the project would result in unnecessary filling and dredging of wetlands. The appellant also contends that the approved development may impact potentially onsite and nearby wetlands.

Both the LUP portion and the IP portion of the Pacifica LCP contain wetland definitions. The LUP defines wetlands as:

[L]and where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes. In certain types of wetlands vegetation is lacking and soils are poorly developed or absent. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats.

This definition closely tracks the definition of wetlands contained in Section 13577(a) of the Commission's regulations. The LCP wetland definition contained in Pacifica Zoning Code Section 9-4.4302(aw) is effectively the same as the Coastal Act Section 30121 definition of wetland with the exception of the two, additional terms, "streams" and "creeks", stating:

"Wetland" shall mean land which may be covered periodically or permanently with shallow water, including saltwater marches, freshwater marshes, streams, creeks, open or closed brackish water marshes, swamps, mudflats, or fens.

The Commission's December 16, 2005 determination of appealability was based, in part, on the finding that the approved development is located within 100 feet of wetlands as defined in Section 13577(a) of the Commission's regulations. The Commission's findings concerning the

presence of wetlands are attached as Exhibit 8 and are incorporated herein as if set forth in full. In addition to determining that three wetland areas located on and adjacent to the project site meet the definition of wetland contained in Section 13577(a) for the purpose of determining appeal jurisdiction, the Commission's findings also conclude that:

Since the LCP wetland definitions mirror the operative language of both Coastal Act Section 30121 and Section 13577(a), the scope of the wetland definition under the LCP is effectively identical to that contained in the Coastal Act and Commission regulations. More particularly, the broader Coastal Act and Pacifica Zoning Code definitions encompass and inform the definition contained in 14 CCR Section 13577(a) and the LUP. If the subject property contains wetlands that meet the standards of 14 CCR Section 13577(a), then the subject property also contains wetlands that meet the more general wetland definitions contained in both the Coastal Act and the certified LCP. [Emphasis added.]

Accordingly, the Commission has determined that the areas identified in its December 16, 2005 action as Wetland Areas 1, 2, and 3 are not only wetlands for the purpose of determining Commission appeal jurisdiction, but that these areas also meet the LCP definition of wetland.

Pacifica LUP Policy 14 closely follows Coastal Act Policy 30233 stating in relevant part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this policy, where there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland; provided, however, that in no event shall the size of the wetland area used for such boating facility, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, be greater than 25 percent of the total wetland area to be restored.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.



(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable longshore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game shall be limited to very minor incidental public facilities, restorative measures, nature study.

Zoning Code Section 9-4.4403(e) specifies in relevant part:

(1) No new development shall be permitted within a recognized wetland habitat area;

(2) Limited new development may be permitted within a recognized wetland habitat buffer area subject to the following standards:

...

(ii) All diking, dredging, and filling activities shall comply with the provisions of the California Coastal Act, Sections 30233 and 30607.1;

...

(v) Alteration of the natural topography shall be minimized;

...

(vii) Alteration of landscaping shall be minimized unless the alteration is associated with restoration and enhancement of the wetlands;

Zoning Code Section 9-4.4302(f) establishes the LCP wetland buffer as follows:

(f) "Buffer" shall mean an area of land adjacent to primary habitat, which may include secondary habitat as defined by a qualified biologist or botanist, and which is intended to separate primary habitat areas from new development in order to ensure that new development will not adversely affect the San Francisco garter snake and wetlands habitat areas.

Wetland Area 1 is characterized in the applicant's March 2000 wetland delineation as a drainage ditch that lies along the edge of the Edgemar Road right-of-way. The precise location of Wetland Area 1 in relation to the approved development is not clear based on the City's administrative record for the approved development, but it appears to be located just outside of the limits of grading for the construction of Edgemar Road (Exhibit 5). Thus, it appears that the approved development would not directly impact Wetland Area 1, but that grading and road

construction would occur within a few feet of this wetland. Again, although the precise location of Wetland Area 1 in relation to the approved development is unclear based on the City's administrative record, it also appears that two of the approved detached single-family homes would be located within 100 feet of Wetland Area 1. Wetland Area 2 is located approximately 80 feet south of the approved Edgemar Road on the adjacent "Fish" parcel and would not be directly impacted by the approved development. However, the grading and road construction for Edgemar Road would occur within approximately 80 feet of Wetland Area 2. Wetland Area 3 is comprised of approximately 1.1 acres of riparian scrub located in southeast corner of the bowl parcel. The approved development would result in fill of a portion of Wetland Area 3 for the construction of detached single-family homes and related development and would also include substantial grading, road construction and construction of additional residential units within 100 feet of Wetland Area 3.

The LCP policy cited above defining San Francisco garter snake and wetland habitat buffers does not establish a specific wetland buffer distance for either of these habitat types. Thus, the policy requires wetland buffers to ensure that new development would not adversely affect wetland habitat to be determined on a case-by-case basis.

Wetland buffer areas are undeveloped areas surrounding wetlands that act to protect the wetlands from the direct effects of nearby disturbance (both acute and chronic), and provide necessary habitat for organisms that spend only a portion of their life in the wetlands such as amphibians, reptiles, birds, and mammals.

In most cases, the Commission considers 100 feet to be the minimum distance necessary to protect wetlands from adverse impacts of new development. Although not a standard under either the Coastal Act or the Pacifica LCP, the Commission usually considers a 100-foot buffer to be the minimum distance necessary to protect wetland habitat from adverse impacts related to development such as polluted runoff from developed areas, construction related erosion and sedimentation, and disturbance from noise, light, traffic and other activities related to increased human use and development, and to provide upland habitat areas. While 100 feet is by far the most common wetland buffer distance imposed by the Commission and local governments throughout the Coastal Zone, in some cases substantially greater wetland buffers are required when a wetland supports species that are particularly sensitive to disturbance impacts such as nesting birds or species that need large upland habitat areas near wetlands such as the California red-legged frog or San Francisco garter snake. Buffers of less than 100 feet are generally allowed only in cases where a wetland provides very limited habitat value and where restoration or enhancement of the wetland habitat is infeasible. Reduced buffers may also be necessary in cases where no feasible alternative exists that would allow a private property owner a reasonable economic use.

In this case, the most sensitive of the three wetland areas appears to be Wetland Area 3. Wetland Area 3 is described in the city certified Environmental Impact Report (EIR) for the project as comprised of approximately 1.1 acres of central coast riparian scrub dominated by arroyo willow and containing other wetland indicator plants. The EIR states that the project site does not provide habitat for any federally protected species, including the California red-legged frog or San Francisco garter snake, and that "[n]o sensitive or protected species were observed on the site during biological surveys." However, the EIR also states with respect to Wetland Area 3 that:

The riparian habitat at the site provides potential nesting and foraging habitat for several unlisted, but potentially sensitive species that are designated as California Species of Special Concern. Coopers hawk (*Accipiter cooperii*), sharp-shinned hawk (*Accipiter striatus*), northern harrier hawk (*Circus cyaneus*), merlin (*Falco columbrius*), saltmarsh common yellowthroat (*Geothlypis trichas sinuosa*), and yellow warbler (*Dendroica petechia*) could utilize the site. The initial biological survey of the site was done in the nesting season, and no nesting activity was observed for these species. The project will remove much of the riparian/wetland vegetation, and will greatly reduce the function and availability of the site for these bird species. The project is also likely to greatly reduce the value of the site for other more common bird species.

Thus, while Wetland Area 3 is identified as *potential* nesting and foraging habitat for several sensitive bird species, the local administrative record does not provide evidence of actual use of this area by particularly sensitive species. Rather, the evidence shows that Wetland Area 3 provides wetland habitat functions and values typical of coastal riparian wetlands. As such, the Commission finds that neither an increased buffer based on use by highly sensitive species, nor a decreased buffer based on severely limited habitat value would be justified for Wetland Area 3. The Commission therefore finds that a 100-foot buffer should be provided to protect Wetland Area 3 from adverse impacts of the approved development.

Wetland Areas 1 and 2 are smaller than and, based on the information contained in the EIR, do not provide the habitat values as Wetland Area 3. As such, a somewhat reduced wetland buffer may be appropriate under the LCP for these wetlands and the approximately 80-foot distance between the approved development and Wetland Area 2 would likely meet the requirements of the LCP buffer policies. However, little or no buffer is provided between the approved development and Wetland Area 1.

Pacific LUP Policy 14 does not permit filling of wetlands for residential development and Zoning Code Sections 9-4.4302(f) and 9-4.4403(e) restrict development in wetland habitat buffers. Thus, the appeal raises valid issues concerning conformity of the approved development with LUP Policy 14 and Zoning Code Sections 9-4.4302(f) and 9-4.4403(e). As discussed below, the Commission finds that the issue raised in the appeal concerning conformity of the approved development with LUP Policy 14 and Zoning Code Sections 9-4.4302(f) and 9-4.4403(e) are significant due to the statewide significance of the issue and in terms of the precedential value for future actions by the City under its certified LCP.

Wetlands are important natural resources that provide a variety of ecological, economic, and social benefits. Local government actions on coastal development permits that raise wetland protection issues are therefore of greater than local concern. Wetlands for example are important spawning habitat and nursery areas and provide nutrients for commercially important fisheries. They promote groundwater recharge, improve water quality by removing excess nutrients and chemical contaminants, reduce flooding, and provide important habitat for native plant and animal species, including threatened and endangered species. Roughly 90% of California's wetlands have been lost due to human activities. Among the chief causes of the wetland loss in California is fill for residential development. The acute reduction in wetland habitat serves to increase the value of the wetland areas that remain. Thus, the Commission finds that protection of coastal wetlands is an issue of significant statewide concern. Although much of Pacifica is substantially built out, other undeveloped properties in the City contain known and potential

wetlands. To permit wetland fill for the approved residential development project would establish an adverse precedent for future actions under the LCP wetland protection policies when the City considers future development proposals in other areas in its jurisdiction containing wetlands.

For all of the reasons stated above, the Commission finds that the appeal raises a substantial issue concerning the conformity of the approved development with Pacifica LUP Policy 14 and Zoning Code Sections 9-4.4302(f) and 9-4.4403(e).

### **1.3.2 Water Quality**

The appellant contends that the approved development is inconsistent with Pacifica LUP Policy 12 regarding protection of coastal water quality.

Pacifica LUP Policy 12 closely follows Coastal Act Policy 30231 stating:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The approved development would increase storm water runoff from the site by approximately 70% due to increased impervious surface coverage, and would substantially decrease the infiltrative function and capacity of the site. Pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles, heavy metals, synthetic organic chemicals including paint and household cleaners, soap and dirt from washing vehicles, dirt and vegetation from yard maintenance, litter, fertilizers, herbicides, and pesticides, and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size, excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species, disruptions to the reproductive cycle of aquatic species, and acute and sub-lethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

To minimize impacts to the biological productivity and quality of coastal waters, development should be designed and carried out in a manner that controls the volume, velocity and pollutant load of storm water leaving the developed site. Critical to the successful function of post-construction structural Best Management Practices (BMPs) in removing pollutants in storm water to the maximum extent practicable, is the application of appropriate design standards for sizing BMPs. The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85<sup>th</sup> percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP

capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs.

The approved development is not designed or conditioned to control the volume or pollutant load of storm water leaving the project site or to infiltrate, filter or treat the runoff from the 85<sup>th</sup> percentile storm runoff event. As approved and conditioned by the City, runoff from the project site would be directed to a 54-inch diameter, 180-foot storm drainpipe with a 24-inch outlet pipe and a 22-inch restrictor plate. This drainpipe would connect to the City's existing storm water system, which discharges untreated storm water to the ocean. The approved storm water detention system is designed to attenuate the rate of storm water discharge to the City's storm water system at peak flow during a 100-year storm event to less than the pre-development peak flow. Thus, the project would control the velocity of runoff from the site meeting one of the above-stated storm water pollution prevention goals. However, the approved development does not include measures to control either the volume or pollutant load of the runoff leaving the site. Thus, the approved development would result in a significant increase in polluted runoff from the project site, which would be discharged, without treatment to marine waters.

In addition to the storm water detention system described above, Conditions 9, 10, 11 and 25 of the City CDP address water quality impacts related to polluted runoff. Condition 9 specifies that all trash enclosures and dumpsters must be covered and protected from roof and surface drainage and that if water cannot be diverted from these areas, self-contained drainage systems that drain to sand filters shall be installed. Condition 10, specifies that landscaping shall be maintained and designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers, herbicides, and pesticides. Condition 11 states that no wastewater (including equipment cleaning wash water, vehicle wash water, cooling water, air conditioner condensate, and floor cleaning wash water) shall be discharged to the storm drain system, the street or gutter. Condition 25 requires all storm drain inlets to be stenciled with "No Dumping Drains to Stream." Although these conditions represent positive measures to reduce storm water pollution, the project as approved would result in a 70% increase in runoff from the site, which would be discharged with no treatment into the ocean. As such, the conditions imposed by the City are inadequate to satisfy the requirements of the certified LCP with respect to protection of coastal water quality.

In order to meet the requirements of LUP Policy 12, the project should include additional site design and source control BMPs to reduce the volume of runoff and pollutants from the site, such as:

- Reduction of total impervious surface coverage
- Use of permeable materials for driveways and walkways
- Minimize directly connected impervious surfaces
- Direct rooftop and driveway runoff to onsite pervious areas such as landscaped areas, and avoid routing rooftop runoff to the roadway, drainage ditches, or other storm water conveyance systems
- Minimize vegetation clearing and grading

- Maximize canopy interception and water conservation by preserving existing native trees and shrubs, and planting additional native, drought tolerant trees and large shrubs
- Use of infiltration basins to increase infiltration
- Use of cisterns to collect and store runoff for use in landscaping irrigation

Such measures would decrease the volume of runoff and pollutants from the project site and are required in order to protect the biological productivity and quality of coastal waters pursuant to LUP Policy 12. In addition, given the significant increase in offsite runoff resulting from the approved development, structural or treatment control BMPs to remove pollutants from the storm water prior to discharge to marine waters are necessary to meet the requirements of the City's LCP.

Protection of the biological productivity and quality of coastal waters from impacts related to polluted storm water runoff is an issue of regional and statewide significance. Polluted runoff, also known as nonpoint source (NPS) pollution, is the leading cause of water quality impairments in California and the nation. New development can have significant adverse impacts on coastal water quality and biological productivity, if adequate erosion and runoff control measures are not properly designed and implemented during grading and construction. New development can also adversely affect water quality after construction if permanent pollution prevention, reduction and treatment measures are not provided and maintained for the life of the development.

Urban development increases pollutant load, volume, and velocity of runoff by (1) increasing the amount of impervious surfaces such as paved highways, streets, rooftops, and parking lots; and (2) creating new pollution sources such as higher levels of car emissions, car maintenance wastes, municipal sewage, pesticides, household hazardous wastes, pet wastes, trash, etc. The pollutants found in urban runoff can have damaging effects on both human health and aquatic ecosystems. In addition, the increased flows and volumes of storm water discharged from new impervious surfaces resulting from new development and redevelopment can significantly impact beneficial uses of aquatic ecosystems due to physical modifications of watercourses, such as bank erosion and widening of channels. Even where the additional runoff is piped to the shoreline, the detrimental impacts of freshwater on the marine ecosystem are increased by the higher frequency and longer duration of freshwater runoff to the marine waters. And where dry weather runoff is not properly controlled (such as over watering of landscaping), the natural ability of benthic marine organisms to rebound from pollutant and freshwater impacts of winter rain events is diminished.

The Commission shares responsibility for regulating nonpoint source water pollution in the Coastal Zone of California with State Water Resources Control Board (SWRCB) and the coastal Regional Water Quality Control Boards (RWQCBs). The Commission and the SWRCB are co-leads for the state in implementing the *Plan for California's Nonpoint Source Pollution Control Program*, which outlines a strategy to ensure that management measures and practices that reduce or prevent polluted runoff are implemented over a fifteen-year period. The Commission has primary responsibility for protecting coastal resources, including water quality, from the impacts of development in the coastal zone. The SWRCB and RWQCBs have primary responsibility for regulating discharges that may impact waters of the state through writing

discharge permits, investigating water quality impacts, monitoring discharges, setting water quality standards and taking enforcement actions where standards are violated.

Locally, polluted runoff is a significant issue that threatens the health of the City's popular beaches and leads to beach closures. The San Francisco Bay Regional Water Quality Control Board list the Pacific Ocean at Linda Mar, San Pedro, and Rockaway Beaches in Pacifica as impaired water bodies due to high coliform counts from urban runoff/storm sewers and nonpoint source (RWQCB 2002). Linda Mar beach, which is a popular Bay Area surfing beach, has frequently exceeded the state's standards for beach water quality during wet weather periods.

Five court decisions in California in the past year have rejected challenges to strong cleanup plans, permits, and pollution prevention programs. Three of these rulings focused on cleaning up contaminated storm water runoff—the largest source of pollution to California's coastal waters—in San Diego and Los Angeles. The cases, brought by industry groups, builders, and some municipalities, challenged storm water permits issued by the Regional Water Boards for San Diego and Los Angeles in 2001. The permits contain pollution prevention and control programs that require stepped-up industrial inspections, enhanced public education, additional efforts to meet water quality standards, and a number of other improvements. Similar but weaker permits were issued in Orange County, Riverside, and San Bernardino, as well as smaller municipalities throughout California in 2002. The San Bernardino Superior Court rejected the challenge to that county's permit in late 2004 (NRDC 2005).

In December 2004, the California Court of Appeal rejected a challenge to the San Diego permit (one of the strongest pollution prevention plans in the nation), holding that state regulators can require that bodies of water are clean, not merely require that polluters make an effort to reduce contaminated runoff.

The California Supreme Court similarly rejected challenges to the Clean Water Act by the cities of Burbank and Los Angeles in treating waste from sewage plants in April 2005. The Court held that polluters cannot use cost arguments to avoid complying with federal sewage cleanup rules. The U.S. Ninth Circuit Court of Appeals also rejected challenges to the Los Angeles Trash TMDL (Total Maximum Daily Loads), a new rule to eliminate thousands of tons of trash from the Los Angeles River and Southern California coastal waters over 14 years.

In summary, the approved development does not include feasible site design, source control, or treatment control BMPs to reduce the volume or pollutant load of storm water leaving the site, and would therefore result in a significant increase in runoff of polluted storm water from the site that would be discharged to the ocean without treatment. As such, the project is not designed or conditioned to protect the biological productivity and quality of coastal waters as required by LUP Policy 12. Therefore, the Commission finds that the appeal raises a substantial issue concerning the conformity of the approved development with Pacifica LUP Policy 12.

## **2.0 De Novo Review**

Unless the Commission finds that a locally approved coastal development permit raises No Substantial Issue with respect to the policies of the certified LCP, the Commission must consider the merits of the proposed project de novo. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application.

## **2.1 Staff Recommendation on Permit Application**

### **2.1.1 Motion**

*I move that the Commission approve Coastal Development Permit No.A-2-PAC-05-018 for the development as proposed by the applicant.*

### **2.1.2 Staff Recommendation of Denial**

Staff recommends a NO vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### **2.1.3 Resolution to Deny the Permit**

The Commission hereby denies a coastal development permit for the proposed development on the grounds that the development will not conform with the policies of the City of Pacifica certified Local Coastal Program. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

## **2.2 Findings and Declarations**

The Commission hereby finds and declares:

The Commission hereby incorporates by reference the Substantial Issue findings above as if set forth in full.

### **2.2.1 Wetlands**

As stated above, proposed development would fill Wetland Area 3 for the construction of single-family homes and related development, and would be located within 100 feet of Wetland Areas 1, 2, and 3. Pacifica LUP Policy 14 does not permit filling of wetlands for the construction of roads or residential development. In addition, Zoning Code Section 9-4.4403(e) specifies in relevant part:

(1) No new development shall be permitted within a recognized wetland habitat area;

(2) Limited new development may be permitted within a recognized wetland habitat buffer area subject to the following standards:

...

(ii) All diking, dredging, and filling activities shall comply with the provisions of the California Coastal Act, Sections 30233 and 30607.1;

...

(v) Alteration of the natural topography shall be minimized;

...

(vii) Alteration of landscaping shall be minimized unless the alteration is associated with restoration and enhancement of the wetlands;



Zoning Code Section 9-4.4302(f) establishes the LCP wetland buffer as follows:

(f) “Buffer” shall mean an area of land adjacent to primary habitat, which may include secondary habitat as defined by a qualified biologist or botanist, and which is intended to separate primary habitat areas from new development in order to ensure that new development will not adversely affect the San Francisco garter snake and wetlands habitat areas.

The proposed development would fill a portion of Wetland Area 3 for the construction of residential development in conflict with LUP Policy 14 and Zoning Code Section 9-4.4403(e)(1), which expressly prohibit wetland fill for residential development. Therefore, the Commission finds that the approved development is inconsistent with the Pacifica LCP.

The proposed project would also include substantial development adjacent to Wetland Areas 1, 2, and 3 and must therefore be evaluated for consistency with the LCP wetland buffer policies. As discussed in Section 1.3.1 above, the Commission finds that a 100-foot buffer is necessary under the LCP to protect Wetland Area 3 from adverse impacts of the proposed development and that a reduced buffer would be allowable under the LCP for Wetland Areas 1 and 2.

Substantial grading, residential development and road construction would occur within 100 feet of Wetland Area 3 in conflict with Zoning Code Sections 9-4.4302(f) and 9-4.4403(e). The proposed grading and road construction for Edgemar Road would occur within a few feet of Wetland Area 1. Although a somewhat reduced buffer may be permissible under the LCP’s case-by-case wetland buffer policy, the proposal to provide essentially no buffer between the development and Wetland Area 1 would not meet the requirements of Zoning Code Sections 9-4.4302(f) and 9-4.4403(e). Given the limited habitat values of Wetland Area 2, the approximately 80-foot distance between the proposed development and this wetland would meet the LCP habitat buffer policies. Thus, the proposed development would be located within the habitat buffers of Wetland Areas 1 and 3 but outside of the buffer of Wetland Area 2 if reduced to 80 feet.

In accordance with Zoning Code Section 9-4.4403(e), development may only be located in wetland buffer areas if alteration of the natural topography and landscaping are minimized. The proposed development would include substantial grading and removal of existing vegetation within the buffer areas of Wetland Areas 1 and 3 in conflict with these requirements. Therefore, the Commission finds that the proposed development would be inconsistent with Pacifica LCP Zoning Code Sections 9-4.4302(f) and 9-4.4403(e) because the development would be located with the wetland habitat buffers of Wetland 1 and 3 and would involve significant alteration of the natural topography and landscaping.

### **2.2.2 Water Quality**

As stated above, polluted runoff is a significant issue in Pacifica that threatens the health of the City’s popular beaches and leads to beach closures. The San Francisco Bay Regional Water Quality Control Board lists the Pacific Ocean at Linda Mar, San Pedro, and Rockaway Beaches in Pacifica as impaired water bodies due to high coliform counts from urban runoff/storm sewers and nonpoint source pollution (RWQCB 2002). Linda Mar beach, which is a popular Bay Area surfing beach, has frequently exceeded the state’s standards for beach water quality during wet weather periods.

LUP Policy 12 requires the biological productivity and the quality of coastal waters to maintain optimum populations of marine organisms and for the protection of human health to be maintained and, where feasible, restored. The proposed development would increase storm water runoff from the site by approximately 70% due to increased impervious surface coverage, and would substantially decrease the infiltrative function and capacity of the site. As proposed, the project is not designed to control the volume or pollutant load of storm water leaving the project site or to infiltrate, filter or treat the runoff.

As proposed, runoff from the development site would be directed to a detention system to reduce the rate of discharge at peak flow. This system would serve only to attenuate the velocity of runoff discharged from the site. However, all of the increased runoff from the development would be discharged, without treatment to remove pollutants, into the ocean. Thus, the proposed development would unnecessarily result in a significant increase in storm water pollution.

The proposed development does not include feasible site design and source control measures to reduce the volume of runoff and pollutants from the project site. In addition, a project of this scale should include structural BMPs adequately sized and designed to accommodate (infiltrate, filter or treat) the runoff from the 85<sup>th</sup> percentile storm runoff event consistent with the Commission's implementation of the State's Coastal Nonpoint Source Pollution Control Program.

Failure to include feasible site design and source control BMPs to reduce the volume of runoff and pollutants from the site, and to provide treatment controls to remove pollutants before discharging runoff to the ocean is inconsistent with the requirements of LUP Policy 12 to protect the biological productivity and quality of coastal waters. Therefore, the Commission finds that the proposed development is inconsistent with the water quality protection policies of the Pacifica LCP.

### **2.2.3 ESHA**

Grading associated with the proposed development would directly impact coastal terrace prairie habitat on the adjacent "Fish" parcel. As further discussed below, grading in coastal terrace prairie habitat would conflict with the certified LCP because coastal terrace prairie meets the LCP definition of *environmentally sensitive habitat*, and LUP Policy 18 prohibits development in environmentally sensitive habitat areas. Although the appeal does not raise this issue, the Commission must consider whether the proposed development meets other applicable policies of the certified LCP in evaluating the proposed development de novo.

LCP Zoning Code Section 9-4.4302 defines environmentally sensitive habitat as follows:

"Environmentally sensitive habitat" shall mean an area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem, and which would be easily disturbed or degraded by human activities or development.

Pacific LUP Policy 18 closely tracks Coastal Act Policy 30240 stating:

Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts

which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

The project EIR identifies an area as coastal terrace prairie located within the limits of the grading area for the proposed development on the “Fish” parcel adjacent to the project site (Exhibit 6). The EIR includes a list of plants identified on (and adjacent to) the site corresponding with different identified habitat types. Three of the plant species listed as within the coastal terrace prairie habitat area are considered diagnostic species of this rare native grassland. As of the date of this staff report, the Commission staff has not received a vegetation survey indicating the relative abundance of these species or other information necessary to fully evaluate the quality of the identified coastal terrace prairie. However, the vegetation data contained in the EIR does not contradict the conclusion reached in the EIR that this area has been properly identified as coastal terrace prairie. In the absence of any evidence to the contrary, the Commission finds that the area indicated in the EIR as coastal terrace prairie is correctly identified.

Coastal terrace prairie is dense, tall grassland dominated by both sod and tussock forming perennial grasses. The distribution of coastal terrace prairie is discontinuous from Santa Cruz County north into Oregon, and may include different combinations of associated plant communities depending on the conditions at a particular location. The diversity of plant species in coastal terrace prairie is among the highest in grasslands of North America (Stohlgren et al. 1999). Coastal terrace prairie contains more plant species per square meter than any other grassland in North America. In addition, there are numerous rare, threatened, and endangered species associated with this habitat type. The California Native Plant Society (CNPS) reports:

“...prairie habitats support as many as 250 species of native wildflowers. For Santa Cruz County, the CNPS lists 13 species of concern in their Inventory of Rare and Endangered Plants of California (1995). The diversity of these prairie wildflower species, in turn, supports an even greater diversity of insect species, many of which are severely reduced in numbers (e.g., *Schinia* sp.- a genus of colorful diurnal noctuid moths; and solitary bees such as in the families Andrenidae and Anthophoridae) and some of which teeter on the verge of extinction (e.g., *Cicindela* Ohlone, Ohlone Tiger Beetle and *Adela* oplerella, Opler’s long horned moth). Some known species have already been lost (e.g., *Lytta molesta*, molestan blister beetle) and, undoubtedly, others have disappeared before even being described. The reduction in numbers of plant species and numbers of populations of insects leads to a collapse in the prey base for many other species- birds, shrews, and bats, for instance.” (CNPS)

As such, coastal terrace prairie is an especially valuable habitat because of its special nature and role in the ecosystem.

A recently completed study by Defenders of Wildlife ranked twenty-one United States ecosystems as the nation’s most endangered; California’s native grasslands ranked as the fifth most endangered ecosystem (Noss and Peters, 1995). Other studies have found that California has lost over 99% of its native grasslands, including 90 percent of the north coastal bunchgrass (Sierra Club, 2004, Noss and Peters, 1995). The loss of coastal terrace prairie has continued over the years due to development, conversion of habitat to agricultural uses, exotic weed invasion, habitat fragmentation, and erosion. The loss of coastal terrace prairie habitat over time has not

been quantified, but is considered significant by researchers in the field. Thus, the available evidence demonstrates that coastal terrace prairie is a rare habitat.

The California Department of Fish and Game has identified coastal terrace prairie as rare habitat. Additionally, other local governments in the Central Coast area of California have recognized the need to protect remaining coastal terrace prairie habitat. The City of Carmel-by-the-Sea has included coastal terrace prairie as an Environmentally Sensitive Habitat Area (ESHA) under the City's General Plan/Coastal Land Use Plan that includes policies for protection of the City's coastal environmental resources.

Furthermore, the County of Monterey, in its General Plan Draft Coastal Element, has currently proposed listing coastal terrace prairie as an Environmentally Sensitive Habitat Area:

“...protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.”

As discussed above, coastal terrace prairie is a rare and especially valuable native grassland habitat that supports several rare and endangered species and plays an important role in the ecosystem. The importance of coastal terrace prairie habitat is widely recognized by both government and non-government organizations, including the California Department of Fish and Game. As such coastal terrace prairie is an environmentally sensitive habitat (ESHA) as defined in LCP Zoning Code Section 9-4.4302.

The City did not evaluate the proposed grading of coastal terrace prairie identified in the EIR for conformity with LUP Policy 18. As such, the local administrative record provides little information about this impact and does not quantify the loss of coastal terrace prairie habitat that would result from the proposed development. Nonetheless, the area is clearly shown as located within the “grading line” in Figure IV-B-1 of the EIR (Exhibit 6).

Grading for road construction and residential development is not a use that is dependent on coastal terrace prairie habitat and is therefore prohibited in such areas pursuant to LUP Policy 18. Therefore, the Commission finds that the proposed development is inconsistent with LUP Policy 18.

#### **2.2.4 Alternatives**

Denial of the proposed permit will not eliminate all economically beneficial or productive use of the applicant's property or unreasonably limit the owner's reasonable investment backed expectations of the subject property. Denial of this coastal development permit application would still leave the applicant available alternatives to use the property in a manner that would be consistent with the policies of the LCP.

For example, since the wetlands are all located on or near the southeastern boundary of the project site, development could be clustered in the northwestern portion of the site, allowing a similar number of residential units as approved by the City to be developed while avoiding the wetlands. Because Wetland Area 3 is located between the approved development and Wetland Area 1, a 100-foot buffer from Wetland Area 3 would also serve as an adequate buffer for Wetland Area 1.

A clustered design would also reduce impervious surface coverage, which, along with other feasible site design, source control, and treatment control BMPs to increase onsite infiltration

and reduce the volume of runoff and the pollutant load of storm water leaving the project site, would allow the site to be developed consistent with the water quality requirements of the LCP.

Project revisions necessary to bring the development into conformity with the certified LCP while feasible, would involve substantial site design and engineering work. For example, to avoid wetland fill and provide adequate buffers between the development and Wetland Areas 1 and 3, it appears that at least five of the proposed detached single-family homes and two of the proposed triplex townhouse buildings would need to be either eliminated or relocated and Edgemar Road would need to be realigned. Avoiding wetland fill and providing adequate habitat buffers would also require significant changes to the proposed site grading. Realignment of a portion of Edgemar Road and changes to the grading plan would also be necessary to avoid impacts to coastal terrace prairie ESHA on the adjacent "Fish" parcel. Such fundamental project revisions are beyond the scope of project changes typically achieved through Commission-imposed conditions of approval on a permit application. Rather, it is the project applicant's responsibility to revise the project plans to address the issues that the Commission has identified.

### **2.2.5 Alleged Violation**

In November 2003, the applicant undertook development consisting of clearing and grubbing the project site. Because the City-approved CDP has been suspended pending the outcome of the Commission's determination of appealability and final resolution of any appeals, the clearing and grubbing constituted unpermitted development. Although development has taken place prior to Commission action on the CDP, consideration of the CDP on appeal by the Commission has been based solely upon the policies of the certified LCP. Commission action on the appeal does not constitute a waiver of any legal action with regard to the alleged violation, nor does it constitute an admission as to the legality of any development undertaken on the site without a coastal development permit.

### **2.2.6 California Environmental Quality Act (CEQA)**

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. The Commission incorporates its findings on LCP policies at this point as if set forth in full. For the reasons described in the Commission findings above, the Commission finds that there are feasible mitigation measures and alternatives that would substantially lessen the significant adverse impacts of the development on the environment. Feasible alternatives to the proposed development include clustering the development in the northern two-thirds of the site to avoid the wetlands and reduce impervious surface coverage. By incorporating site design, source control and treatment control BMPs to increase onsite infiltration and to reduce the volume of runoff and the pollutant load of storm water leaving the project site, the water quality requirements of the LCP could be feasibly met. The Commission thus finds that the proposed project cannot be found to be consistent with the requirements of the Coastal Act and does not conform to the requirements of CEQA.

**Exhibits**

1. Location Map
2. Site Plan
3. Building Elevations
4. Grading Plan
5. Wetlands Map
6. Vegetation Map
7. Appeal
8. Adopted Findings for 2-02-02-EDD

## Appendix A—Substantive File Documents

- California Department of Fish and Game, September 2004, Natural Diversity Database: Rarefind 2 Database, California Department of Fish and Game, Sacramento, California.
- California Native Plant Society, Santa Cruz Chapter, Plant Communities of Santa Cruz County, Coastal Terrace Prairie, <http://www.cruzcnp.org/CoastalTerracePrairie.html>
- City of Pacifica, Pacifica Bowl Development Project Environmental Impact Report, Public Review Draft, March 2002.
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- Hayes, Grey, 2003. Conservation Strategy for Coastal Prairie Conservation
- Holland, Robert F., Ph. D., California Department of Fish and Game, October 1986. Preliminary Descriptions of the Terrestrial Natural Communities of California.
- Natural Resources Defense Council, Testing the Waters, 2005.
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- “The State of Disappearing Species and Habitat: A Sierra Club Report.” Sierra Club. May 19 2004.