

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863 FAX (831) 427-4877
www.coastal.ca.gov

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CENTRAL COAST DISTRICT (SANTA CRUZ) DEPUTY DIRECTOR'S REPORT

For the

June Meeting of the California Coastal Commission

MEMORANDUM

Date: June 10, 2009

TO: Commissioners and Interested Parties
FROM: Charles Lester, Central Coast District Deputy Director
SUBJECT: *Deputy Director's Report*

Following is a listing for the waivers, emergency permits, immaterial amendments and extensions issued by the Central Coast District Office for the June 10, 2009 Coastal Commission hearing. Copies of the applicable items are attached for your review. Each item includes a listing of the applicants involved, a description of the proposed development, and a project location.

Pursuant to the Commission's direction and adopted procedures, appropriate notice materials were sent to all applicants for posting at the project site. Additionally, these items have been posted at the District office and are available for public review and comment.

This report may also contain additional correspondence and/or any additional staff memorandum concerning the items to be heard on today's agenda for the Central Coast District.

REGULAR WAIVERS

1. 3-09-021-W Geoff Underwood & Marion Marshall (Pacific Grove, Monterey County)

DE MINIMIS WAIVERS

1. 3-09-006-W University Of California Santa Cruz, Attn: Bruce Hoffman, Project Manager, P P&C (Santa Cruz, Santa Cruz County)
2. 3-09-018-W Monterey Regional Water Pollution Control Agency (Monterey, Monterey County)

EMERGENCY PERMITS

1. 3-09-023-G Trustee Thomas W. Smith (Santa Cruz, Santa Cruz County)
2. 3-09-024-G Caltrans, Attn: Mitch Dallas (Big Sur, Monterey County)

IMMATERIAL AMENDMENTS

1. 3-02-012-A2 Vista Del Mar Condominiums, Inc. (Santa Cruz, Santa Cruz County)

EXTENSION - IMMATERIAL

1. A-3-MCO-04-054-E2 Sunridge Views, Attn: Steve Bradshaw (North Monterey County, Monterey County)

TOTAL OF 7 ITEMS

DETAIL OF ATTACHED MATERIALS

REPORT OF REGULAR WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 13250(c) and/or Section 13253(c) of the California Code of Regulations.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-09-021-W Geoff Underwood & Marion Marshall	384 sq.ft. addition to an existing residence, construct a new 12'x15' deck, reconstruct new 6 foot high property fence, and demolition of an existing 195 sq.ft. detached garage.	119 Monterey Avenue, Pacific Grove (Monterey County)

REPORT OF DE MINIMIS WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 30624.7 of the California Coastal Act of 1976.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-09-006-W University Of California Santa Cruz, Attn: Bruce Hoffman, Project Manager, P <i>P&C</i>	Installation of a traffic signal light at Campus West Entrance.	Empire Grade & Heller Drive, Santa Cruz (Santa Cruz County)
3-09-018-W Monterey Regional Water Pollution Control Agency	Removal of one 10,000 gallon diesel fuel underground storage tank.	Reeside Avenue (San Carlos Beach along Cannery Row, 36 36" 38"N 121 51' 47"W), Monterey (Monterey County)

REPORT OF EMERGENCY PERMITS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 13142 of the California Code of Regulations because the development is necessary to protect life and public property or to maintain public services.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-09-023-G Trustee Thomas W. Smith	Posting warning signs for people to stay away from a dangerous area due to an eroding sea cave	4660 Opal Cliff Drive, Santa Cruz (Santa Cruz County)

3-09-024-G Caltrans, Attn: Mitch Dallas	Emergency coastal development permit for the installation of temporary debris flow barriers (metal ring nets and posts) and associated ground anchors at existing culverts on the inland side of Highway 1 at two locations and the side-casting of up to 967 cubic yards (cy) and 1,279 cy of debris collected behind said barriers on the seaward sides of Highway 1 at these locations, as well as a temporary stockpiling and sorting area for the side-cast material (approximately 100,000 cy of material) at the Point Sur Naval Station.	Highway 1 (post miles 1-40.33 and 1-40.50), Big Sur (Monterey County)
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REPORT OF IMMATERIAL AMENDMENTS

The Executive Director has determined that there are no changes in circumstances affecting the conformity of the subject development with the California Coastal Act of 1976. No objections to this determination have been received at this office. Therefore, the Executive Director grants the requested Immaterial Amendment, subject to the same conditions, if any, approved by the Commission.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-02-012-A2 Vista Del Mar Condominiums, Inc.	Amend the existing coastal permit to incorporate the stairs with partial demolition of sidewalls and replacement with granite riprap and cascading planting per plans on file.	2-2750 East Cliff Drive, Santa Cruz (Santa Cruz County)

REPORT OF EXTENSION - IMMATERIAL

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
A-3-MCO-04-054-E2 Sunridge Views, Attn: Steve Bradshaw	Subdivision of a 25 acre parcel into 10 lots ranging in size from 1 to 7.8 acres, 2,000 cubic yards of grading, develop a mutual water system, construction of two water tanks, demolition of an existing mobile home, barn, and greenhouse and conversion of an existing mobile home to a senior citizens unit.	250 Maher Road, North Monterey County (Monterey County)

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NOTICE OF PROPOSED PERMIT WAIVER

Date: May 27, 2009
To: All Interested Parties
From: Dan Carl, Central Coast District Manager *DCM*
Mike Watson, Coastal Planner *MW*
Subject: Coastal Development Permit (CDP) Waiver 3-09-021-W
Applicants: Geoff Underwood and Marion Marshall

Proposed Development

Remodel and addition to an existing single family residence located at 119 Monterey Avenue in the City of Pacific Grove.

Executive Director's Waiver Determination

Pursuant to Title 14, Section 13250 of the California Code of Regulations, and based on project plans and information submitted by the applicant(s) regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

The project is located more than one block inland of the Pacific Grove shoreline, and thus more than one-block inland of the public access recreational trail that winds along the Pacific Grove bluffs. The proposed residence would be compatible with the size, scale, and aesthetics of the residential neighborhood in which it is located, and it includes drainage BMPs to reduce storm water runoff and remove contaminants prior to conveyance off-site. The proposed new residence was reviewed and received discretionary approval by the City's Architectural Review Board to ensure conformance with the requirements of the City's Municipal Code and the certified Land Use Plan. The project has no potential for adverse effects on coastal resources, including public access to the shoreline, and is consistent with Chapter 3 of the Coastal Act.

Coastal Commission Review Procedure

This waiver is not valid until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission on Wednesday, June 10, 2009, in Marina Del Rey. If three Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application.

If you have any questions about the proposal or wish to register an objection, please contact Mike Watson in the Central Coast District office.



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**NOTICE OF PROPOSED PERMIT WAIVER**

Date: May 27, 2009
To: All Interested Parties
From: Dan Carl, Central Coast District Manager *DCarl*
Susan Craig, Coastal Planner *S.Craig*
Subject: Coastal Development Permit (CDP) Waiver 3-09-006-W
Applicant: University of California at Santa Cruz (UCSC)

Proposed Development

Installation of traffic lights at the Heller Drive and Empire Grade intersection at the west entrance to the UCSC campus. The proposed project includes installation of signal lights for traffic traveling in both directions on Empire Grade, a signal light for traffic entering Empire Grade from Heller Drive, signal loops in the roadways, four shielded street lights on poles, and electrical lines and signal controls in and adjacent to the road. Installation of the signal loops and electrical connections will include minor trenching adjacent to the intersection. A short segment of Empire Grade will be re-stripped to provide merging space for traffic entering from Heller Drive.

Executive Director's Waiver Determination

Pursuant to Title 14, Section 13238 of the California Code of Regulations, and based on project plans and information submitted by the applicant regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

The Heller Drive and Empire Grade intersection is located on the foothills above the City of Santa Cruz at UCSC's west entrance several miles inland from the ocean, and adjacent to undeveloped land on the seaward side and UCSC on the inland side. The intersection is currently stop sign controlled at Heller Drive only, and includes minimal night lighting. Most of the project would take place within the existing paved intersection area, with minor project components extending into the ruderal areas immediately adjacent to the paved area. The project has been designed to be the minimum necessary for public safety purposes, including through limiting lighting to the minimum public safety illumination standards required by Caltrans and Santa Cruz County as a means of limiting spillover of light to adjacent undeveloped areas. The project also includes appropriate construction best management practices and other mitigations to ensure resource protection. In sum, the project has been sited and designed to result in a safer intersection and to be sensitive to its location and the surrounding environs. Thus, the proposed project has no potential for adverse impacts on coastal resources, including public access to the shoreline.

Coastal Commission Review Procedure

This waiver is not valid until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission on June 10, 2008, in Marina del Rey. If four Commissioners



NOTICE OF PROPOSED PERMIT WAIVER

CDP Waiver 3-09-006-W (UCSC Traffic Signals)

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object to this waiver at that time, then the application shall be processed as a regular CDP application.

If you have any questions about the proposal or wish to register an objection, please contact Susan Craig in the Central Coast District office.



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**NOTICE OF PROPOSED PERMIT WAIVER**

Date: May 27, 2009
To: All Interested Parties
From: Dan Carl, Central Coast District Manager *DCarl*
Mike Watson, Coastal Planner *MW*
Subject: Coastal Development Permit (CDP) Waiver 3-09-018-W
Applicant: Monterey Regional Water Pollution Control Agency

Proposed Development

Removal and disposal of a 1,000 gallon underground diesel fuel tank and related infrastructure (i.e., piping, concrete slab, gravel, and material) located immediately adjacent to the existing MRWPCA pump station seaward of Cannery Row in the City of Monterey. Project further includes backfilling the void with native soils and replacing the concrete slab in kind.

Executive Director's Waiver Determination

Pursuant to Title 14, Section 13238 of the California Code of Regulations, and based on project plans and information submitted by the applicant(s) regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

Removal of the underground fuel tank will eliminate the possibility of diesel fuel spilling or leaching at the site and ultimately into Monterey Bay waters. The void will be backfilled with native soils and the approximately 80 square foot area will be compacted and restored to its original condition, thus continuing to provide coastal access along the pathway (overlying the tank location), including to an adjacent public restroom. The project includes construction BMPs designed to prevent soil, sediment, and debris from entering the marine environment during construction. Disruptions to public access during construction will be minimized by maintaining access along the waterfront and restricting access only in the immediate area of construction. Accordingly, the project will not have any significant adverse impacts on coastal resources, including public access to the shoreline.

Coastal Commission Review Procedure

This waiver is not valid until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission on Wednesday June 10, 2009, in Marina Del Rey. If four Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application.

If you have any questions about the proposal or wish to register an objection, please contact Mike Watson in the Central Coast District office.





California Coastal Commission

EMERGENCY COASTAL DEVELOPMENT PERMIT
Emergency CDP 3-09-023-G (Smith Warning Signs)

Issue Date: May 18, 2009

Page 1 of 3

This emergency coastal development permit (ECDP) authorizes emergency development consisting of the placement of two yellow metal signs, approximately 3' x 3' in size, and stating "WARNING: DANGEROUS CONDITION – STAY AWAY" in English and Spanish, on the bluff face adjacent to a sea cave that has formed at the toe of the bluff at 4660 Opal Cliff Drive in the unincorporated area of Santa Cruz (all as more specifically described in the Commission's ECDP file).

Based on the materials presented by the Permittee, Thomas W. Smith, and the Permittee's representatives, Charlene Atack and Jeff Naess, a sea cave was recently discovered at the northern end of the Permittee's seawall. The sea cave extends about 37 feet east into the bluff and is about 21 feet wide at its widest point. According to the Permittee's consultants, the bedrock in the upper unsupported ceiling portion of the cave is fractured and unstable, and this instability is causing large rocks to fall inside the cave. There is a threat that the sea cave could collapse in its entirety. No residential structural development on top of the bluff is in imminent danger from a possible sea cave collapse, but public beachgoers who explore this sea cave could be seriously injured or trapped if the sea cave were to collapse. Thus, an emergency situation representing a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, and property has been identified at the subject site, and the proposed emergency development is necessary to prevent the imminent loss or damage to life and health. Therefore, the Executive Director of the California Coastal Commission hereby finds that:

- (a) An emergency exists that requires action more quickly than permitted by the procedures for administrative or ordinary coastal development permits (CDPs), and that the development can and will be completed within 30 days unless otherwise specified by the terms of this ECDP; and
- (b) Public comment on the proposed emergency development has been reviewed if time allows.

The emergency development is hereby approved, subject to the conditions listed on the attached pages.

 5/18/2009

Dan Carl, Central Coastal District Manager for Peter M. Douglas, Executive Director

Enclosures: (1) Emergency Coastal Development Permit Acceptance Form; (2) Regular Permit Application Form

cc: Joe Hanna, Santa Cruz County Planning Department

Emergency CDP 3-09-023-G (Smith Warning Signs)

Issue Date: May 18, 2009

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Conditions of Approval

1. The enclosed ECDP acceptance form **must be signed** by the owner(s) of the property where the emergency development authorized by this ECDP is located and returned to the California Coastal Commission's Central Coast District Office within 15 days of the date of this permit (i.e., by June 2, 2009). This ECDP is not valid unless and until the acceptance form has been received in the Central Coast District Office.
2. Only that emergency development specifically described in this ECDP is authorized. Any additional and/or different emergency and/or other development requires separate authorization from the Executive Director and/or the Coastal Commission.
3. The emergency development authorized by this ECDP must be completed within 30 days of the date of this permit (i.e., by June 17, 2009) unless extended for good cause by the Executive Director.
4. The emergency development authorized by this ECDP is only temporary, and shall be removed if it is not authorized by a regular CDP. Within 60 days of the date of this permit (i.e., by July 17, 2009), the Permittee shall submit a complete application for a regular CDP to have the emergency development be considered permanent. The emergency development shall be removed in its entirety and all traces of it eliminated (e.g., filling fastener holes so as to match the natural landform, etc.) within 150 days of the date of this permit (i.e., by October 17, 2009) unless before that time the California Coastal Commission has issued a regular CDP for the development authorized by this ECDP. The deadlines in this condition may be extended for good cause by the Executive Director.
5. In exercising this ECDP, the Permittee agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
6. This ECDP does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g., Santa Cruz County). The Permittee shall submit to the Executive Director copies of all such authorizations and/or permits upon their issuance.
7. This ECDP shall not constitute a waiver of any public rights which may exist on the property. The Permittee shall not use this ECDP as evidence of a waiver of any public rights which may exist on the property.
8. Failure to comply with the conditions of this approval may result in enforcement action under the provisions of Chapter 9 of the Coastal Act.
9. The issuance of this ECDP does not constitute admission as to the legality of any development undertaken on the subject site without a CDP and shall be without prejudice to the California Coastal Commission's ability to pursue any remedy under Chapter 9 of the Coastal Act.



Emergency CDP 3-09-023-G (Smith Warning Signs)

Issue Date: May 18, 2009

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As noted in Condition 4 above, the emergency development carried out under this ECDP is at the Permittee's risk and is considered to be temporary work done in an emergency situation to abate an emergency. If the property owner wishes to have the emergency development become a permanent development, a regular CDP must be obtained. A regular CDP is subject to all of the provisions of the California Coastal Act and may be conditioned or denied accordingly.

If you have any questions about the provisions of this ECDP, please contact the Commission's Central Coast District Office at 725 Front Street, Suite 300, Santa Cruz, CA 95060, (831) 427-4863.





California Coastal Commission

EMERGENCY COASTAL DEVELOPMENT PERMIT

Emergency CDP 3-09-024-G (Caltrans Big Sur Basin Complex Fire Response)

Issue Date: May 15, 2009

Page 1 of 5

This emergency coastal development permit (ECDP) authorizes emergency development consisting of the installation of temporary debris flow barriers (metal ring nets and posts) and associated ground anchors at existing culverts on the inland side of Highway One at two locations on the Big Sur coast (at post miles 1-40.33 and 1-40.50) and the side-casting of up to 967 cubic yards (cy) and 1,279 cy of debris collected behind said barriers on the seaward sides of Highway 1 at these locations, as well as a temporary stockpiling and sorting area for side-cast material (approximately 100,000 cy of material) at the Point Sur Naval Station (all as more specifically described in the Commission's ECDP file).

Based on the materials presented by the Permittee (Caltrans), the Basin Complex Wildfire (representing a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, and property) has denuded side slopes above Highway One and increased the likelihood of landslide onto and over the Highway, and the proposed emergency development is necessary to prevent the imminent loss of and/or damage to Highway One. Therefore, the Executive Director of the California Coastal Commission hereby finds that:

- (a) An emergency exists that requires action more quickly than permitted by the procedures for administrative or ordinary coastal development permits (CDPs), and that the development can and will be completed within 30 days unless otherwise specified by the terms of this ECDP; and
- (b) Public comment on the proposed emergency development has been reviewed if time allows.

The emergency development is hereby approved, subject to the conditions listed on the attached pages.

 5/15/2009

Dan Carl, Central Coastal District Manager for Peter M. Douglas, Executive Director

Enclosures: (1) Emergency Coastal Development Permit Acceptance Form; (2) Regular Permit Application Form

cc: Laura Lawrence, Monterey County RMA - Planning Department
Deirdre Hall, Monterey Bay National Marine Sanctuary

Emergency CDP 3-09-024-G (Caltrans Big Sur Basin Complex Fire Response)

Issue Date: May 15, 2009

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Conditions of Approval

1. The enclosed ECDP acceptance form must be signed by the applicant and returned to the California Coastal Commission's Central Coast District Office within 15 days of the date of this permit (i.e., by May 26, 2009). This ECDP is not valid unless and until the acceptance form has been received in the Central Coast District Office.
2. Only that emergency development specifically described in this ECDP is authorized. Any additional and/or different emergency and/or other development requires separate authorization from the Executive Director and/or the Coastal Commission.
3. The emergency development authorized by this ECDP is authorized for the 2008/09 and 2009/10 winter seasons (i.e., from October 15, 2008 through April 15, 2010).
4. The emergency development authorized by this ECDP is only temporary, and shall be removed if it is not authorized by a regular CDP. By May 15, 2010, the Permittee shall submit a complete application for a regular CDP to have the emergency development be considered permanent and/or to allow it (or portions of it) to continue to be authorized on a temporary basis. The emergency development shall be removed in its entirety and all areas affected by it restored to their original pre-emergency development condition by August 15, 2010 unless before that time the California Coastal Commission has issued a regular CDP for the development authorized by this ECDP. The deadlines in this condition may be extended for good cause by the Executive Director.
5. In exercising this ECDP, the Permittee agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
6. This ECDP does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g., Monterey County, Monterey Bay National Marine Sanctuary, California State Lands Commission, etc.). The Permittee shall submit to the Executive Director copies of all such authorizations and/or permits upon their issuance.
7. All emergency development shall be limited in scale and scope to that specifically identified in the Caltrans Emergency Notification Form dated February 24, 2009 and dated received in the Coastal Commission's Central Coast District Office on March 5, 2009.
8. All emergency construction activities shall limit impacts to coastal resources (including public recreational access, habitat areas, and the Pacific Ocean) to the maximum extent feasible including by, at a minimum, adhering to the following construction requirements (which may be adjusted by the Executive Director if such adjustments: (1) are deemed necessary due to extenuating circumstances; and (2) will not adversely impact coastal resources):
 - a. All construction areas shall be minimized and shall allow through public access and protect public safety to the maximum extent feasible. Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.



Emergency CDP 3-09-024-G (Caltrans Big Sur Basin Complex Fire Response)

Issue Date: May 15, 2009

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- b. The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep equipment covered and out of the rain; dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach; etc.).
 - c. All construction activities that result in discharge of non-natural materials, polluted runoff, or wastes to coastal watercourses or the Pacific Ocean are prohibited. Any erosion and sediment controls used shall be in place prior to the commencement of construction as well as at the end of each work day.
 - d. All accessways impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction.
 - e. All exposed slopes and soil surfaces in and/or adjacent to the debris flow barrier construction areas shall be stabilized with erosion control native seed mix, jute netting, straw mulch, or other applicable best management practices (for example, those identified in the California Storm Water Best Management Practice Handbooks (March, 1993)). The use of non-native invasive species (such as ice-plant) is prohibited.
 - f. All contractors shall ensure that work crews are carefully briefed on the importance of observing the construction precautions given the sensitive work environment. Construction contracts shall contain appropriate penalty provisions sufficient to offset the cost of retrieval/clean up of foreign materials not properly contained and/or remediation to ensure compliance with this ECDP otherwise.
 - g. The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office immediately upon completion of construction and required restoration activities. If planning staff should identify additional reasonable restoration measures, such measures shall be implemented immediately.
9. Copies of this ECDP shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of this ECDP, and the public review requirements applicable to it, prior to commencement of construction.
10. A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and their contact information (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.



Emergency CDP 3-09-024-G (Caltrans Big Sur Basin Complex Fire Response)

Issue Date: May 15, 2009

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11. The Permittee shall submit reports on a quarterly basis (on July 31, 2009; October 31, 2009; January 31, 2010; April 30, 2010; and July 31, 2010) for the review and approval of the Executive Director that identify all development undertaken pursuant to this ECDP. Such reports shall at a minimum include:
 - a. A narrative description of all emergency development activities undertaken pursuant to this emergency authorization.
 - b. Identification of all quarterly and cumulative debris volumes deposited at each of the two disposal sites and the Point Sur Naval Station reclamation site.
 - c. Identification of all debris movement (if any).
 - d. Description of all rainfall/weather activity during the quarter.
 - e. Photo documentation of the disposal sites and downslope areas from set vantage points so as to allow comparison of photos taken at different times.
 - f. Description of known or potential impacts to sensitive plant and animal species and/or protected habitats due to emergency development and, if any, identification of remedial actions to address such impacts where any such remedial actions shall be developed in coordination with the Executive Director and staff from Monterey County, Monterey Bay National Marine Sanctuary, and California Department of Fish and Game.
 - g. Description of all monitoring protocols, including any new or changed protocols since the time of the previous report, and the results of all such monitoring.
12. By May 15, 2010, the Permittee shall submit site plans and cross sections clearly identifying all development completed under this emergency authorization (comparing any previously permitted condition to both the emergency condition and to the post-work condition), and a narrative description of all emergency development activities undertaken pursuant to this emergency authorization.
13. Failure to comply with the conditions of this approval may result in enforcement action under the provisions of Chapter 9 of the Coastal Act.
14. The issuance of this ECDP does not constitute admission as to the legality of any development undertaken on the subject site without a CDP and shall be without prejudice to the California Coastal Commission's ability to pursue any remedy under Chapter 9 of the Coastal Act.

As noted in Condition 4 above, the emergency development carried out under this ECDP is at the Permittee's risk and is considered to be temporary work done in an emergency situation to abate an emergency. If Caltrans wishes to have the emergency development become permanent development, a regular CDP must be obtained. A regular CDP is subject to all of the provisions of the California Coastal Act and may be conditioned or denied accordingly.

If you have any questions about the provisions of this ECDP, please contact the Commission's Central



California Coastal Commission

Emergency CDP 3-09-024-G (Caltrans Big Sur Basin Complex Fire Response)

Issue Date: May 15, 2009

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Coast District Office at 725 Front Street, Suite 300, Santa Cruz, CA 95060, (831) 427-4863.



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**NOTICE OF PROPOSED PERMIT AMENDMENT**

Date: May 27, 2009
To: All Interested Parties
From: Dan Carl, Central Coast District Manager *DCM*
Susan Craig, Coastal Planner *S. Craig*
Subject: Proposed Amendment to Coastal Development Permit (CDP) 3-02-012
Applicant: Vista Del Mar Condominiums, Inc.

Original CDP Approval

CDP 3-02-012 was originally approved by the Coastal Commission on April 11, 2002 and was amended on April 15, 2004 (CDP amendment 3-02-012-A1). CDP 3-02-012 provided for the initial repair an existing revetment and for the installation of cascading landscaping and related measures in the bluff above the revetment to help reduce its visual impact. CDP 3-02-012-A1 provided for future maintenance episodes over time (subject to certain criteria) to ensure that the revetment and its camouflaging elements are maintained in their permitted and required state over time. The project site is located on the bluffs seaward of 2-2750 East Cliff Drive along 26th Avenue Beach in the Live Oak beach area of unincorporated Santa Cruz County.

Proposed CDP Amendment

CDP 3-02-012 would be further amended in two ways. First, the permit would be modified to allow a stairway to be installed from the blufftop to the beach below. The stairway would include a concrete stairway section at the top of the revetment extending about 35 vertical feet, and would include "stairs" formed by manipulating boulders and creating small treads with concrete where necessary the remainder of the way to the sandy beach below. The basic framework for this stairway was already installed inconsistent with the base CDP and without permit authorization (see Exhibit A for photographs of the existing stairway). Thus the amendment request is after-the-fact for this portion of the project. The amendment also would provide that the stairway be further screened and hidden through manipulation of revetment rocks and through additional vegetation to match existing vegetation required by the base permit (see Exhibit B for project plans). The proposed amendment also includes provisions for the Executive Director to review and approve initial and long-term project implementation to ensure that the screening objectives of the Commission's base permit are met at this location.

Second, the permit would also be amended to modify Special Condition 13(h) of CDP 3-02-012 to extend the revetment maintenance term for ten years (until April 15, 2019) and to specify that future ten-year extensions (as opposed to the currently permitted five-year extensions) can be pursued in the future subject to the base permit terms (see Exhibit C for proposed revisions to Special Condition 13(h)). The Commission's reference number for this proposed amendment is 3-02-012-A2.

Executive Director's Immateriality Determination

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations, the Executive Director of



NOTICE OF PROPOSED PERMIT AMENDMENT

CDP 3-02-012 (Vista Del Mar Condominiums)

Proposed Amendment 3-02-012-A2

Page 2

the California Coastal Commission has determined that the proposed CDP amendment is immaterial for the following reasons:

The proposed stairway would be low profile (at or below existing revetment elevations) and integrated within the existing revetment and bluff landscaping in such a way as to visually integrate with these features and the back-beach environment such that it would not be perceived from the beach as a "standard" stairway (with associated visual and related issues) but rather as a rock-hopping trail of sorts. The Applicant/Permittee does not propose any associated development that could lead to Coastal Act issues (e.g., restrictive signs, gates, fences, barriers, railings, etc.), and this type of associated development is further prohibited by the base CDP. In short, the stairway has been sited and designed to avoid the types of coastal resource problems that are often associated with such private stairways, and it should not adversely affect the public beach recreational experience at this beach area.

The proposed ten-year maintenance term extension simply allows the Applicant/Permittee to continue to maintain the permitted revetment and related development in its permitted state subject to certain notification and construction criteria that continue to apply. Such extension streamlines the coastal permitting process for both the Commission and the Applicant, and makes good planning and public policy sense for this stretch of coast.

Thus, the proposed amendment will not result in adverse coastal resource impacts, and has been deemed immaterial.

Coastal Commission Review Procedure

The CDP will be amended as proposed if no written objections are received in the Central Coast District office within ten working days of the date of this notice. If such an objection is received, the objection and the Executive Director's response to it will be reported to the Commission on June 10, 2009, in Marina del Rey. If three Commissioners object to the Executive Director's determination of immateriality at that time, then the application shall be processed as a material CDP amendment.

If you have any questions about the proposal or wish to register an objection, please contact Susan Craig in the Central Coast District office.

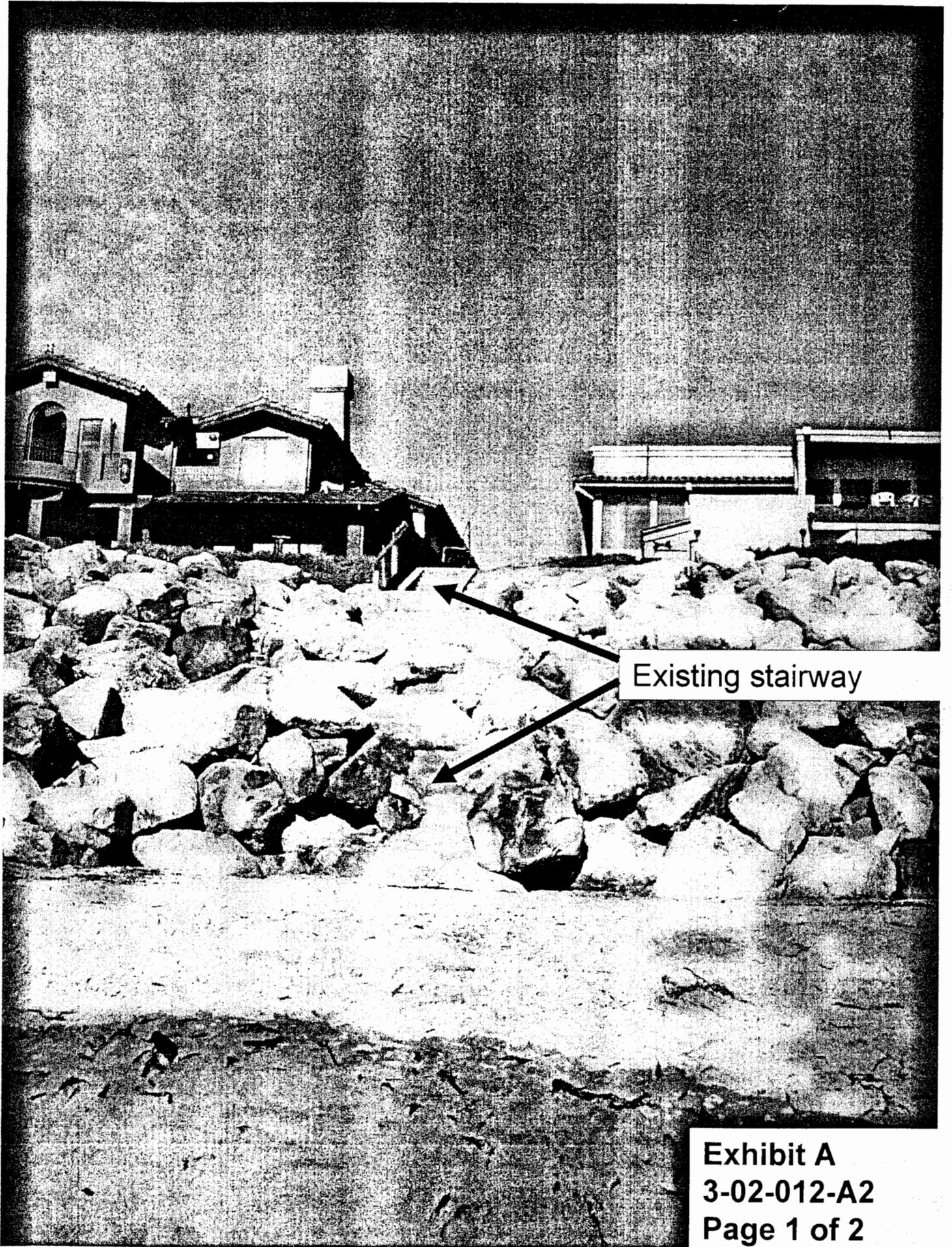
Exhibits

Exhibit A: Site Photographs

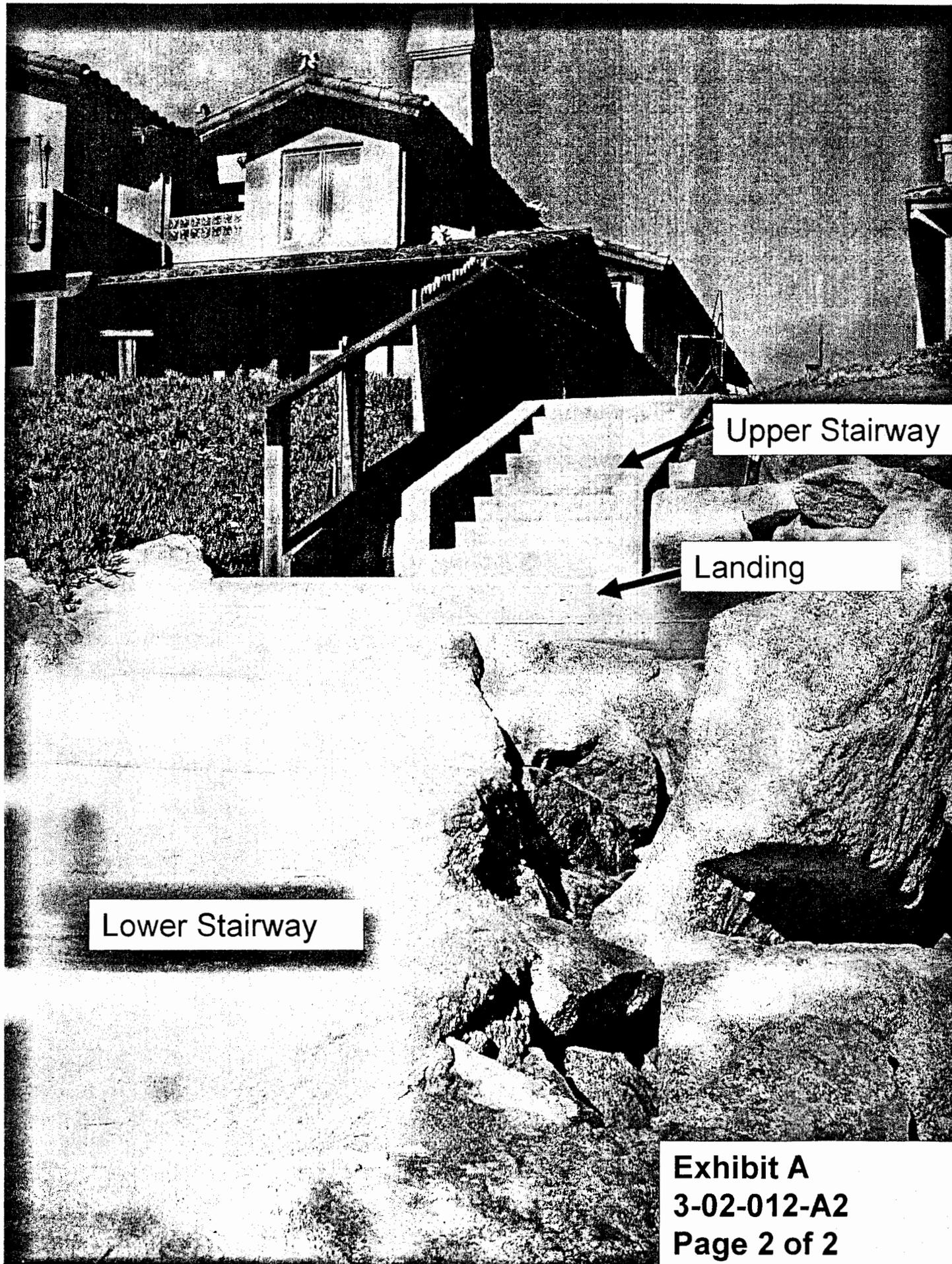
Exhibit B: Stairway Plans

Exhibit C: Revised Special Condition 13(h)





Existing stairway



Upper Stairway

Landing

Lower Stairway

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CENTRAL COAST AREA

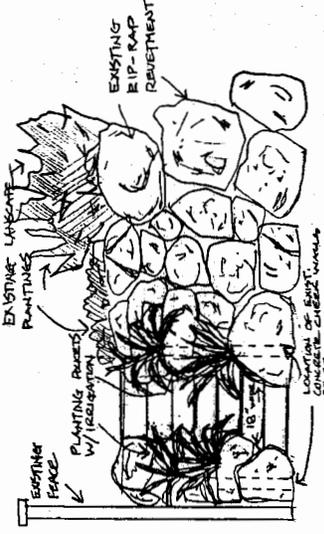
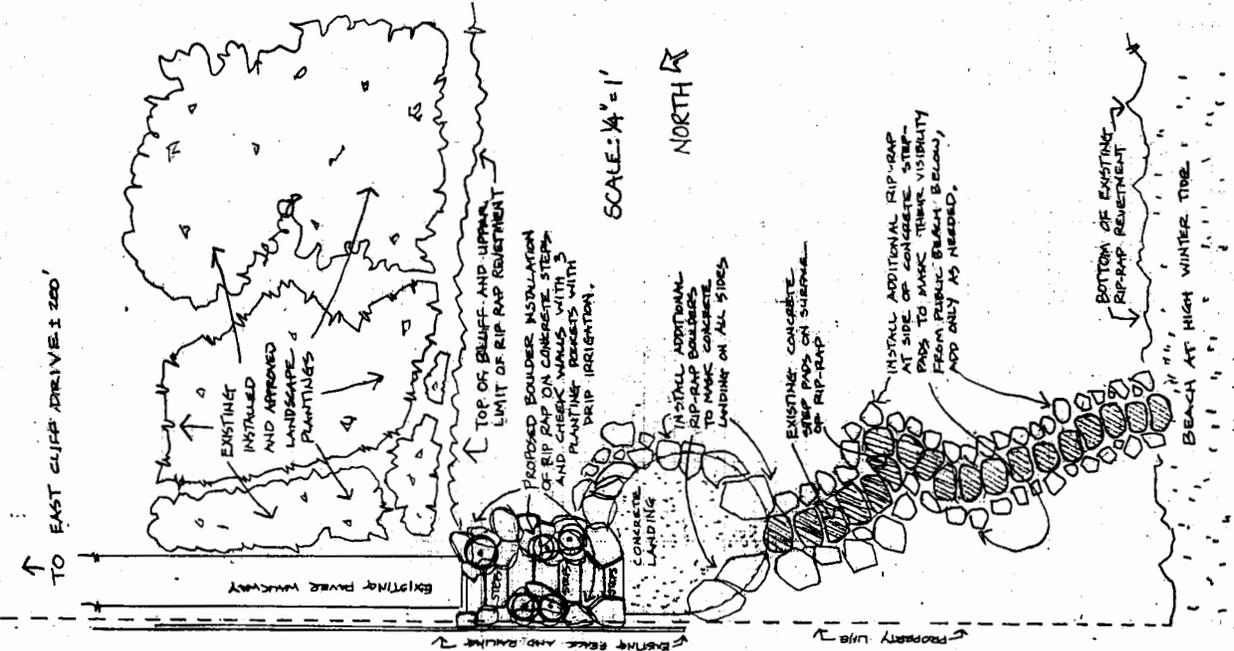
JAMES MCKENNA LANDSCAPE ARCHITECTS
2780 WILSON ROAD
COSTA MESA, CA 92626
(949) 664-0400

CONTACT
BERRY PERACCI, PRESIDENT
6458 MORICE ROAD
SAN JOSE, CA 95127
(408) 268-5755

VISTA DEL MAR CONDOMINIUMS, INC.
2-2750, 2-2752, 2-2754 and 2-2756 East Cliff Drive, Santa Cruz, CA

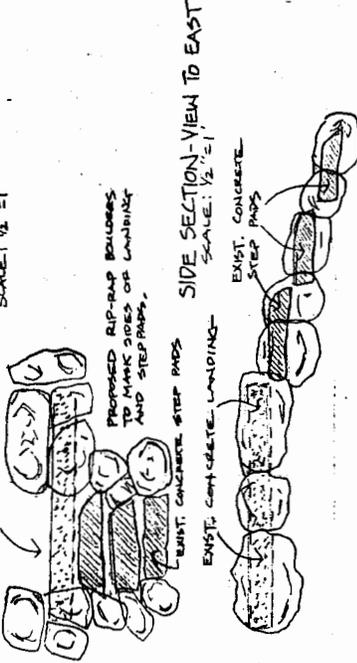
Date	11-13-08
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Job	VDM
Sheet	1
Of	1
Sheets	

PLAN VIEW OF STAIRWAY MODIFICATIONS



SECTION VIEW TO NORTH SCALE: 1/2" = 1'

FRONT SECTION-VIEW TO NORTH SCALE: 1/2" = 1'



LANDING AND LOWER STEP-PADS TO BEACH

NOTES TO PLAN

1. THE INTENT OF ALL PROPOSED WORK IS TO MARK AND MINIMIZE THE APPEARANCE OF THE EXISTING STAIRWAYS SO AS TO BLEND IN WITH THE EXISTING APPROVED RIP-RAP REVETMENT. SOME DEMOLITION AND RE-COURSE DEMOLITION TO RESULT IN A STAIRWAY REDUCED FROM 36" WIDE TO 18" WIDE.
2. ALL ROCK SHALL BE TAKEN FROM EXISTING RIP-RAP, RE-ARRANGED AND SECURED IN PLACE TO MEET PROJECT GOALS.
3. NATIVE PLANT MATERIALS, TYPICAL OF THOSE FOUND IN COASTAL STRANDS AND BLUFF COMMUNITIES, SHALL BE INSTALLED IN THE PLANT POCKETS CONSIDERED AS PART OF THE MODIFICATION PROPOSAL. THE PURPOSE OF THE PROPOSED PLANTS IS TO HAVE THEM CASCADE OVER THE RIP-RAP SURFACE. SUGGESTED PLANTS ARE *Argemone leucostoma* (brown), *Argemone mollis*, *Argemone polycephala*, or *Argemone lutea*.
4. DRIP IRRIGATION SHALL BE PROVIDED TO EACH PLANT AND SHALL BE CONNECTED TO THE DOMESTIC WATER SUPPLY AT THE CONDOMINIUMS.
5. IF ANY ADDITIONAL MATCHING ROCK IS REQUIRED TO BE IMPORTED FOR THIS PROJECT, IT SHALL BE DONE AS PER THE CONDITIONS SPECIFIED IN THE EXISTING MAINTENANCE PERMIT.

Amend Special Condition 13(h) of CDP 3-02-012-A1 as follows (new text shown with underline; deleted text shown with ~~strikethrough~~):

13(h). Duration of Covered Maintenance. Future maintenance under this coastal development permit is allowed subject to the above terms for ~~five (5)~~ ten years from the date of amendment 3-02-012-A2 approval (i.e., until ~~April 15, 2009~~ June 10, 2019). Maintenance can be carried out beyond the 5~~10~~-year period if the Executive Director extends the maintenance term in writing. The intent of the permit is to regularly allow for 5~~10~~-year extensions of the maintenance term unless there are changed circumstances that may affect the consistency of the development with the policies of Chapter 3 of the Coastal Act and thus warrant a re-review of the permit.

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

**NOTICE OF PROPOSED PERMIT EXTENSION**

Date: May 27, 2009
To: All Interested Parties
From: Dan Carl, Central Coast District Manager *DCM*
Katie Morange, Coastal Planner *KM*
Subject: Proposed Extension to Coastal Development Permit (CDP) A-3-MCO-04-054
Applicant: Stephen Bradshaw

Original CDP Approval

CDP A-3-MCO-04-054 was approved by the Coastal Commission on April 12, 2006, and provided for subdivision of a 25-acre parcel into 10 lots ranging in size from 1 to 7.8 acres at 250 Maher Road (south of Tarpey Road) in the Royal Oaks area of North Monterey County.

Proposed CDP Extension

The expiration date of CDP A-3-MCO-04-054 would be extended by one year to April 12, 2010. The Commission's reference number for this proposed extension is A-3-MCO-04-054-E2.

Executive Director's Changed Circumstances Determination

Pursuant to Title 14, Section 13169 of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that there are no changed circumstances affecting the approved development's consistency with the certified Monterey County Local Coastal Program and/or Chapter 3 of the Coastal Act, as applicable.

Coastal Commission Review Procedure

The Executive Director's determination and any written objections to it will be reported to the Commission on Wednesday, June 10, 2009, in Marina del Rey. If three Commissioners object to the Executive Director's changed circumstances determination at that time, then the extension shall be denied and the development shall be set for a full hearing of the Commission.

If you have any questions about the proposal or wish to register an objection, please contact Katie Morange in the Central Coast District office.



CALIFORNIA COASTAL COMMISSION

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



June 9, 2009

To: Commissioners and Interested Parties

From: Charles Lester, Senior Deputy Director, Central Coast District

Re: Additional Information for Commission Meeting Wednesday, June 10, 2009

<u>Agenda Item</u>	<u>Applicant</u>	<u>Description</u>	<u>Page</u>
W6a, A-3-SLO-08-018	State Parks ODSVRA	Correspondence	1
W6b, A-3-SCO-09-019	Lloyd	Correspondence	13
W6c, A-3-SLO-09-022	Adams & Boland	Correspondence	15
W7a, 3-05-019	San Simeon CSD	Withdrawal Letter	25
W7b, 3-08-025	Virg's/Harbor Hut/Great American Fish	Correspondence	26

The following correspondence was received after the above report was copied. This correspondence was distributed to the Commission at the June 10 meeting. You can find this correspondence after page 26.

W5a, SCO-MAJ-2-06 (Part 2) Neighborhood Compatibility – letter from Todd Williams

W6a, A-3-SLO-08-018, ODSVRA, restroom replacement – additional letter from Nell Langford, Christie Camphorst, Kelly Devaney, appellants.



DEPARTMENT OF PARKS AND RECREATION
Oceano Dunes District
340 James Way, Suite 270
Pismo Beach, CA 93449
805.773.7170
Fax 805.773.7176

Ruth Coleman, Director

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

June 2, 2009

Chair Neely
California Coastal Commission
45 Fremont Street
San Francisco, CA 94105-2219

RE: Permit Number A-3-SLO-08-018, Appeal Hearing

In connection with Appeal Number A-3-SLO-08-018, permit applicant California Department of Parks and Recreation, Oceano Dunes State Vehicular Recreation Area (State Parks ODSVRA) submits this letter in opposition to the appeal filed by Dr. Nell Langford, Christie Camphorst and Kelly Devaney.

State Parks ODSVRA concurs with California Coastal Commission staff report W6a prepared May 21, 2009 for the June 10, 2009 Hearing for the reasons stated therein, and urges the Commission to take the action as recommended to allow the project as permitted by San Luis Obispo County to proceed.

Representatives of State Parks ODSVRA will be available at the hearing to participate as may be necessary to respond to questions or to rebut or otherwise respond to new information or comments presented at the Hearing not already addressed in the Staff Report W6a and related information presented in the appeal report.

I may be reached at 805.773.7177. Thank you.

Sincerely,

Andrew Zilke
District Superintendent
Oceano Dunes District

cc: California Coastal Commission, Central Coast District Office

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W6a



Jim Suty, President
3019 Archwood Circle
San Jose, CA 95148
408-242-4445
E-mail: jim@oceanodunes.org
www.oceanodunes.org

June 3, 2009

RECEIVED

By Fax and U.S. Mail

JUN 04 2009

Mr. Dan Carl
Mr. Jonathan Bishop
Central Coast District Office
725 Front Street, Ste 300
Santa Cruz, California 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re: Appeal A-3-SLO-08-018 (ODSVRA Restrooms)

Dear Sirs:

Friends of Oceano Dunes ("Friends") submits the following comments on the appeal of Neil Langford and others of San Luis Obispo County's grant of a permit to the California Department of Parks and Recreation regarding restrooms at Oceano Dunes State Vehicular Recreation Area.

Friends generally supports the staff report and recommendations that the Commission find that there is no substantial issue in the appeal.

Friends, however, notes that any conditions imposed on State Parks to seek or receive authorization from the County represent solely State Parks' efforts to cooperate with the local jurisdiction; it does not constitute any waiver of that agency's immunity from such local regulation at ODSVRA. The County has acknowledged limitations of County authority over state property or property within the SVRA.

Friends also notes that the appeal exceeds the jurisdiction authorized by the Coastal Act, the LCP and California law.

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 want to maintain Access For All!

Thank you for this opportunity to comment.

Sincerely,



Jim Suty

Cc: Tom Roth
Board of Directors

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 want to maintain Access For All!

Wba

Jonathan Bishop

From: Bob Baiocchi [rbaiocchi@gotsky.com]
Sent: Friday, May 22, 2009 10:08 AM
To: Peter Douglas
Cc: Jonathan Bishop; Nell Langford; Roy Thomas; Mike Fitzwater; Tom Smith; Dale Dennis; Percy Banks
Subject: Oceano Dunes State Vehicular Recreation Area; Accessibility and Accomandations for Disabled Persons

May 21, 2009

**Mr. Peter Douglas, Director
California Coastal Commission**

Via Electronic Mail

Re: Oceano Dunes State Vehicular Recreation Area; Accessibility and Accomandations for Disabled Persons

Mr. Douglas:

We have filed a formal complaint with the Oceano District of the California State Parks to provide accessibility and accommodations for disabled persons at the Oceano Dunes State Vehicular Recreation Area on March 29, 2009. See below.

In 2002 the chief enforcement officer in California, Attorney General Bill Lockyer, advised all District Attorneys; City Attorneys; County Counsels; Mayors; and local Building Officials in all counties in California that they must comply and enforce accessibility laws and regulations. He referenced the California Constitution, Article V; Government Code Section 4453, subd. (b); Health and Safety Code Section 19958; Government Code Section 4450 et seq; Health and Safety Code Section 19955 et seq. et al. He took this action because of complaints filed by the public with the California Department of Justice. The California Department of Parks and Recreation was sued for the failure to comply with the above statutes and lost in the courts. We reference Tucker v. California Department of Parks and Recreation. That court decision affected 280 state parks in California.

Disabled persons are: children, women, men, the elderly, war veterans, the blind, and the partly blind. Disabled persons do not have to be in wheelchairs to be disabled.

It is our understanding the Oceano District of the California State Parks is proposing to install six (6) large vault restrooms at the Oceano Dunes State Vehicular Recreation Area.

Pursuant to state statutes requiring accessibility and accommodations for disabled persons, we are requesting the California Coastal Commission require the California State Parks to have the six (6) large vault restrooms accessible to accommodate disabled persons at the Oceano Dunes State Vehicular Recreation Area as follows:

1. The exterior of the restrooms must be accessible to accommodate disabled persons. i.e. wash basins; stall door toilets; stall toilets; towel and tissue containers; trash container; interior lighting; et al (locations and path of travel).
2. The exterior of the restrooms must be accessible to accommodate disabled persons and provide disabled parking spaces with a path of travel for wheelchairs from the parking area to the restrooms doors.
3. The exterior of the restroom parking area must have outdoor night lighting to allow for safe path of travel from the parking area to the restroom doors for accessibility for disabled persons.
4. The restrooms doors should be electrically operated that allows for safe entry into the restrooms for disabled persons in wheelchairs.
5. The doorways on the ground level to and from the restrooms must have "bubble plates" to safely accommodate blind or partly blind disabled persons.
6. The installation of the six (6) vault toilets should be by helicopter unless California State Parks has a "conditioned" Streambed Alteration Agreement from the Department of Fish and Game to cross Arroyo Grande Creek to protect water quality and threatened steelhead species and their habitat in Arroyo Grande Creek and in the Arroyo Grande Creek Lagoon, including endangered Tidewater Goby species and their habitat in the Arroyo Grande Creek Lagoon.
7. The maintenance of waste from the six (6) vault toilets should be by helicopter unless California State Parks has a "conditioned" Streambed Alteration Agreement from the Department of Fish and Game to cross Arroyo Grande Creek to protect water quality and threatened steelhead species and their habitat in Arroyo Grande Creek and in the Arroyo Grande Creek Lagoon, including endangered Tidewater Goby species and their habitat in the Arroyo Grande Creek Lagoon.
8. The Coastal Development Permit held by the California Department of Parks and Recreation with the California Coastal Commission must be amended to include specific disability accessibility and accommodations conditions for the proposed installation and maintenance of the six (6) vault restrooms at the Oceano Dunes State Vehicular Recreation Area, subject to appeal by the public. We recommend the California Coastal Commission for the installation and maintenance of said vault restrooms requires the above conditions.

We recommend and urge the California Coastal Commission to order accessibility and accommodations for disabled persons for the proposed installation of the six (6) vault restrooms at the Oceano Dunes State Vehicular Recreation Area.

Further we recommend that the California Coastal Commission require the California State Parks to conduct in a timely manner that all public facilities at the Oceano Dunes State Vehicular Recreation Area are in compliance with California statutes regarding accessibility and accommodations for disabled persons. See letter shown below. Please advise me and the California Salmon and Steelhead Association of your decision regarding this urgent matter affecting and discriminating against disabled persons that use or may use the Oceano Dunes State Vehicular Recreation Area. Thank you.

Respectfully Submitted

Signed by Bob Baiocchi

Bob Baiocchi

5/26/2009

1. Have all restrooms accessible to accommodate disabled persons in the Oceano Dunes State Vehicle Recreation Area;
2. Have paths of travel to all restrooms at the Oceano Dunes State Vehicle Recreation Area to accommodate disabled persons;
3. Have disability parking spaces at all restroom areas marked for disability parking;
4. Have all overnight parking spaces near all restrooms to accommodate disabled persons in the Oceano Dunes State Vehicle Recreation Area. We recommend 5% (standard) of said parking spaces in the overnight recreation area that are accessible to accommodate disabled persons to all restrooms at the overnight parking spaces.
5. Develop and implement a public safety traffic plan immediately that provides safe accessibility and a safe path of travel for disabled persons from the recreation area to the surf at all locations. Said traffic plan must provide for the rights of disabled persons to the surf area for the opportunity to fish, wade, and other recreational opportunities without being harassed and potential run over by vehicles driving eight wide at high speeds along the beach area and also in the surf area. Said disabled people must have the right of way which is not the case in this area.
6. Have all public facilities at the Oceano Dunes State Vehicle Recreation Area accessible to accommodate the disabled.
7. Have all potable water supplies available to accommodate disabled persons
8. Install metal floor devices for the blind so that they also have a safe path of travel to various public facilities such as the restrooms.
9. Design all signs for blind visitors with Braille so that blind person can read the instructions and the rules at the Oceano Dunes State Vehicle Recreation Area
10. Develop a safety plan for your staff to implement on site to accommodate disabled persons during their visit to the Oceano Dunes State Vehicle Recreation Area because of the traffic;
11. Others not noted.

All of the above must be implemented immediately because of State Parks delaying the implementation of the mandatory legal requirements for disabled persons at the Oceano Dunes State Vehicle Recreation Area.

In addition, please forward to me the Disability Transition Plan for the Oceano Dunes State Vehicle Recreation Area. Please forward said Transition Plan to me via e-mail for my review. Thank you.

A written response is requested and appreciated. Thank you.

Respectfully Submitted

Bob Baiocchi
Executive Director
Water Rights and Fisheries Consultant
California Salmon and Steelhead Association
E-Mail Address; rbaiocchi@gotsky.com

cc: Director Ruth Coleman
California Department of Parks and Recreation

Via E-Mail

**Attorney General Jerry Brown
California Department of Justice
Via E-Mail**

**Ms. Janette Pell
Director
General Services – Disabled Persons
County of San Luis Obispo
Via E-Mail**

**Dr. Nell Langford, PhD
Safe Beach Now**

Interested Parties (bcc) – Via E-Mail

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W6a

Jonathan Bishop

From: landandclam@gmail.com on behalf of Nell Langford [drnell@thegrid.net]
Sent: Thursday, May 21, 2009 12:53 PM
To: bdenneen@kcbx.net
Subject: Water Quality Issues, Coastal appeal June 10

1. Andrew Zilke (OHV) and Roger Briggs (Regional Water Quality Board) are backing each other up, but information is coming in now. Our beach pollution (bacteria) is third in the state, and vehicles (petrochemicals) impact streams. See today's front page article in the Tribune regarding the ocean pollution just south of the Pismo Pier, and the press release below regarding severe damage to streams by off road vehicles.

Bob Baiocchi, California Salmon and Steelhead Association, has been so right about the impact of vehicles driving through Arroyo Grande Creek, and that water quality is a huge issue on our beach and creek.

Nobody is testing for petrochemicals in our surf or creek. Safe Beach Now asked the state water board to test not only for bacteria but for toxins from ohvs. The board told Briggs to do it, and he did not. I will write Dorothy Rice who is the exec director for the state water quality board, and send her the article below. I left a message with Marissa Stone, along with our websites.

2. The Coastal Commission is meeting June 10.

<http://www.coastal.ca.gov/mtgcurr.html>

It will hear our appeal of the county's decision to permit OHV to put in 6 vault toilets. All the equipment to construct them has to go down the beach through the creek, and across the frontage of the natural preserve. All the sewage they collect has to go out on loud, polluting trucks the same way.

Coastal previously permitted the OHV to put in some vault toilets because it would eliminate the need for the honeyhuts, which are an eyesore, get pushed over, and also need emptying out more often. But OHV kept the honeyhuts and added more, because the half dozen vault toilets could not handle a crowd the size of the city of Pismo Beach. The previous vault toilets were permitted on the beach, but were placed elsewhere, in the foredunes. Six more vault toilets won't make a dent in the urgent need for sanitation at the ODSVRA, which also has no running water.

This Coastal Commission meeting is important because our item on the agenda is an attempt to stop OHV from developing La Grande Tract. This project will further impact our beach and creek which cannot sustain the off roading and huge race events for jet skis and motorcycles. If the Commission denies our appeal, the OHV will use the county and coastal permits for drive up toilets (accessible only by off-road vehicles), to argue that the permits are evidence that La Grande Tract is not considered by either to be a buffer area where off-road vehicles are not allowed.

The development may also remove the liability exemption the county has for unimproved public land, thus influencing a sale to OHV.

The permits for Pier Avenue widening and Pier Avenue Ramp are further examples of OHV growth inducing projects that are innocently granted under the OHV's guise of public health and safety. But the more who come, the deadlier it gets. See www.safebeachanddunes.org "ODSVRA The Wild Wild West, Part 1".

Best,

Nell
member Safe Beach Now

>>>

>>> May 20, 2009 Contact: Marissa Stone, NMED Communications Director

>>> For Immediate Release (505) 827-0314 or (505) 231-0475

>>>

>>> *Environment Secretary Tours Santa Fe National Forest's Jemez Ranger
>>> District to View Impacts to Surface Water and Soil from Illegal OHV
>>> Use */Environment Department Will Request EPA's Assistance in
>>> Addressing Issues /

>>>

>>> (Santa Fe, NM) New Mexico Environment Department Secretary Ron Curry
>>> recently toured the Jemez Ranger District of the Santa Fe National
>>> Forest to view impacts on surface water and soil that developed
>>> because of the unauthorized use of off-highway vehicles in the area.

>>>

>>> Secretary Curry and Water and Waste Management Development Division
>>> Director Marcy Leavitt observed streams and numerous trails that
>>> have been severely damaged by the illegal use of those vehicles in
>>> prohibited areas.

>>>

>>> "We have concerns about the damaging effects of off-road vehicle use
>>> on water quality and streams in the Santa Fe National Forest," said
>>> New Mexico Environment Department Secretary Ron Curry. "We will
>>> continue to monitor those areas and request assistance from EPA to
>>> address concerns."

>>>

>>> Secretary Curry in a recent letter to the U.S. Forest Service
>>> (attached) asked that agency to address harm to human health and the
>>> environment caused by unmanaged motorized recreation. User-created
>>> roads and trails typically lack design elements and best management
>>> practices that reduce their impact on air quality, water resources
>>> and the ecosystem.

>>>

>>> For more information, call Marissa Stone at (505) 827-0314.

>>>

>>

>

Anthony L. Lombardo
Jeffery R. Gilles

Lombardo
& Gilles
LIMITED LIABILITY PARTNERSHIP

W66

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Dennis C. Beougher
Patrick S.M. Casey
E. Soren Diaz
J. Kenneth Gorman
Koren R. McWilliams
Amy Purchase Reid
Jason Retterer
Paul Rovella
Bradley W. Sullivan
James W. Sullivan
Kelly McCarthy Sutherland

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JUN 05 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

530 San Benito St., Suite 202
Hollister, CA 95023
831-630-9444

File No. 04080.000

June 4, 2009

Of Counsel
Sheri L. Darnon
Virginia A. Hines

**A copy of this letter has been provided
to each of the Commissioners.**

Mr. Peter Douglas
Executive Director
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2221

Re: Robert Lloyd; A-3-SCO-09-019; June 10th Agenda

Dear Commissioner Douglas:

We are writing on behalf of Mr. and Mrs. Robert Lloyd. Mr. and Mrs. Lloyd want to express their appreciation and support for Ms. Craig's report and recommendation on their appeal. Ms. Craig has thoroughly reviewed the issues of the appeal and, in our opinion, has correctly concluded that there is no substantial issue with the appeal.

Mr. and Mrs. Lloyd own a home at 63 Geoffroy Drive south of the City of Santa Cruz in the Live Oak area of Santa Cruz County. The Lloyds wish to add to their home. In developing the plans for the addition, the Lloyds were fully cognizant of the County and LCP regulations and worked to ensure that the project design met not only the quantitative standards of the regulations but embraced the County's qualitative design aspects as well. The project design is within and in most cases is less than the maximums allowed by the County and LCP standards. The house, including the addition, is two feet lower than the maximum allowable height. The floor area ratio (31%) is well below the maximum allowable 50% FAR.

The Lloyd project was submitted to Santa Cruz County more than two years ago. All of the required technical studies were performed. No significant issues were found in those studies. The Lloyds and their architect worked with the County staff and made numerous changes at the staff's request to assure that the project met the County's requirements. The project was recommended for approval by the staff and subsequently approved by the County Zoning Administrator after public hearings. The Zoning Administrator's decision was appealed to the County's Planning Commission. The Planning Commission, after public hearing, denied the appeal. The project was then appealed directly to the Coastal Commission.

As discussed in the Commission's staff report, the project will be visible from the beach and will add to the built environment. However, as the staff report correctly points out, while the project will "... incrementally add to amount of development within the public view shed, such increment is minor in relation to the nature of the existing built environment ..." and the project

Mr. Peter Douglas
Executive Director
June 4, 2009
Page Two

“... blends appropriately into the established community character and the project adequately protects public beach views to the extent required by the LCP.”

The staff report also discusses the issue of public access. As noted in the staff report, the access question is a pending enforcement action. While it is understood that the Commission staff will continue to investigate the matter, it is important to note that the appellants did not raise the access question in their appeal. Further, as noted in the staff report, “... the access way violation issues are separate from the appeal issues and will continue to be addressed through the enforcement program [and will not] prejudice the Commission's ability to continue to separately resolve the access way violation.” Santa Cruz County staff also thoroughly investigated this issue as part of their project review. As noted in their report to the Zoning Administrator and Planning Commission (CCC exhibit, page 10 of 33) “no record of a public pedestrian easement was found on the subject property for the last three property owners on the subject parcel, dating back to 1992.” The Santa Cruz County staff report further states that the easement is most likely located on another parcel.

In summary, the Lloyds have designed a project that is in full compliance with Santa Cruz County and LCP regulations. The project as designed will not affect coastal resources or access. The Lloyds asks that you concur with the Commission staff recommendation and determine that no substantial issue exists with respect to this appeal.

Thank you for your consideration.

Respectfully submitted,

Lombardo & Gilles, LLP



Dale Ellis, AICP
Director of Planning and Permit Services

DE:ncs

cc: Mr. and Mrs. Robert Lloyd
Mr. Derek Van Alstine

W6c



Appeal A-3-ALO-09-022
Agenda Item No. W6c

Kirby K. Gordon

Attorney at Law

P.O. Box 3106, Shell Beach, CA 93448
e-mail: gordonandgordon@charter.net
(805) 773-2610 Fax: (805) 773-6050

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JUN 04 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

June 3, 2009

California Coastal Commission
Mr. Jonathon Bishop
725 Front Street, Suite 300
Santa Cruz, CA 95060

RE: Appeal A-3-SLO-09-022

Dear Mr. Bishop:

Attached is our Letter in support of the project approval and two letters from the adjoining property owners also in support of our project.

At this time it does not appear that we will be attending the meeting in Los Angeles, but would like our letter to become part of record. Thank you for your consideration and cooperation and we thought that your Staff Report was very well done.

Sincerely yours,

Kirby K. Gordon

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W6c



Kirby K. Gordon

Attorney at Law

P.O. Box 3106, Shell Beach, CA 93448
e-mail: gordonandgordon@charter.net
(805) 773-2610 Fax: (805) 773-6050

Appeal A-3-ALO-09-022
Agenda Item No. W6c
Letter In Favor of Project

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JUN 04 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

June 2, 2009

California Coastal Commission
Mr. Jonathon Bishop
725 Front Street, Suite 300
Santa Cruz, CA 95060

RE: Appeal A-3-SLO-09-022 Letter in Support of Development Approval (Adams & Boland)

Dear Mr. Bishop:

This office represents the applicants and we hereby submit this letter in favor of the project as approved. After input from the neighbors in 2006 the car wash concept was changed from an automatic machine type system with blowers to the self-serve "wand" type washing bays. It will be the only self-serve car wash in Nipomo with the closest one on Grand Ave. in Arroyo Grande. It is a permitted use within the industrial zone. The property on Willow Road in Nipomo has been zoned industrial for over 40 years. The zoning predates any of the houses in the vicinity including the appellants.

There are commercial uses on either side including a "bus barn" and repair facility on the east side, two mini storage facilities on the west side and a recently approved RV storage yard on the south side. There are no coastal resource issues at this site.

The current plan which went through years of redesign received an 11-1 vote by the Nipomo Community Services District, a 5-0 vote at the County Planning Commission, and a 5-0 vote of the Board of Supervisors. At the Planning Commission hearing Mr. Wynn from the NCSO spoke in favor of the wand style car wash as a water saver as the average home car wash uses over 40 gallons and the self-serve spray type wand only uses 6-7 gallons.

The County has adequately conditioned the project to safeguard the interests of the public and the nearby property owners. There is sufficient factual and legal support for the unanimous approvals by the SLO County Planning Commission and Board of Supervisors. The development plan is consistent with all county policies and the certified LCP. No coastal resources would be adversely affected by the approvals, and no variances have been applied for or granted which could establish an adverse precedent. Therefore, the appeal should be denied and the Staff's recommendation as contained in the draft Motion and Resolution that there is no substantial coastal issue should be adopted. Thank you for your consideration

Sincerely yours,



Kirby K. Gordon
Attorney at Law

KKG/jp

cc: Scott Adams
Kathy Boland
EDA

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Agenda Item 6c:
Appeal No. A-3-SLO-09-022
(Adams & Boland, San Luis Obispo County)
Al Brill (Opposed to the project)

- **Water**
 - The applicant has yet to specify the exact system to be used for water reclamation, and according to Leslie Terry of SLO County Environmental Health, that department has no idea how the monitoring will be conducted as the equipment has not yet been identified and will not be until after the project's approval by the Coastal Commission. Even then, due to staffing shortages, the County's Dept. of Environmental Health will rely on the yet unknown equipment manufacturer to monitor its own equipment. This presents a clear conflict of interest that is detrimental to those of us who are totally dependent on the water from that aquifer.
 - **Enforcement.** The applicants will be required to post a sign at the car wash prohibiting cleaning the engine and/or undercarriage. They will also be required to have a caretaker on site to enforce this policy. This same caretaker will be responsible for all business aspects of the self-store facility, which will be conducted in the caretaker's residence/office. The floor plan of the caretaker's residence/office shows that there is a public lobby in front of the office, blocking the view to the first bay of the car wash. More importantly, the other three bays are blocked from view by the fence. In addition, there are two parking spaces just beyond the public office, further blocking the view of the first bay of the car wash. Unless the applicant has someone located specifically at the car wash bays during the hours of operation, the enforcement of the prohibition against engine and/or undercarriage cleaning will be non-existent.
 - **Danger.** There is a significant potential for detrimental or injurious effects to the more than 250 families who live nearby and are totally dependent upon our local aquifer. Monitoring is a fine idea in theory, but in reality what will happen is after-the-fact monitoring which only tells us what went wrong last month or six months ago, not what is going wrong today or likely to go wrong tomorrow.
- **Traffic Issues**
 - Neither CalTrans nor the County has adequately addressed the issues regarding traffic.
 - **Safety.** The speed limit in this area is 55 MPH. The plan provided by the applicant shows a single driveway that provides both ingress and egress from the property and that the driveway is at a sharp angle to Willow Rd./Highway 1, yet there is no deceleration lane planned for southbound traffic. It would be nearly impossible to make the turn into that drive without slowing down to at most 15 or 20 mph. Equally, vehicles pulling out will have to merge into 55 mph traffic as there is no acceleration lane planned.
- **Noise**
 - Dr. Dubbink's report states that the new estimated decibel level will be increased by 1.5 dB (Exhibit 3, Page 4, Par 4.) The County's MND states that traffic on Willow Rd/Hwy 1 already produces background noise levels in excess of the County standard. The County's noise element states that in situations where background sound levels exceed the limits, a new use is not permitted to increase existing levels by more than 1 dB. The County's approval of this project violates its own rule.
 - The staff's report says that the amount of sound level change would be "barely detectable" yet there was concern about the noise level at the caretaker's residence, and proposed mitigation measures to reduce the noise-related impact to that residence were required.
 - Looking at Dr. Dubbink's report, his Figure 3 cross section diagram appears incorrect. The house that he shows in path B is not elevated to the degree that it appears in the diagram.
 - Currently the engine braking sounds travel much further than Dr. Dubbink seems to believe. The additional traffic, the slowing of traffic entering the property, and the accelerating traffic leaving the property will all contribute to an increase in noise.
- **Coastal Dependent Business**
 - There is nothing to indicate that this car wash is a coastal dependent business. There are sufficient car washes in the area to serve the needs of the community, and a new car wash is about to open in Arroyo Grande.
 - There appears to have been no analysis of alternative locations for the car wash. It seems that a more appropriate site would be within the existing footprint of the commercial area in "downtown" Nipomo. This would show more logical planning, and result in a more compact urban design and a lower carbon footprint that is in keeping with today's environmental consciousness and concerns.

**Agenda Item 6c:
Appeal No. A-3-SLO-09-022
(Adams & Boland, San Luis Obispo County)
Al Brill (Opposed to the project)**

- **Additional Pertinent Issues**

- San Luis Obispo County has enacted a policy of strategic growth which is now included in the Coastal Zone Framework for Planning. This plan is designed, among other things, to promote most growth in urban areas with adequate resources and services, and to attract new businesses and support local economies. The proposed car wash does none of these things. It is four miles to the south, nine miles to the north, and six miles to the west of the nearest commercial businesses areas, far from any other retail business.

- The State of California (SB 375) has mandated a reduction in greenhouse gas emissions. One of the primary methods of accomplishing this is to reduce travel. The location of this car wash does not conform to this mandate.

W6c



PISMO COAST VILLAGE, INC.

165 South Dolliver • Pismo Beach, California 93449
805-773-5649 • FAX 805-773-1507

Appeal No. A-3-SLO-09-022
Agenda Item No. W6c
Letter in Favor of Project

June 2, 2009

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JUN 04 2009

California Coastal Commission
Mr. Jonathon Bishop
725 Front Street, Suite 300
Santa Cruz, CA 95060

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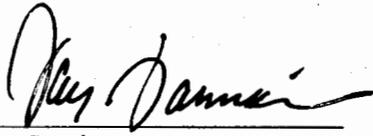
RE: Appeal A-3-SLO-09-022 Letter in Support of Development Approval (Adams & Boland)

Dear Mr. Bishop:

We own the adjoining property on the south side of the proposed development (APN# 091-192-018). We recently received our approvals for a 19 acre RV Storage facility from the County of San Luis Obispo with no opposition. We support the approved car wash and mini storage as a compatible and complementary use in this industrial area.

In particular we support the wand style car wash of which there are none in the entire area. We believe that the project as approved is in compliance with the Local Coastal Plan and there are no coastal issues. The appeal should be denied and the project approvals upheld.

Pismo Coast Village by:


Jay Jamison

W6C

Appeal No. A-3-SLO-09-022
Agenda Item No. W6c
Letter in Favor of Project

June 2, 2009

California Coastal Commission
Mr. Jonathon Bishop
725 Front Street, Suite 300
Santa Cruz, CA 95060

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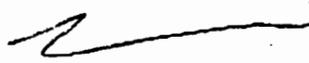
JUN 04 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RE: Appeal A-3-SLO-09-022 Letter in Support of Development Approval (Adams & Boland)

I own the property on the east side of the proposed project and I spoke in favor of the development at the Board of Supervisors hearing. I have owned the adjacent property for many years and purchased it from a friend that I have known for 45 years. The parcels on the south side of Willow Road have always been zoned industrial with many different uses including Storage and automotive related. I attended the appeal before the SLO Board of Supervisors and I did not see any legitimate reason to oppose the project. My discussions with the neighbors indicated that the neighbors would oppose any development on the property in question as well as any development I attempted on my parcels. That is hardly what you call open and reasonable minds.

The car wash and mini-storage as approved by the County with conditions are compatible uses with all the surrounding properties and would be used the local businesses including my tenants. There are no Coastal resource issues involved and the project would use less water than the strawberries currently on the site. The project complies with all rules and regulations of the County of San Luis Obispo including its approved Local Coastal Plan. The appeal should be denied and the project approvals by the County should be upheld. I would have personally attended this appeal, but I have other obligations that make it impossible.



Bruno Bornino
1183 Shannon Lane
Arroyo Grande, Ca 93420

W6C

Jonathan Bishop

From: Mike Bertaccini [MikeB@edainc.com]
Sent: Friday, May 22, 2009 9:32 AM
To: Jonathan Bishop
Cc: Gordon & Gordon
Subject: Willow Mini-storageStorm Water

Jonathon,

The following is a general summary of both wastewater from the car wash and the collection and discharge of storm water. There seems to be a mixing of terms between these two distinctly different products.

Wastewater

Wastewater from the car wash will be collected through a surface drain inlet system within the wash bays. Our system will be designed in one of two fashions:

1. Car wash water will pass through a fossil fuel filtration medium and then into an Oil/Water separator. Fossil fuels are filtered out and then other dirt, debris, heavy metals are trapped in the oil-grease/water separation tanks. This effluent is then piped to a sewer sampling station where County Environmental Health can examine, sample and test the discharge at any time. From here, the effluent is transmitted to the septic tank, through the septic system and finally into the leach system.
2. Car wash water will be pipe into a Vortecnics (Contec product or equal) type of filtration unit that filters out fossil fuels, dirt, debris, heavy metals, etc.

The specific system will be specified during the development of construction documents. It is done at that time as it is appropriate to match the system with the actual carwash system chosen. County Environmental Health is required to approve the system before a permit can be issued.

Storm water

Storm water from building roofs and site pavement will be collected in a tight-lined pipe system throughout the site. Drain inlets receiving storm water from paved areas will include fossil fuel filters. After entering the pipe collection system, storm water is then conveyed into the retention basin in accordance with San Luis Obispo County standards.

The project as proposed does not pass storm water run-off off-site, in accordance with County regulations.

The attached files are samples of fossil fuel filtration devices, etc.

Mike Bertaccini
eda design professionals
1998 santa barbara street

5/22/2009

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W7a

San Simeon Community Services District



111 Pico Avenue, San Simeon, California 93452
(805) 927-4778 Fax (805) 927-0399

Board of Directors

John Russell, Leroy Price, Ralph McAdams, Allen Fields, Dee Ricci, Terry Lambeth

May 28, 2009

Jonathon Bishop
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

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MAY 28 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re Agenda Item W7a: Application No. 3-05-019 (San Simeon Community Services District, San Luis Obispo Co.)

Dear Mr. Bishop:

Pursuant to our discussions, the San Simeon Community Services District hereby formally withdraws Application No. 3-05-019 for an after-the-fact permit to recognize rip-rap placed along the bluff and bank below the District's wastewater treatment plant, at 9245 Balboa Avenue, San Simeon, San Luis Obispo County.

It is our understanding that by formally withdrawing the above mentioned Application, the presently schedule hearing before the Coastal Commission on June 10, 2009, as Agenda Item W7a, will be cancelled. The San Simeon Community Services District will then resubmit the Application, which allow the District and Coastal Commission Staff additional time to discuss the proposed conditions for this project.

If there are nay questions, or this is not your understanding, please contact me immediately.

Sincerely,

Robert Schultz
District Counsel

W7b

Michael Watson

From: Cathy Novak Consulting [NovakConsulting@charter.net]
Sent: Thursday, June 04, 2009 3:22 PM
To: Michael Watson
Subject: Virg's et al project staff report

Mike,
I have spoken with all my clients regarding the Staff Report and Conditions of Approval that Staff is recommending. All my clients are in concurrence that the Staff Report and Conditions of Approval as proposed are acceptable to them. Since Staff and the applicants are in agreement, I would like to respectfully request that agenda item # W7b be moved to the Commission's Consent Calendar.

We appreciate all your hard work and efforts in bringing this project to the upcoming hearing. Please let me know if you have any questions.
Thanks,
Cathy Novak

Cathy Novak Consulting
PO Box 296
Morro Bay, CA 93443
Phone/Fax: 805-772-9499
E-mail: NovakConsulting@charter.net

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1331 NORTH CALIFORNIA BOULEVARD, SUITE 200 WALNUT CREEK, CALIFORNIA 94596-4544
925.937.2600 925.943.1106 FAX www.mmlaw.com

W5a

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JUN 09 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA**JUNE 10, 2009, AGENDA ITEM W5A
CENTRAL COAST DISTRICT:
SANTA CRUZ COUNTY LCP AMENDMENT
No. SCO-MAJ-2-06, (PART 2)****OPPOSED TO PROJECT**TODD A. WILLIAMS
(925) 979-3352
twilliams@mmlaw.com

June 8, 2009

VIA FACSIMILE ((831) 427-4877) AND E-MAILChair Hon. Bonnie Neely and Coastal Commissioners
California Coastal Commission
c/o Central Coast District Office
Dan Carl, District Manager
Susan Craig, Coastal Planner
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508**Re: Coastal Commission Meeting of June 10, 2009, Agenda Item W5a.
(Central Coast District: Santa Cruz County LCP Amendment No.
SCO-MAJ-2-06, (Part 2) (Neighborhood Compatibility)****Our File No. 10096-002****Note: Please include this letter for the Commission's consideration as part of the
administrative record for its June 10, 2009 meeting regarding this item.**

Dear Chair Neely and Coastal Commissioners:

We submit this comment letter on behalf of Susan and Barry Porter (the "Porters") in regard to the Coastal Commission's consideration and potential certification of the County of Santa Cruz's Year 2006 Second Local Coastal Program amendment (SCO-MAJ-2-06 Part 2) regarding "Neighborhood Compatibility" (the "LCP Amendment") on the June 10, 2009 agenda as Item W5a (Central Coast District).¹

¹ This letter incorporates the letter (attached hereto) dated May 4, 2009 and sent to the County and Commission staff in connection with the LCP Amendment, as well as letters previously sent to the Commission and County dated March 11, 2009, December 5, 2008, May 6, 2008, and July 3, 2007, including letters sent to the County dated May 14, 2007 and December 4, 2006. (The

The Porters own property in Santa Cruz County within the Coastal Zone and urban services boundary that is within the scope of the proposed LCP Amendment. The Porters object to both the substance of the actions taken by the County and Coastal Commission in connection with the proposed LCP Amendment, and the process by which those actions have been taken.

On March 12, 2009, the Coastal Commission rejected the County's proposed LCP Amendment, and recommended a modified LCP Amendment to the County. On May 5, 2009, the County Board of Supervisors approved the modified LCP Amendment that is now before the Commission for certification.

1. Summary of Objections to the LCP Amendment.

As set forth below and in prior correspondence, the County and Commission have failed to proceed in the manner required by law, have violated the California Environmental Quality Act (CEQA), the State's Planning and Zoning Law, the Coastal Act, and the Santa Cruz County Code, in connection with the LCP Amendment. The LCP Amendment itself is discriminatory, unfair and unconstitutional and amounts to a violation of substantive due process and equal protection under the California and United States Constitutions.

a. Violation of CEQA

The County has failed to proceed in the manner required by law and has violated the California Environmental Quality Act (CEQA) in its consideration and approval of the LCP Amendment. The County claims the LCP Amendment is exempt from CEQA under section 15265 of the CEQA Guidelines (regarding certified regulatory programs) and that Coastal Commission certification is the functional equivalent of CEQA. However, the County failed to conduct any CEQA analysis regarding the impact of the LCP Amendment outside of the Coastal Zone that would be beyond the Commission's jurisdiction.

The LCP Amendment will have a significant environmental impact since the changes to the County's zoning code will result in reduced area for development which may be inconsistent with development contemplated under the County General Plan. This displacement of development may cause new development to occur in other areas that were not contemplated for development in the General Plan and further, may push development outside the County which may as a consequence result in adverse physical impacts on agricultural resources, biology, transportation and noise.

In order to begin to understand how the proposed changes may or may not result in environmental impacts, it is important to understand what lands will be affected by the changes.

latter four letters were attached to the December 5, 2008 letter as Exhibits 1, 2, 3 and 4.) These letters set out multiple reasons why the County's submittal is deficient and its actions are improper, and why the LCP Amendment should not be certified. All were requested to be included as part of the administrative record for this LCP Amendment.

Even if it is difficult to identify each parcel that may be affected, at a minimum "areas" should be identified so it can be determined if these lands were identified for possible development in the General Plan. Also, this type of information is critical in determining how much potential development may be displaced in the County as a result of the proposed changes. Once this information is generated, the direct and indirect environmental impacts of the proposed changes can be analyzed.

The County must conduct such an analysis since the impacts may occur outside of the Coastal Zone; thus, its reliance on the statutory exemption under CEQA Guidelines section 15265 is improper. For the same reasons, the County's unsupported conclusion that none of the conditions described in Section 15300.2 of the CEQA Guidelines (setting forth exceptions to categorical exemptions) is without merit, as a reasonable possibility exists that the activity will have a significant effect on the environment due to unusual circumstances.

As to the Coastal Commission, neither the Commission's staff reports nor its action on March 12, 2009 provide any evidence that the Commission has satisfied its compliance with its certified regulatory program or demonstrated compliance with Public Resources Code section 21080.5(d)(2). *See Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 132-137. The staff reports are legally inadequate and the Commission's findings do not support its actions. For example, the March 12, 2009 report spent little more than a paragraph discussing the actual NSA changes being recommended for approval (*see* Report at p. 8) and relies upon unsupported assumptions and conclusions without any actual analysis of the LCP Amendment's effect on bluff owners actually impacted by the change. Similarly, there is no discussion of actual public viewing areas at issue and how, if at all, this change would affect them, or whether existing regulations relating to setbacks and building restrictions already address these issues.

Instead, the report spent several pages discussing beach and in-bluff areas which are *excluded* from major changes in "net site area" ("NSA") in the LCP Amendment. Notably, the report explains how these areas are unique and present "anomalous situations" with "diverse circumstances" making them incompatible with blanket regulation. However these same arguments are equally, if not more, applicable to bluff-top properties which are just as ill-suited for such regulation, since these areas (like beach and in-bluff areas) differ tremendously in development patterns.

Throughout its report, staff noted that the best process would be for the County to develop site- or area-specific planning tools to address concerns over neighborhood compatibility rather than apply ineffectual and inappropriate "blanket" and "one-size-fits-all" rules to what are acknowledged to be diverse circumstances. In addition, staff called the LCP Amendment an "interim measure." However, there is nothing interim about the LCP Amendment, and there are no assurances that the County will actually do anything more.² The

² In addition, there is no evidence that there is an urgent need for these so-called "interim" measures in favor of the more area-specific planning tools urged by Staff.

County and Commission may not adopt and certify an LCP Amendment that is illegal because it is allegedly "interim."

Further, while the staff report for the March 12, 2009 meeting listed several applicable LUP policies, it failed to explain how the LCP Amendment is consistent or inconsistent with those policies. For instance, the LCP Amendment conflicts with and fails to promote LUP Policies 5.10.2 ("Recognize that visual resources of Santa Cruz County possess diverse characteristics.... Require projects to be evaluated against the context of their unique environment....") and 8.8.1 (design guidelines for unique areas) since it applies blanket rules without regard for areas "diverse characteristics" or their "unique environment." Nor does the report explain whether the LCP Amendment would protect designated visual resources and public vistas (LUP Policies 5.10.1, 5.10.3) as there is no discussion of such specified resources and vistas. In addition, LUP Policy 5.10.7 permits infill structures "where compatible with the pattern of existing structures." By contrast, the LCP Amendment frustrates this policy where existing structures have changed in size over time.

As to compliance with CEQA, the staff report provided a half-page conclusory recitation of its alleged compliance. (See 2/26/09 report at p. 15) No substantial evidence supports the assertion that there are no additional feasible alternatives or feasible mitigation measures that would lessen any significant adverse environmental effects. The report admitted otherwise by setting out alternative, more effective planning tools and strategies. (See 2/26/09 report at pp. 13-15.) Clearly, alternatives are readily available and were required to be analyzed, thereby undermining staff's unsupported conclusions and the Commission's findings. In addition, environmental impacts raised by public comments are not sufficiently addressed, nor are cumulative impacts discussed as required. See Pub. Res. Code §§ 21080.5(d)(3)(A), 21080.5(d)(2)(D). As such, certification of the LCP Amendment would constitute an abuse of discretion.

b. Violation of the Planning and Zoning Law

The LCP Amendment consists of amendments to three provisions of the County Zoning Code for residential sites. These concern (1) changing the definition of "Net Site Area," (2) increasing the "maximum lot coverage" on lots of 5,000 to 15,000 square feet from 30% to 40%, and (3) allowing "front-yard averaging."

The County violated mandatory provisions of California's Planning and Zoning Law in its consideration of the Commission's recommended modifications to the LCP Amendment by failing to send the modified LCP Amendment to the County's Planning Commission as required by California Government Code sections 65853 to 65857 (and the County's Code). The LCP Amendment, as modified, constitutes additional amendments to the County's Zoning Code and imposes the type of regulation set forth in Government Code section 65850. As such, review by the County's Planning Commission was required. This failure was brought to the County's attention during the Board of Supervisor's hearing of May 5, 2009, but the County failed to correct its error.

Further, the LCP Amendment is inconsistent with the County's General Plan. For instance, the County failed to evaluate how the proposed changes will impact the County's ability to meet its General Plan Housing Element projections (*see e.g.*, Gov't Code §§ 65359, 65454, 65584, 65860, & 65863) since the LCP Amendment may lessen the number of second units that may be constructed and may create nonconforming multifamily housing projects that could be prohibited from rebuilding if damaged or destroyed contrary to Government Code sections 65863.4 and 65852.25. This is also inconsistent with Housing Element policies requiring the County to provide adequate housing opportunities for all economic segments of the community.

Also, as noted in section 1a, above, the LCP Amendment is inconsistent with several policies contained in the County's Local Coastal Program's Land Use Plan.

c. Constitutional Violations

The LCP Amendment will have the effect of treating similarly situated property owners differently for no legitimate reason. The LCP Amendment *includes* certain types of property as part of the net site area (NSA) for some owners (e.g. beach properties, toe of bluff, and bluff-top properties outside the urban services line) while *excluding* the same area for owners of bluff-top properties within the urban services line. This is discriminatory and amounts to spot zoning. No justification is given for this disparate treatment. In fact, coastal bluff-top parcels within the urban services line are the only property in the County that is not allowed to count so-called "unusable" areas as net-site area.³

No rational policy justification is given for this discriminatory, unequal and unconstitutional treatment which represents a violation of these owners' substantive due process and equal protection rights under the California and United States Constitutions.

Further, the NSA definition is impermissibly vague through its use of undefined terms such as "coastal bluff top parcel" and "parcels located at the toe of a bluff or on the beachfront." For so-called "coastal bluff top parcels," NSA excludes the "coastal bluff" and "beaches," however, such land is counted for all parcels located at the "toe of a bluff" or "on the beachfront." No definitions are included for these key terms. Such uncertainty leads to inconsistent and arbitrary application and unfair treatment to property owners.

For instance, a coastal bluff-top parcel comes within the scope of the LCP Amendment if the parcel is located in part within the "toe of a bluff or on the beachfront." However the NSA definition simultaneously purports to allow "toe of a bluff" and "beachfront" parcels to include such area in their NSA. What happens to parcels that may contain property with more than one of these types of land? Which rule applies if a parcel contains both "bluff-top" and "toe of bluff" areas, for example?

³ Of course, owners of homes located on the beach or in-bluff would hardly call such areas "unusable."

In addition, the Coastal Commission's modifications to the LCP Amendment's provisions concerning front-yard averaging and lot coverage introduced new and impermissibly vague, undefined terms such as "community character" that create uncertainty for County decision-makers, planners, owners, and the public.⁴

d. Violation of the County Code

In addition to the problems set forth above, affected property owners (such as bluff-top owners) were not originally notified by the County of the proposed changes when they were first adopted in December 2006 in violation of County Code §§ 13.03.070 (concerning notice for proposed LCP amendments) and 18.10.223. When the Board considered and referred the net-site area definition back to the Planning Commission at its March 27, 2007 meeting, once again no required notice pursuant to Section 13.03.070(a)(1-3) was provided, again depriving hundreds of affected property owners of notice of how the definition was going to be changed.

In the second round of amendments, County planning staff stated that individual notice was provided to affected properties, however, when coastal bluff-top property owners appeared at the Planning Commission and Board meetings in April and May of 2007, they were told that issues relating to bluff-top parcels could not be addressed as only changes affecting toe of the bluff and beach parcels were being considered. As a result, the notice was a sham and ineffective since such owners were not provided a meaningful opportunity to be heard prior to the County's action as required by the County Code. *See also* Pub. Res. Code § 30503.

In addition, we believe the County failed to comply with Section 13.03.070 of the County Code relating to the required notice for the May 5, 2009 hearing where the Board considered the Commission's recommended modification to the LCP Amendment.

e. Violation of the Coastal Act

After withdrawing an initial submission, the County resubmitted the LCP Amendment to the Coastal Commission on June 21, 2007. On July 3, 2007, my office wrote the Commission's Central Coast District Office and the County and pointed out deficiencies in the County's submittal pursuant to 14 California Code of Regulations section 13522. (*See* Exhibit 3 to December 5, 2008 letter.) Notably, the County did not appear to provide any of the approximately 50 written comment letters from any of the three public hearings regarding Net Site Area that occurred in 2007. In addition, the County had not provided any summary of the oral testimony from those meetings.

⁴ Last year, the County was successfully sued after it purported to approve a design brochure relating to community character. *See Britton et al. v. County of Santa Cruz et al.* (Santa Cruz Superior Court Case No. CISCV156874). After undoing its action, the County declared that the brochure was not binding, but only informational. Now, however, the County is poised to adopt binding regulations referring to "community character" without any definition.

Commission Staff wrote to the County on October 5, 2007, requesting additional information (*see* Exhibit 5 to December 5, 2008 letter), including (1) a list of commenters, summaries of their comments and any County response; (2) a discussion of the LCP Amendment's relationship to, and effect on, other sections of the certified LCP; and (3) an analysis of potential significant adverse impacts on coastal resources from potentially allowable development.

The County's response, provided over five months later, consisted of a two-page letter. (*See* Exhibit 6 to December 5, 2008 letter.) Its one-paragraph discussion of potentially significant impacts relied on speculative conclusions without any evidentiary support. It claims that the LCP Amendment will promote neighborhood compatibility without explaining how. For instance, the LCP Amendment potentially allows homes with a larger first floor to be built closer to a public street, but the County claims this will somehow promote unspecified public viewsheds. Similarly, it justified the changes merely because some aspects represented reversions to prior regulations, without explaining why these former rules were an improvement.

As to the County's "summary" of public comments, it offered a sentence description, or less, of each speaker, leaving out virtually all substance, in favor of merely noting whether a speaker was "for" or "against" the revisions. No response to any of the comments was offered, and the County failed to provide *any* of the nearly 50 written comments it received in 2007.

Although we called these deficiencies to the attention of Commission Staff and the County, no additional correspondence or exchange of documents between the County and Commission Staff occurred in the intervening time, i.e. the public comments were never provided as required. As such, the Commission was been deprived of the substance of the public comment presented to the County as required by 14 California Code of Regulations section 13552. *See also* Pub. Res. Code § 30503 (during certification of LCP Amendment proceedings, the public "shall be provided a maximum opportunities to participate").⁵

In addition, the Commission failed to adopt properly supported findings in connection with its actions on March 12, 2009 regarding the LCP Amendment in violation of Public Resources Code sections 30514 and 30514.1.

f. Poor Planning and Policy

The LCP Amendment is also lacking as a matter of policy. The Commission Staff report for the March 12, 2009 hearing criticized the LCP Amendment's provisions relating to Net Site Area ("NSA") as being an inadequate "blanket" and "one-size fits all" solution to "problems that

⁵ We also believe the County failed to provide the Commission with comment letters and testimony received in connection with the Board's approval of the LCP Amendment on May 5, 2009, in violation of the Coastal Act and 14 Cal. Code Regs. Section 13552(a).

vary significantly based on different landform characteristics..."⁶ Despite this compelling and well-founded concern, Staff proposed modifications to the LCP Amendment (that the Commission then recommended to the County), based on a speculative "promise" by unidentified County staff to address site-specific issues in some unspecified way at some undefined point in the future. As noted above, the Commission's modifications to the LCP Amendment introduced impermissibly vague, undefined terms such as "community character" that create uncertainty for County decision-makers, planners, owners, and the public.

The goals and policies of the County's Land Use Plan and the Coastal Act are not served by approving an ill-suited, defective LCP Amendment. Rather than approve the deeply flawed LCP Amendment in the hopes that it will be "fixed" in the future, the Commission should deny certification and return the matter to the County for further proceedings so that appropriate tools may be developed, with full public participation, to address neighborhood compatibility issues.

2. The Modified LCP Amendment Should Not Be Certified.

Unanswered questions coupled with the County's and Staff's unsupported assertions further compel that the LCP Amendment not be certified. Several commenters, including my office (*see* Exhibits 3 and 4 to December 5, 2008 letter), pointed out legal deficiencies in the County's actions and voiced other concerns relating to the NSA revisions. (As noted, those comments were not provided to the Commission by the County.)

Further, neither the County nor the Coastal Commission has done any of the following:

- Offered *any* evaluation as to how many parcels are affected by the proposed LCP Amendment, nor how many existing structures will become non-conforming as a result, nor the effect it will have on owners' ability to rebuild if their homes are destroyed.⁷

⁶ *See also* Coastal Commission Staff report dated November 20, 2008 at p. 2 ("Although the County has chosen a blanket approach (that relies on countywide policies) in the LCP amendment, staff continues to believe that specific and focused sub-regional planning is necessary in this respect, and such efforts would better pinpoint and address residential mass, scale, and character issues that differ from area to area throughout the County. Such planning efforts are, however, more appropriately undertaken by the county through a local public planning process....")

⁷ In fact, several owners of coastal bluff-top parcels, including those of multifamily housing and decades-old single-family homes, testified at County hearings that the NSA changes would result in their buildings becoming nonconforming, potentially limiting their ability to rebuild (e.g. in the event of fire or natural disaster) without a variance in violation of Government Code sections 65863.4 and 65852.25.

- Offered *any* definition for the terms “coastal bluff-top parcel,” “toe of a bluff” parcel, or “beachfront” parcel, nor explained how it will treat properties that include areas of more than one type of this property leading to vague and uncertain application. The modified LCP Amendment adds new, undefined terms such as “community character,” thereby infusing additional uncertainty and vagueness into future application of the regulations.
- Addressed whether any other coastal jurisdictions have enacted similar laws and, if so, whether they have been effective.
- Provided any support for the disparate treatment of affected parcels on any legitimate grounds.
- Addressed the possibility that bluff top owners whose parcels include beach property now have a greater incentive to subdivide thereby increasing coastal development.
- Justified the County’s reliance on inapplicable CEQA categorical and statutory exemptions, nor considered the impact of the LCP Amendment (and countywide zoning changes) on lands outside of the coastal zone and beyond the Commission’s jurisdiction. (For instance, bluff properties that have their net site area reduced to undevelopable levels would shift development elsewhere in the County.)
- Provided any evidence that the changes would actually promote “neighborhood compatibility” or explained how the County intends to define “neighborhood compatibility” or “community character” in areas known for their diverse design and irregular parcel configurations.

(See also Exhibits 2 and 3 to December 5, 2008 letter.)

Finally, the Coastal Commission’s ability to take final action on this item has expired. As stated in the Commission Staff Report for the March 12, 2009 meeting, “the Commission has until June 8, 2009 to take a final action on this LCP amendment.” (2/26/09 Staff Report at p. 2) As such, the Commission is without jurisdiction to take action on June 10, 2009. See Coastal Act §§ 30510, 30512, 30513 and 30517.

3. Conclusion

Given the diverse and ever-changing nature of “neighborhood compatibility,” the issue is best addressed – not through blanket regulations like the one before the Commission – but by a

design review process and other area- and site-specific planning tools where the unique aspects of a particular home, parcel, neighborhood and viewshed can be properly evaluated.

Even worse, the LCP Amendment is ill-conceived, ineffective, discriminatory and ultimately unnecessary. The County violated the notice provisions of its own code concerning LCP amendments, performed no environmental analysis on potential effects inside or outside of the Coastal Zone, and failed to comply with applicable state planning and zoning laws, most recently in its consideration of the Commission's modified LCP Amendment on May 5, 2009.

Similarly, the Commission's modified LCP Amendment compounds the same problems and introduces new undefined and vague terms. The Commission has not complied with its certified regulatory program and Commission Staff acknowledge that other alternative planning tools are more appropriate to address neighborhood compatibility and are "deserving of a public planning process that is better undertaken by the County than by the Commission through this LCP amendment request." (2/26/09 Report at p. 9; 11/20/08 Report at p. 12.) The Commission should respond by not certifying the LCP Amendment so that the County may undertake such a process, this time providing proper notice to all stakeholders, so as to address these issues in a more appropriate fashion.

Sincerely yours,

MORGAN MILLER BLAIR



TODD A. WILLIAMS

TAW:taw

Attachment

cc: Christopher R. Cheleden, Santa Cruz Assistant County Counsel
Susan and Barry Porter



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May 4, 2009

VIA EMAIL

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

**Re: County of Santa Cruz, Board of Supervisors Meeting of May 5,
2009, Agenda Item No. 41 re Consideration of Coastal
Commission's Modifications to Local Coastal Program Amendment
re Neighborhood Compatibility**

**Note: Please include this letter for the Board's consideration as part of the
administrative record for its May 5, 2009 meeting regarding this item.**

Dear Chairperson Coonerty and Board of Supervisors:

These comments are submitted on behalf of Susan and Barry Porter (the "Porters") in regard to the Coastal Commission's suggested modifications to the County's proposed amendments to Chapter 13 of the Ordinance Code regarding "neighborhood compatibility." (This item is identified by the Coastal Commission as modifications to the County's proposed Year 2006 Second Local Coastal Program amendment (SCO-MAJ-2-06 Part 2) regarding "Neighborhood Compatibility" (the "LCP Amendment" or "modified LCP Amendment").)

We urge the Board to reject the Coastal Commission's modifications to the LCP Amendment. In addition, the Board should rescind its actions to change the definition of net site area ("NSA") contained in Section 13.10.700-S. The County's proposed amendment to the NSA (unchanged by the Coastal Commission) is discriminatory, unfair and unconstitutional, and amount to a violation of substantive due process and equal protection under the California and United States Constitutions. As stated in previous letters,¹ we also believe the Board's actions to date (as well as the Coastal Commission's) constitute a violation of the California Environmental Quality Act (CEQA), the State Planning and Zoning Law, the County Code and the Coastal Act. We urge the Board not to adopt this ill-conceived and illegal ordinance, and instead address the

¹ This letter incorporates by reference letters previously sent to the Commission and County dated March 11, 2009, December 5, 2008, May 6, 2008, and July 3, 2007, as well as letters sent to the County dated May 14, 2007 and December 4, 2006. (See attached, the latter four letters are attached to the December 5, 2008 letter as Exhibits 1, 2, 3 and 4) Incredibly, none of these letters were included in the agenda packet for this item. These letters set out multiple reasons why the County's actions are improper, and why the LCP Amendment should be rejected.

issue of neighborhood compatibility through more appropriate planning tools such as design review or neighborhood-specific plans.

1. Background

The LCP Amendment consists of amendments to three provisions of the County Zoning code for residential sites including (1) changing the NSA definition, (2) increasing "maximum lot coverage" on lots of 5,000 to 15,000 square feet from 30% to 40%, and (3) allowing "front-yard averaging." These amendments were originally adopted by the County by the passage of Resolution 388-2006 and Ordinance 4841 in December 2006, and submitted to the Coastal Commission in January 2007.

However, the County withdrew the proposed LCP Amendment in response to widespread objections from owners of beach and toe of bluff properties that the new definition caused thousands of existing homes to become non-conforming since, in many cases, the NSA of many parcels was drastically reduced, in some cases to zero.²

Ultimately, on May 15, 2007, the Board adopted further revisions to the NSA definition, passing Resolution 138-2007 and Ordinance 4874. Under the revised LCP Amendment (and as modified by the Coastal Commission), NSA has a different meaning depending on the property at issue. For so-called "coastal bluff top parcels," NSA excludes the "coastal bluff" and "beaches," however, such land is counted for all parcels located at the "toe of a bluff" or "on the beachfront." (Thus, the vast majority of supporters of the current proposal are those who are being *excluded* from its application.)

The LCP Amendment was on the Coastal Commission's December 2008 agenda, and Commission Staff prepared a report proposing modifications to the Net Site Area definition for certain beach and toe of bluff (or "in-bluff") areas, and for extending the application of the LCP Amendment to areas outside the urban services line. However, Commission Staff removed the item from the agenda. When the item finally came before the Commission in March 2009, the Commission Staff's changes to the NSA definition were removed. The Commission ultimately rejected the County's LCP Amendment, and approved (subject to the County's approval) a modified LCP Amendment.³

² The County initially excluded from the NSA definition on residentially-zoned land inside the Urban Services Line "coastal bluffs, beaches, and Monterey Bay submerged lands, including all the area from the top of a coastal bluff to the bayward property line, but not including coastal arroyos."

³ Contrary to the statement in the County Staff Report, the Commission did not "certify" the County's changes to the NSA. The Commission rejected the County's entire LCP Amendment, and approved (subject to the County's approval) a modified LCP Amendment. The modified LCP Amendment did not change the NSA definition from what the County submitted, but modified provisions concerning front-yard averaging and maximum lot coverage.

Notably, however, even Coastal Commission Staff *criticized* the LCP Amendment's provisions relating to Net Site Area ("NSA") as being an inadequate "blanket" and "one-size fits all" solution to "problems that vary significantly based on different landform characteristics..."⁴ See Coastal Commission March 2009 Staff Report at p. 2.

2. Summary of Objections to Proposed LCP Amendment.

The Porters own property in the County within the Coastal Zone and the urban services boundary covered by the LCP Amendment. They object to both the substance of the actions taken by the County (and Commission) in connection with the LCP Amendment, as well as the process by which the County (and Commission) took those actions.

A. Violation of CEQA

The County has failed to proceed in the manner required by law and has violated the California Environmental Quality Act (CEQA) in its consideration and approval of the LCP Amendment.

The County's draft Notice of Exemption claims the LCP Amendment is exempt from CEQA under section 15265 of the CEQA Guidelines (regarding certified regulatory programs) and that Coastal Commission certification is the functional equivalent of CEQA. However, the County failed to conduct any CEQA analysis regarding the impact of the LCP Amendment outside of the Coastal Zone that would be beyond the Commission's jurisdiction.

The proposed changes on coastal bluff-top parcels will have a significant environmental impact since the changes will result in reduced area for development which may be inconsistent with development contemplated under the General Plan. This displacement of development may cause development to occur in other areas that were not contemplated for development in the General Plan and further, may push development outside the County which may as a consequence result in adverse physical impacts on agricultural resources, biology, transportation and noise.

In order to begin to understand how the proposed changes may or may not result in environmental impacts, it is important to understand what lands will be affected by the changes.

⁴ In addition, the Coastal Commission Staff report dated November 20, 2008 (attached hereto) stated (at p. 2):

Although the County has chosen a blanket approach (that relies on countywide policies) in the LCP amendment, staff continues to believe that specific and focused sub-regional planning is necessary in this respect, and such efforts would better pinpoint and address residential mass, scale, and character issues that differ from area to area throughout the County. Such planning efforts are, however, more appropriately undertaken by the county through a local public planning process....

Even if it is difficult to identify each parcel that may be affected, at a minimum "areas" should be identified so it can be determined if these lands were identified for possible development in the General Plan. Also, this type of information is critical in determining how much potential development may be displaced in the County as a result of the proposed changes. Once this information is generated, the direct and indirect environmental impacts of the proposed changes can be analyzed.

The County must conduct such an analysis since the impacts may occur outside of the Coastal Zone; thus, its reliance on the statutory exemption under CEQA Guidelines section 15265 is improper. For the same reasons, the County's unsupported conclusion that none of the conditions described in Section 15300.2 of the CEQA Guidelines (setting forth exceptions to categorical exemptions) is without merit, as a reasonable possibility exists that the activity will have a significant effect on the environment due to unusual circumstances.⁵

B. Violation of the Planning and Zoning Law

Further, the LCP is, or may be inconsistent with the County's General Plan. For instance, the County has failed to evaluate how the proposed changes will impact the County's ability to meet its General Plan Housing Element projections (*see e.g.*, Gov't Code §§ 65359, 65454, 65584, 65860, & 65863), since the LCP Amendment may lessen the number of second units that may be constructed and may create nonconforming multifamily housing projects that could be prohibited from rebuilding if damaged or destroyed contrary to Government Code sections 65863.4 and 65852.25. This is also inconsistent with Housing Element policies requiring the County to provide adequate housing opportunities for all economic segments of the community.

Further, the LCP Amendment is inconsistent with several policies contained in the Local Coastal Program's Land Use Plan (LUP). For instance, the LCP Amendment conflicts with and fails to promote LUP Policies 5.10.2 ("Recognize that visual resources of Santa Cruz County possess diverse characteristics.... Require projects to be evaluated against the context of their unique environment....") and 8.8.1 (design guidelines for unique areas) since it applies blanket rules without regard for areas' "diverse characteristics" or its "unique environment." Nowhere is it explained whether the LCP Amendment would protect designated visual resources and public vistas (LUP Policies 5.10.1, 5.10.3) as there is no discussion of such specified resources and vistas. In addition, LUP Policy 5.10.7 permits infill structures "where compatible with the pattern of existing structures." However, the proposed LCP Amendment will frustrate this policy where the pattern of existing structures has changed in size over time.

⁵ In addition, for the reasons set forth in our March 11, 2009 letter to the Coastal Commission, the Commission failed to comply with its certified regulatory program and failed to demonstrate compliance with Public Resources Code section 21080.5(d)(2). The Commission staff report is legally inadequate and the Commission's findings do not support the recommended action.

C. Constitutional Violations

The LCP Amendment will have the effect of treating similarly situated property owners differently for no legitimate reason. The LCP Amendment *includes* certain types of property as part of the net site area for some owners (e.g. beach properties, toe of bluff, and bluff-top properties outside the urban services line) while *excluding* the same area for owners of bluff-top properties within the urban services line. This is discriminatory and amounts to spot zoning. No justification is given for this disparate treatment. In fact, coastal bluff-top parcels within the urban services line are the only property in the County than is not allowed to count so-called "unusable" areas as net-site area.⁶

No rational policy justification was given for this discriminatory, unequal and unconstitutional treatment which represents a violation of these owners' substantive due process and equal protection rights under the California and United States Constitutions.

Further, the NSA definition is impermissibly vague through its use of undefined terms such as "coastal bluff top parcel" and "parcels located at the toe of a bluff or on the beachfront." For so-called "coastal bluff top parcels," NSA excludes the "coastal bluff" and "beaches," however, such land is counted for all parcels located at the "toe of a bluff" or "on the beachfront." No definitions are included for these key terms. Such uncertainty leads to inconsistent and arbitrary application and unfair treatment to property owners.

For instance, a coastal bluff-top parcel comes within the scope of the LCP Amendment if the parcel is located in part within the "toe of a bluff or on the beachfront." However the NSA definition simultaneously purports to allow "toe of a bluff" and "beachfront" parcels to include such area in their NSA. What happens to parcels that may contain property with more than one of these types of land? Which rule applies if a parcel contains both "bluff-top" and "toe of bluff" areas, for example?

In addition, the Coastal Commission's proposed modifications to the LCP Amendment's provisions concerning front-yard averaging and lot coverage introduce new vague, undefined terms such as "community character" that create uncertainty for County decision-makers, planners, owners, and the public. Last year, the County was successfully sued after it purported to approve a design brochure relating to community character. *See Britton et al. v. County of Santa Cruz et al.* (Santa Cruz Superior Court Case No. CISCV156874). After undoing its action, the County declared that the brochure was not binding, but only informational. Now, however, the County is poised to adopt binding regulations referring to "community character" without any definition.

⁶ Of course, owners of homes located on the beach or in-bluff would hardly call such areas "unusable."

D. Violation of the County Code

In addition to the problems set forth above, affected property owners (such as bluff-top owners) were not originally notified of the proposed changes when they were first adopted in December 2006 in violation of County Code §§ 13.03.070 (concerning notice for proposed LCP amendments) and 18.10.223. When the Board considered and referred the net-site area definition back to the Planning Commission at its March 27, 2007 meeting, once again no required notice pursuant to Section 13.03.070(a)(1-3) was provided, again depriving hundreds of affected property owners of notice of how the definition was going to be changed.

In the second round of amendments, County planning staff stated that individual notice was provided to affected properties, however, when coastal bluff-top property owners appeared at the Planning Commission and Board meetings in April and May of 2007, they were told that issues relating to bluff-top parcels could not be addressed as only changes affecting toe of the bluff and beach parcels were being considered. As a result, the notice was a sham and ineffective since such owners were not provided a meaningful opportunity to be heard prior to the County's action as required by the County Code. *See also* Pub. Res. Code § 30503.

E. Violation of the Coastal Act

The County resubmitted the LCP Amendment to the Commission on June 21, 2007. On July 3, 2007, my office wrote the Commission's Central Coast District Office and the County and pointed out deficiencies in the County's submittal pursuant to 14 California Code of Regulations section 13522. (*See Exhibit 3 to December 5, 2008 letter.*) Notably, the County did not appear to provide any of the approximately 50 written comment letters from any of the three public hearings regarding Net Site Area that occurred in 2007. In addition, the County had not provided any summary of the oral testimony from those meetings.

Commission Staff wrote to the County on October 5, 2007, requesting additional information (*see Exhibit 5 to December 5, 2008 letter*), including (1) a list of commenters, summaries of their comments and any County response; (2) a discussion of the LCP Amendment's relationship to, and effect on, other sections of the certified LCP; and (3) an analysis of potential significant adverse impacts on coastal resources from potentially allowable development.

The County's response, provided over five months later, consisted of a two-page letter. (*See Exhibit 6 to December 5, 2008 letter.*) Its one-paragraph discussion of potentially significant impacts relied on speculative conclusions without any evidentiary support. It claims that the LCP Amendment will promote neighborhood compatibility without explaining how. For instance, the LCP Amendment potentially allows homes with a larger first floor to be built closer to a public street, but the County claims this will somehow promote unspecified public viewsheds. Similarly, it justified the changes merely because some aspects represented reversions to prior regulations, without explaining why these former rules were an improvement.

As to the County's "summary" of public comments, it offered a sentence description, or less, of each speaker, leaving out virtually all substance, in favor of merely noting whether a

speaker was "for" or "against" the revisions. No response to any of the comments was offered, and the County failed to provide *any* of the nearly 50 written comments it received in 2007.

Although we called these deficiencies to the attention of Commission Staff and the County, no additional correspondence or exchange of documents between the County and Commission Staff occurred in the intervening time, i.e. the public comments were never provided as required. As such, the Commission was been deprived of the substance of the public comment presented to the County as required by 14 California Code of Regulations section 13522. *See also* Pub. Res. Code § 30503 (during certification of LCP Amendment proceedings, the public "shall be provided a maximum opportunities to participate").⁷

F. Poor Planning and Policy

Finally, while the goal of neighborhood compatibility may be laudable, the proposed LCP Amendment not only fails to promote this goal, but – as noted above – discriminates between similarly situated property owners for no valid reason. The LCP Amendment does nothing to promote neighborhood compatibility. Land within the Coastal Zone in Santa Cruz County is truly eclectic — distinguished by its diversity, varying parcel sizes and shapes, and differing architectural styles. Rather than addressing neighborhood compatibility on a micro, area-specific level, the LCP Amendment applies a blanket rule without any recognition for surrounding properties. Worse, it singles out bluff-top owners within the urban services line, and treats them differently than all other owners in the coastal zone, including beach property owners and bluff-top owners outside the urban services line without justification.

The goals and policies of the County's Land Use Plan and the Coastal Act are not served by approving an ill-suited, defective LCP Amendment. Rather than approve this deeply flawed amendment, the Board should reject the Commission's proposed modification and the LCP Amendment's changes to the NSA definition so appropriate planning tools may be developed, with full public participation, to address neighborhood compatibility issues.

3. The Proposed and Modified LCP Amendment Should Be Rejected.

Unanswered questions coupled with the County's unsupported assertions compel rejection of the LCP Amendment, especially with respect to the NSA definition. Several commenters, including my office (*see* Exhibits 3 and 4 to December 5, 2008 letter), pointed out legal deficiencies in the County's actions and voiced other concerns relating to the NSA revisions. (As noted, those comments were not provided to the Commission by the County.)

Further, neither the County Staff report (nor the Commission's Staff report or findings):

- Offers *any* evaluation as to how many parcels are affected by the new NSA definition, nor how many existing structures will become non-conforming as a

⁷ In addition, the Commission failed to adopt properly supported findings in connection with the LCP Amendment in violation of Public Resources Code §§ 30514 and 30514.1.

result, nor the effect it will have on owners' ability to rebuild if their homes are destroyed.⁸

- Addresses whether any other coastal jurisdictions have enacted similar laws and, if so, whether they have been effective.
- Provides any support for the disparate treatment of affected parcels on any legitimate grounds.
- Addresses the possibility that bluff top owners whose parcels include beach property now have a greater incentive to subdivide thereby increasing coastal development.⁹
- Justifies the County's reliance on CEQA exemptions, nor considers the impact of the LCP Amendment (and Countywide zoning changes) on lands outside of the coastal zone and beyond the Coastal Commission's jurisdiction. (For instance, bluff-top properties that have their net site area reduced to undevelopable levels would shift development elsewhere in the County.)
- Provides any evidence that the changes would actually promote "neighborhood compatibility" or explain how the County intends to define "neighborhood compatibility" or "community character" in areas known for their diverse character and irregular parcel configurations.

(See also Exhibits 2 and 3 to December 5, 2008 letter [attached hereto].)

Given the varied and ever-changing nature of "neighborhood compatibility," this issue is best addressed through the design review process and other area- and site-specific planning tools where the unique aspects of a particular home, parcel, neighborhood and viewshed can be properly evaluated — not through a blanket regulation like the one proposed. Even Coastal Commission staff acknowledged that other planning tools are more appropriate and that developing such tools to address neighborhood compatibility and structure-massing concerns are "deserving of a public planning process that is better undertaken by the County than by the

⁸ In fact, several owners of coastal bluff-top parcels, including those of multifamily housing and decades-old single-family homes, testified at County hearings that the NSA changes would make their buildings nonconforming, potentially limiting their ability to rebuild (e.g. in the event of fire or natural disaster) without a variance.

⁹ For instance, bluff-top properties will no longer be able to count the coastal bluff and beach areas as part of their NSA, however, were such areas independent parcels, then all of that land would be counted as NSA. Thus, coastal bluff-top property owners now have a strong incentive to subdivide their parcels so that the beach and toe of bluff areas can be developed. Such a change may have the consequence of *more* development along the beach and greater potential environmental impacts.

Commission through this LCP amendment request." (2/26/09 Report at p. 9; 11/20/08 Report at p. 12.)

Even worse, the proposed LCP Amendment, especially the NSA definition, is ill-conceived, ineffective, discriminatory and ultimately unnecessary. The County violated the notice provisions of its own code concerning LCP amendments, performed no environmental analysis on potential effects inside or outside of the Coastal Zone, failed to comply with applicable state planning and zoning laws, and is poised to adopt an LCP Amendment that is unconstitutional.

We request that the Board respond by rejecting the modified LCP Amendment (pursuant to Public Resources Code section 30513) and undertake a process that provides proper notice, and considers the viewpoints of all stakeholders to address these issues in a more appropriate fashion.

Sincerely yours,

MORGAN MILLER BLAIR



TODD A. WILLIAMS

TAW:taw

cc: Christopher R. Cheleden, Santa Cruz Assistant County Counsel
Susan Craig, Coastal Planner, California Coastal Commission, Central Coast District
Susan and Barry Porter

W6a

RECEIVED

June 8, 2009

JUN 09 2009

California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re: Appeal, A-3-SLO-08-018
Oceano Dunes State Vehicular Recreation Area (ODSVRA)
Restroom Expansion Project, Oceano area, San Luis Obispo County

Dear Honorable Chair and Members of the Coastal Commission:

We respectfully submit the following response to the appeals of San Luis Obispo County Board of Supervisor's approval of the California Department of Parks and Recreation's Minor Use Permit (MUP) and Coastal Development Permit (CDP) for the replacement of one restroom and the expansion / development of five new restrooms at the State Parks' ODSVRA, County File No. DRC 2006-00180.

1. Introduction

We object to staff's recommendation that the appeal does not raise "a substantial issue."

We argue that the appeal *substantially* addresses pertinent policies regarding proposed expansion, development, site encroachment into county buffer area, lack of protection of sensitive dune habitat, and displacement of endangered and threatened species pursuant to Coastal Act policies.

We argue that the issues raised on appeal are in the public's best interest, particularly given the Coastal Commission's documented inability to resolve outstanding long-term CDP compliance and management issues with the county and State Parks.

- *"The Oceano Dunes is an 'off-road recreational vehicle area designated by state law that neither the county nor the Coastal Commission can manage or control.'"
(Peter Douglas, CC Executive Director, Tribune, 05/31/09)*

The Coastal Commission cannot isolate the expansion of restrooms from the larger on-going management issues -- this would further convolute the Coastal Commission's long-standing, documented attempt to address the state's outstanding noncompliance issues at the ODSVRA (CDP 4-82-300, and LCP/LUP policies).

- *"the use of Oceano Dunes for off-highway vehicle (OHV) recreation and the need to protect sensitive habitats and adjacent properties from adverse impacts attributable to OHV use has been a long-standing controversial issue for both the*

Coastal Commission and San Luis Obispo County..." (Coastal Commission staff letter dated 04/17/07 to Matt Janssen from Steve Monowitz)

We argue that pertinent appeal issues have been raised to address policy concerns, including, but not limited to the following:

- The previous restrooms were permitted on Pismo State Beach. The proposed drive up restrooms are located on parcels in La Grande tract. Both these locations are in the buffer area (Map, Fig. 4), as previously defined and understood by the county and the Coastal Commission:
 - *"...it is Coastal Commission staff's opinion that the LCP map known as Figure 4, was intentionally included within the certified LUP to reflect the long term objectives shared by the county and the commission for this sensitive dune habitat area which included phasing out of the northern access route for OHV use **and restricting OHV use on County owned land.**" (Coastal Commission letter dated 04/17/07 to Matt Janssen from Steve Monowitz)*
- According to the county's conditions of approval (Condition 1.b), the project will result in the disturbance of approximately 9,600 square feet. This is akin to building a mansion. It is inconceivable that the extent of grading and excavation that is slated to occur in a sensitive dune habitat, will be protected by a site design as indicated in the County's Sensitive Resource Area Findings, Finding H.

Although grading is to occur outside of the nesting season between October 1 to November 30, the CDP is valid for two years and contains a provision for granting time extensions. There is no evidence that this extensive two+ years project construction will not create a severe disruption and degradation of the site's sensitive dune habitat, and impact endangered and threatened species' natural habitats. There is no evidence of any monitoring measures in the project's conditions of approval to fully address or mitigate short- and long-term construction impacts. Furthermore, there is evidence that the existing vault toilets have been relocated from their permitted locations.

- We argue that the proposed restroom expansion only serves to intensify conflict with Section 30210 of Public Resources Code (Chapter 3 of the Coastal Act):
 - *"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 public property owners, and natural resource areas from overuse."*

The construction of this growth-inducing project and the expansion of the ODSVRA onto La Grande Tract corrupt the fragile ecosystem; compromises air quality and water quality; creates noise, erosion, and night lighting; and impacts the entire surrounding area.

2. Challenge to CEQA Exemption

We argue that the vault toilets are not adjacent to each other and are therefore not accessory structures. It is our contention that either the vault toilets previously permitted have been moved, or they are not "adjacent" to the proposed new restrooms.

It appears procedurally irregular that state parks is their own lead agent under CEQA (County Finding A).

3. Challenge to Motion and Resolution

Coastal Commission staff provides a very limited analysis to make a determination and recommendation of "no substantial issue." This limited analysis denies the appellants' the right to a full and fair review before the Coastal Commission. The commission is well aware of the serious noncompliance and environmental issues impacting this extremely sensitive area.

Staff minimizes the policy issues on appeal by simply determining they are associated with larger issues that are "not before the commission at this time." (See finding in paragraph 2 re: LCP consistency and paragraph 4 re: use of La Grande tract).

We argue that all issues concerning the ODSVRA are inter-related. This is not an appropriate basis for making a finding of no substantial issue and denial of the appeals.

Staff unfairly narrows the scope of the appeals through dismissive responses to appellants' grounds for appealing LCP consistency and public access policies of the Coastal Act.

Staff does not substantively address any policy review of the inconsistencies with Public Resources Code Sections 5019.71 and 5090.35, regarding natural preserve and habitat protection, nor substantively respond to potential impacts to water quality.

Staff does not substantively respond to any policy issues to support the recommendation of "no substantial issue."

According to staff, "Passage of the motion and resolution will result in a finding of no substantial issue and the adoption of a list of "findings" that read more like an op-ed piece than substantive findings.

Staff states that: "By such action, the Coastal Commission declines to take jurisdiction over the CDP for this project."

This is an alarming position for the commission to take considering that the project will generate two major hauls per year per vault toilet with an undisclosed number of one ton trucks pumping out and hauling of the accumulated human waste of over two million people (given State Park's rote statistics) through its coastal jurisdiction and the mouth of the Arroyo Grande Creek without any evidence of a spill prevention or response plan.

Is there evidence that a one ton truck can accommodate hauling these loads?

Any potential spill will adversely affect critical habitat and/or threaten and endangered species protected under the protection policies of the Coastal Act, LCP/LUP, and the Endangered Species Act.

With all due respect, the Coastal Commission is abdicating its statutory responsibility by its blanket endorsement of the County's action.

4. Challenge to the Findings

Finding / paragraph 1: General

Can the Coastal Commission make a finding on the basis of staff's vague, inconclusive language, i.e., *the appellants raise "various concerns", "general claims"* Staff's response to this finding is "See exhibit 2 for complete text of appeal contentions."

Where is staff's substantive response to these "*various concerns*," "*general claims*" as outlined in exhibit 2?

We argue that this is not an appropriate basis for making a finding of no substantial issue and denial of the appeal.

Coastal Commission cannot make the finding; it is baseless.

Finding / paragraph 2: Consistency Issues

Staff states that: "The LCP recognizes and provides for OHV use at ODSVRA. *Similarly, the commission through various permit actions, has recognized the consistency of such use...*"

Yes, but the Coastal Commission has not recognized compliance with the LCP/LUP policies through their various permit actions.

- "*the inclusion of Figure 4 within the LUP along with policies that cross reference the requirements of CDP 4-82-300 reflect the interim nature of current OHV use patterns and require further consideration of these long-term management options as necessary to carry out the resource protection requirements of the Coastal Act and the certified LCP.*" (Coastal Commission staff letter dated 04/17/07 to Matt Janssen from Steve Monowitz)

Staff states that: "the proposed CDP is for construction of new restrooms and does not affect any ongoing permits or other authorizations allowing for use of ODSVRA for off-highway vehicle. The issue of the consistency of that use with the LCP is therefore not before the commission at this time."

We argue that staff's statement is subject to debate since the annual review of CDP 4-82-300 has been sitting in limbo since 2007 when the commission reached an impasse with the Director of State Parks upon rejection of the commission's staff report and requests. (Ref: Letter dated 02/13/07 to Chair Patrick Kruer from Ruth Coleman, State Parks Director; letter dated 04/09/07 to Andrew Zilke, Park Superintendent from Chair Patrick Kruer, Coastal Commission)

Coastal Commission cannot make the finding; it is not accurate.

Finding / paragraph 3: Water Quality Concerns:

Staff asserts that the county "found" there would not be adverse impacts to ocean waters because all sewage would be contained within restroom vaults and periodically pumped out and transported miles down the beach and through the mouth of the creek to the sewage dump station within the park off La Sage Drive, where the sewage is pumped into the city sewer system.

Evidence provided by the county in Finding H states that the vaulted toilets would not create significant effects in the Sensitive Resource Area because the vaulted toilets are located outside of the vegetated areas and construction is limited to October and November to avoid any potential impacts on species.

However, there is no evidence that water quality will be protected under Finding H. On the contrary, this finding states that each vault toilet has maintenance access hatches that prevent spillage, and that the vaults are pumped out and transported by one ton trucks to the sewage dump station.

Staff minimizes the potential adverse impacts of the pumping out and transporting of domestic sewage – human waste.

Is there evidence that the La Sage facility is equipped for commercial dumping capacity?

Is there evidence of a spill protection plan or response plan to handle the impact of a potential spill near Meadow Creek / riparian habitat at La Sage facility?

Coastal Commission cannot make the finding that there would not be adverse impacts to ocean waters or riparian habitat; there is no evidence of a spill prevention or response plan to address any potential adverse effects on the environment.

Under this section while staff recommends the adoption of findings resulting in the Coastal Commission's declination to take jurisdiction over the CDP for this project, staff inappropriately asserts "support" for the project:

- *"The proposed restrooms will provide a beneficial service to the recreational users of the park and increased protection to the surrounding dune environment."*

There is no evidence that the proposed restrooms will provide a beneficial service to ALL, including passive, recreational users of the park, pursuant to the Coastal Act.

- *"They're not compatible uses," he said, You're taking a real risk." (Peter Douglas, CC Executive Director, Tribune, 05/31/09)*

Nor is there evidence that the proposed restrooms will increase protection to surrounding dune environment.

Coastal Commission cannot make a finding of "public benefit" on a project, when it declines to take jurisdiction over the CDP for the project; it is washing its hands.

Finding / paragraph 4: Use of La Grande Tract (Map, Fig 4):

Staff states *"that the issue of consistency of such use is not before the commission at this time."*

On the contrary, the use of La Grande tract (Map, Fig 4) is inextricably related to numerous unresolved policy issues that cannot be ignored by the Coastal Commission in its attempts to manage the adverse impacts of OHV use on sensitive coastal and dune habitats, including the natural preserve / buffer area.

- *"it is Coastal Commission staff's opinion that the LCP map known as Figure 4, was intentionally included within the certified LUP to reflect the long term objectives shared by the county and the commission for this sensitive dune habitat area which included phasing out of the northern access route for OHV use and restricting OHV use on county owned land." (Coastal Commission letter dated 04/17/07 to Matt Janssen from Steve Monowitz)*

5. Challenge to Staff's Summation

Staff concludes that: "the county has provided adequate factual and legal support for its action."

Can the Coastal Commission make a determination of "adequacy" without any evidence, further review, or accountability of County Condition 10 requiring pre-crossing survey, for construction equipment and vehicles only; and Condition 11 requiring evidence of legal access to project site in accordance with applicable county and state laws?

There is no evidence that condition 10, requiring pre-crossing survey, includes the one ton trucks hauling out human waste.

Can the Coastal Commission endorse this assumption when the provisions of these conditions are to occur prior to initiation of project?

When and how will the Coastal Commission and the public be able to verify the evidence if the conditional CDP is endorsed before the fact?

6. Conclusion

We argue that the Coastal Commission cannot make the findings, as recommended by staff.

We argue that adopting the proposed recommendation and findings will further demonstrate the commission's bifurcated approach to its policy objectives regarding the unenforceable management issues of the ODSVRA.

We argue that the adoption of the findings is another de facto acknowledgement by the Coastal Commission that State Parks' use is consistent, but not in compliance with the Commission's requirements under CDP 4-82-300 (and as amended).

Is there evidence that the Coastal Commission ever affirmed State Parks' cooperative compliance with CDP 4-82-300?

The Coastal Commission should not adopt staff's recommendation or findings that endorse the County's action as final and in full effect.

We argue that the commission should condition the project with unaddressed issues, including, but not limited to, the following:

- There is no evidence of any monitoring measures in the project's conditions of approval to mitigate any short- and long-term construction impacts;
- There is no evidence of a spill prevention or response plan in the event that there is a spill of accumulated human waste into the ocean, on the shoreline, at or near the mouth of Arroyo Grande Creek, and / or riparian habitat near Meadow Creek at Le Sage dumping facility;
- There is no evidence of further review, reporting, or accountability of County Condition 10 requiring pre-crossing survey for the construction equipment and vehicles only, and Condition 11 requiring evidence of legal access to project site in accordance with applicable county and state laws; There is no evidence that condition 10, requiring pre-crossing survey includes the one ton trucks hauling

out the human waste. There is no evidence that Condition 10, requiring pre-crossing survey, included the one ton trucks hauling human waste.

- There is no habitat conservation plan for the Coastal Commission to make the proper analysis or determination on the proposed expansion of the ODSVRA as it relates the overall scope of increased use and impacts; it is an interconnected network and development should be evaluated in an orderly manner, as required by law.

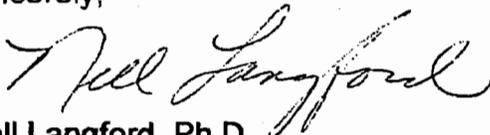
The expansion and encroachment of the proposed restroom development in the county buffer zone and sensitive habitat areas raise significant issues that deserve more analysis and attention before the Coastal Commission can make a blanket endorsement of State Park's CDP.

At this time, the Coastal Commission should delay approval of the development/expansion projects of the ODSVRA until the Coastal Commission can fully exert conditions for the appropriate levels of monitoring and resource protection measures.

We argue that the issues raised on appeal are in the public's best interest and the commission should not endorse a project that may be publically perceived to exclusively serve a single interest recreational group, while precluding access to other recreational users. This is in direct conflict with the Coastal Act.

Lastly, we urge the commission to uphold the appeals, and delay issuance of the CDP until the project is adequately conditioned and monitored.

Sincerely,



Nell Langford, Ph.D.

Christie Camphorst

Kelly Devaney

CC: File