

CALIFORNIA COASTAL COMMISSION

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W16a



Prepared August 7, 2012 (for August 8, 2012 hearing)

To: Coastal Commissioners and Interested Persons

From: Dan Carl, Deputy Director
Madeline Cavalieri, District Manager
Nicholas Dreher, Coastal Planner

**Subject: STAFF REPORT ADDENDUM for Item W16a
Coastal Development Permit no. A-2-SMC-11-021 (Big Wave Group, LLC,
Princeton by the Sea, San Mateo County)**

The purpose of this staff report addendum is to respond to recent comments submitted by the applicant and the public, and to correct minor errors in the report that have been identified since the report was issued. The addendum does not alter the conclusions of the report.

The applicant's attorney submitted a letter dated August 1, 2012 that disputes recommended findings related to water availability, wastewater treatment, traffic, hazards, biological resources, visual resources, lot legality and agriculture. Several issues raised by the applicant require clarification and therefore, this addendum adds a "Response to Comments" section to the recommended findings. In addition, the applicant points out several errors in the staff report related to the project description, daily vehicle trips added to the road as a result of this project, water demand figures and the size of one of the proposed buildings. Accordingly, staff has noted these points and made changes to the report to reflect the updated information, where appropriate.

Also, the attorney representing the Granada Sanitary District has submitted a letter that corrects the status of the applicant's sewer connection. Accordingly, Staff has incorporated the changes into the report as shown below.

Deletions are shown in ~~strikethrough~~ and additions are shown in underline.

1. Insert Section J: Response to Comments at the end of the staff report as follows:

Response to Applicant Comments

Water Supply

The applicant makes a number of claims regarding water availability. First, the applicant contends that the Commission's findings inaccurately state that the MWSD 'will serve' letter is not valid because the proposed project design has not been completed. On the contrary, the

findings merely provide statements from MWSD's representative regarding the will serve letter. As suggested by MWSD's explanation, the letter is not a traditional will serve letter because in order to follow state regulations, the Commission must first approve an amendment to MWSD's Public Works Plan (2-06-006) that allows for new water connections and expansion of water service to new customers. At present, MWSD has not received Commission approval of such an amendment and therefore the Commission has no assurances that the applicant could either enlist MWSD to manage the output of the applicant's well or obtain a public water connection, as required by the LCP.

Second, the applicant claims that the above findings allege the Kleinfelder Report describes a water shortfall in the airport aquifer. On the contrary, the above findings state it is evident from the assessment in the Kleinfelder Report that several of the subbasins are in overdraft conditions during dry years and that, in fact, the elevation of the water table appears to dip near or below sea level in very dry years. Since conditions could lead to saltwater intrusion (although no water quality data were collected), contamination of existing wells is possible. Accordingly, even without the calculation of a "safe yield," increased use of groundwater resources in these basins could lead to a greater frequency of times when saltwater intrusion is likely.

Third, the applicant claims that the findings state the project will increase groundwater extraction, while the applicant asserts that the project will result in a net increase in the groundwater stored. With regard to the project's groundwater extraction, an important point to note is that the existing well, which was approved pursuant to a County well permit rather than a CDP, is proposed to be used for the Office Park and Wellness Center on 13 total lots where there are currently only two. The increase in number of lots implicates Policy 5.22 and requires the analysis (which can be found above) relating to a single existing well serving more than four new parcels on prime agricultural land, even where not designated as agriculture.

Finally, the applicant contends that the Local Agency Formation Commission (LAFCO) is the sole and exclusive authority for boundary changes for local agencies. However, while LAFCO has its own authority over these issues, the Coastal Act and LCP regulate development, which includes the extension of urban services, and thus the Coastal Act and the LCP have authority regarding where and how urban services are extended. In this case, the Coastside County Water District (CCWD) would need to apply to the Commission for an amendment to CDP A-1-HMB-99-20/A-2-SMC-99-63 in order to expand water service to any new customers, including those currently located outside of its service boundary, such as Big Wave.

Wastewater

The applicant's letter states that the Granada Sanitary District (GSD) engineer believes the district has an adequate capacity to accommodate the proposed project and alleges that the GSD engineer has demonstrated that project flows would be no more than 19,000 gallons per day, rather than the 26,000 gallons per day discussed above and until very recently proposed by the applicant, most notably in the FEIR. However, GSD continues to state that no permit has been issued for the project, and continues to question the water balance calculation for the project, as

well as related wastewater assertions made by the applicant.¹ GSD indicates that “in fact, the applicant has not obtained a sewer connection from GSD, nor has the required application even been filed for a sewer connection” (emphasis original) (GSD letter to Commission dated August 2, 2012).

The applicant contends that above findings amount to inverse condemnation by attempting to prevent the site from being developed through restricting available utility service. The Commission recognizes throughout the report that some level of development, consistent with the underlying zoning districts, would be appropriate on the subject property, but that the proposed development exceeds the demonstrated available public services. The applicant has not demonstrated that there will be sufficient water and/or wastewater capacity to serve the proposed development.

Finally, the applicant claims that the Regional Water Quality Control Board (RWQCB) and the County Health Department “are of the opinion that there are no hurdles to [the wastewater system] being permitted” and that the Commission should defer to these agencies expertise. However, even if this assertion is accurate, it does not equate to actual entitlements. In fact, GSD indicates that such a wastewater system also must be permitted by GSD as well as the State Health Department (GSD letter to Commission dated August 2, 2012).

Traffic and Parking

The applicant states that the above findings misstated the number of added roadway trips as a result of the project. The applicant states that the proposed project would result in 1,775 new trips, as opposed to the 2,123 trips the County relied on in its review of the project. In either case, the applicant’s traffic report fails to analyze seasonal recreational peak traffic levels of service for the Highway 1 roadway segment. Additionally, the traffic report only focused on nearby intersection levels of service, instead of roadway segment levels of service, which is critical for understanding the impact the proposed project will have on traffic flow just north and south of this project along Highway 1. In the absence of this information, the Commission cannot adequately make findings addressing the impact that additional car trips will have on existing recreational access along Highway 1, which is currently highly congested, or the adequacy of proposed mitigation measures to offset impacts from increased congestion.

The applicant states that the applicant’s traffic report indicates that traffic congestion for Highways 1 and 92 would actually be reduced by approximately 7% by the project. Such finding is predicated on an assumption that a certain percentage of employees of the facilities that would be constructed per the proposed project would be from the area as opposed to from farther away locations. However, there is nothing that ensures that this would be the case. In addition, the EIR indicates that 2,123 trips would be added to nearby roadways, and it is counterintuitive to conclude that adding this number of trips to already congested roadways would actually reduce traffic congestion. Absent better information, including of the type identified above, it is not clear how this statement is supportable.

¹ See April 27, 2012 letter from GSD to Commission staff in Exhibit 9.

Tsunami Inundation²

The applicant states that, “The Map [the CalEMA map that is discussed in the staff report] is clearly valuable for its intended use as stated in its Title, ‘Inundation Map for Emergency for Emergency [sic] Planning.’ The map clearly is consistent with the County Hazard Ordinance 6326.2, but not consistent with the CCC Staff position to use it for regulatory purposes in the establishment of building requirement.” A map is a way to convey geographic information. If the map is consistent with the County Hazard Ordinance, as stated by the applicant, and as indicated by the County’s IP ordinance and Commission’s interpretation of the ordinance, then the map and the inundation elevations shown therein, are consistent with the ordinance.

Section 6326.2 of the Local Coastal Program requires analysis of wave run-up for the proposed site. The applicant has assumed that the 500 year event is the maximum probable event for purposes of complying with Section 6326.2. Section 6326.2 does not specifically mention developing tsunami information other than that provided on the tsunami inundation maps nor does it call for using a 500-year event for the analysis. Section 6326.2 refers to the probable maximum wave, which is the basis for the inundation shown on the CalEMA maps. For this reason, the Commission herein relies upon the CalEMA maps for the underlying tsunami inundation that should be used for “the probable maximum wave height...in connection with the parcel or lot upon which the proposed development is to be located.”

The inundation that is shown on the CalEMA maps is for the maximum probable event. The CalEMA maps do not have a return interval of recurrence frequency associated with the inundations. As stated above, the maximum probable inundation has a recurrence of a couple hundred years (based on communication with Dr. Synolakis who oversaw the preparation of the CalEMA maps) -- not a 5,000 year or 100,000 year interval as suggested by the applicant.

The letter from the applicant also states, “the map [the CalEMA map] does not consider recurrence rates. The map states that to generate this value, the impacts of the events must be combined.” The CalEMA maps do state that the map includes no information about probability. The actual map language is provided below, in which it is explained that the probabilities are not provided due to a lack of known occurrences. This reinforces the Commission’s above concern about the applicant’s development of a 500-year recurrence interval event, based on the small record of inundation for the proposed project site.

The inundation map has been compiled with best currently available scientific information. The inundation line represents the maximum considered tsunami runup from a number of extreme, yet realistic, tsunami sources. Tsunamis are rare events; due to a lack of known occurrences in the historical record, this map includes no information about the probability of any tsunami affecting any area within a specific period of time.

To conclude, the Commission objects to the applicant’s development of a 500-year recurrence event. As noted on the CalEMA map, there is difficulty in developing a recurrence interval based on the small record of inundation. As also stated above, the probability of a tsunami needs

² Tsunami Inundation response section was prepared in consultation with Staff Coastal Engineer Lesley Ewing.

to based on both the probability that a generating event will occur (an earthquake, a landslide, etc.) as well as the probability that a tsunami will be generated.

The applicant also explains that an event that may have a 500-year recurrence interval “represents 10 generations of residents and roughly five (5) times the reasonable age of the structure.” This is a common mis-perception about return intervals, suggesting that they will not happen for 500 years. In actuality, there is a small probability that the event could happen at any time. A 500-year event has a 0.2% probability of occurring any year. Buildings rarely use design conditions that are expected within the building life; this is akin to designing for failure.

The applicant notes that, “The proposed structure will be designed using standards for buildings that successfully survived the wave impacts of the Tohoku Tsunami. We have also designed the site to protect the buildings from Tsunami debris flows that exceed the 500 year event.” As of now, there are no building standards for buildings that successfully survived the wave impacts of the Tohoku Tsunami. In the United States, a team of engineers with the American Society of Civil Engineers is developing some guidance for tsunami resistant buildings as part of the 2018 update to an engineering design guide entitled ASCE-7. Also, the analysis provided by the applicant of flow across the proposed project site is based upon a probable maximum wave height that is not supported by the inundation maps.

The applicant’s engineer has found that the runup at the site “will be less than 1 foot in height” (GeoSoils, Inc. October 4, 2010, page 4). In the applicant’s August 1, 2012 letter, he states that the “Engineer has calculated that the runup level at the site is 2 meters above the highest still water elevation (this accounts for friction loss in the run-up). The design adds another 3 meters of safety factor. Using the Engineers values, the Project complies with the ordinance and the LCP.” While the numbers provided by the applicant do not agree with the numbers in the October 4, 2010 report, if there was a 2 meter run-up, this is less than indicated by the CalEMA maps, yet is still greater than 6 feet, and is not in compliance with the portion of the ordinance that requires that the water level at the site be less than 6 feet above the ground level. The 3 meters of safety factor is not clear and cannot be addressed at this time.

Finally, the applicant has stated that, “CCC Staff essentially states that they do not have the ability to evaluate the project without requesting that the Project prepares a non-site specific \$1 million research paper that analyzes the Princeton area and develops the safe building ordinance for the area.” The Commission’s Coastal Engineer has evaluated the project based upon the information from the CalEMA maps, and using the applicable LCP ordinances that exist for this area. This evaluation has concluded that the proposed project is not in compliance with the ordinances. As a way to move forward, the Commission’s Coastal Engineer has indicated that if the applicant wants to refine the information provided on the CalEMA maps, additional modeling could be done to use local bathymetry that includes the breakwater structure. It is estimated that this work might cost between \$10,000 and \$30,000 – not \$1,000,000. Alternatively, the applicant can use the information from the CalEMA maps to modify the project site and bring the project into compliance with the existing ordinance.

Geotechnical Analysis³

The applicant continues to agree to provide the final geotechnical report after the issuance of the Coastal Development Permit and prior to the issuance of a Building Permit. As discussed in the report, the Commission needs this information to adequately evaluate the geotechnical hazards at the project site, especially fault hazards. The Commission may not defer the determination of a project's potential impacts until after issuance of a Coastal Development Permit. Given the geotechnical hazards on and near the site, it is possible that components of the project could be required by the geotechnical report to be changed, including that buildings for human habitation may need to be relocated to avoid active faults, and the Commission must be aware of these changes to evaluate their potential to impact important coastal resources.

Lot Legality

The applicant asserts that the two subject lots as presently configured were legally created without the benefit of CDP review as a result of the County's purchase of certain property for public benefit. However, to be exempt from CDP requirements, the land division that follows such a purchase must be a direct result, based on the lines/boundaries of the acquisition itself. In this case, it appears that the direct result of the purchase would have turned the two original lots into three total lots. Instead, five lots were created. Further, the land division boundaries do not follow the purchase lines and were not necessary to accomplish the goal of public benefit. Moreover, the contracts for sale do not identify where the lines would be drawn (and, even if they were identified in the contract, that would not make them legal lots). Therefore, the Commission finds the subject parcels are not exempt land divisions as a result of public purchase for recreational purposes and are therefore not legal lots because they did not obtain CDP authorization.

Project Description

Consistent with the applicant's correction, the Commission accepts that proposed Wellness Center Building A will be 2 stories, 200 feet long and 100 feet from Airport Street, rather than 3 stories, 36 feet tall, 300 feet long and 30 feet from Airport Street.

Agricultural Resources

The applicant states that the Commission's above findings incorrectly determined the subject property to be designated for agriculture (PAD - Planned Agricultural Development) in order to make findings under LCP Policies 1.3(b), 5.2 and 5.22. On the contrary, the Commission does not contend that the subject property is designated as PAD pursuant to Policy 5.2. Rather, the Commission interprets LCP Policies 1.3(b) and 5.22 to apply to prime soils generally, regardless of the designation, and in this case, the land meets the LCP definition of prime agricultural land. The reason behind this interpretation is the clear omission in the policy titles (for 1.3 and 5.22) of language requiring designation as agriculture in order for it to apply to the land. For instance, most agriculture policies (such as 5.5, 5.6, 5.7 and 5.8), contain policy titles that expressly apply to those areas with prime or land suitable for agriculture that is "designated as agriculture."

³ Geotechnical Analysis response section was prepared in consultation with Staff Geologist Dr. Mark Johnsson.

However, Policies 1.3 and 5.22 do not contain this designation language and therefore, these policies apply generally to prime agricultural soils – the applicant has not disputed the presence of prime soils on site, only that the subject site is not designated as agriculture. Therefore, the Commission finds that Policies 1.3(b) and 5.22 apply to the subject development and find no reason to change analysis in the above report findings.

2. Amend the second paragraph on page 12 as follows:

The approved office park would include a division of land to create ten parcels in order to accommodate the construction of 225,000 square feet of office space in eight new office buildings. The project would nearly double the existing office space in the Midcoast and would add approximately 2,123 ~~total-peak-hour~~ vehicle trips to the road as discussed in the Final Environmental Impact Report. Nearly all of these vehicle trips would utilize Highway 1, and many would also utilize Highway 92.

3. Amend the second to last paragraph on page 10 as follows:

The proposed project is located within the Montara Water and Sanitary District (MWSD) service area, but the County's approval includes a condition that requires the applicant to pursue a water connection from Coastside County Community Water District (CCWD). However, the condition allows use of the private on-site well for potable water needs if a connection to CCWD is not obtained. This condition is not adequate to comply with the LCP because it allows for the permanent use of the private on-site well for potable water needs if a connection to CCWD is not obtained. This potential for permanent use of the private, on-site well raises a substantial issue of consistency with the policies of the LCP, including those policies cited above.

4. Amend the second to last paragraph on page 23 as follows:

The proposed project includes a wastewater treatment system, to be used in conjunction with a GSD sewer connection. The wastewater treatment system consists of a wastewater treatment plant that produces recycled water (membrane bioreactor with ultraviolet disinfection) tied into a series of on-site storage tanks and a distribution system. Recycled water would be used for irrigation, toilet flushing, solar panel washing and parking lot cleaning. Any excess recycled water or substandard water is proposed to be discharged into the GSD sewer system. The applicant has proposed to either dispose of sludge using the Granada Sanitary District sewer system or through a series of vermicomposting bins located in the first floor of one of the proposed Wellness Center buildings. The proposed project would generate an estimated 26,000 gallons of wastewater per day, and the applicant has been assessed for an approximately 1,800 gallon per day (8 equivalent residential units) GSD sewer connection but has not yet obtained a permit for the sewer connection from GSD ~~obtained a sewer connection from GSD for 1,800 gallons per day~~. Further, it is unclear how much sewer capacity is actually needed to serve the project.

5. Amend the first full paragraph on page 15 as follows:

In addition, the County-approved project included material changes to the project, as compared to the project evaluated in the FEIR that have resulted in new, greater, visual impacts that have not been adequately evaluated. There is insufficient information to evaluate the visual impacts from the revised project, particularly the ~~two~~three story ~~36-foot high~~ ~~3200-~~foot long “Building A” located 100 feet from Airport Street and the three story Storage Building that would be just 30 feet from Airport Street on the Wellness Center site. Photo simulations of the original project are misleading, because they show computer generated models of the proposed structures without other surrounding topography, structures or reference points, which in turn frustrates the visual impacts analysis. The story poles with single thin tape that the County relied on in its evaluation were inadequate, as they were not visible from any viewing site except directly in front on Airport Street. The Revised Site Plans for both parcels show general locations of the buildings, but there are no cross-section elevations. The visual simulations demonstrate high likely visibility from surrounding public hiking trails and an inappropriate reliance on the planting of numerous trees and plants without demonstrating a likelihood of success/longevity.

6. Amend the first full paragraph on page 39 as follows:

Given the proposed design and the maximum projected wave height as demonstrated using the Cal EMA modeling and mapping effort, the proposed project does not meet the criteria for approval, as outlined in the County’s IP Provision 6326.2(b) Tsunami Inundation Criteria. Therefore, the project as currently proposed is inconsistent with the applicable standards of the certified LCP and must be denied. However, the Commission’s action does not constitute a final decision regarding the application of the LCP to development proposals on this property. Denial of the permit application will not prevent the applicant from redesigning the proposed project and/or reapplying for a permit to develop the property when the applicant is prepared to supply the information necessary to support the permit application and demonstrate its consistency with the certified LCP. For example, the applicant could conduct more detailed modeling that addresses the issues raised in these findings and which demonstrates that a proposed project is consistent with the tsunami inundation criteria contained in subsection (b) of Section 6326.2(~~a~~) of the certified LCP.

7. Amend the last paragraph on page 54 that carries over to page 55 as follows:

However, as discussed above in **Section 2** of the findings addressing Hazards, and in particular tsunami hazards, the project as currently proposed does not meet the standards applicable to other residential structures contained in section 6326.2 (b) of San Mateo County’s Tsunami Inundation Area Criteria. Further, as previously discussed above, it does not meet other necessary requirements of the LCP. Therefore, the project as currently proposed is inconsistent with the applicable standards of the certified LCP and must be denied. However, the Commission’s action does not constitute a final decision regarding the application of the LCP to this development proposal. Denial of the permit application will not prevent the applicant from redesigning the proposed project and/or reapplying for a permit to develop the property when the applicant is prepared to supply the information

necessary to support the permit application and demonstrate its consistency with the certified LCP. For example, regarding hazards, the applicant could conduct more detailed modeling which demonstrates that a proposed project is consistent with the tsunami inundation criteria contained in subsection (b) of Section 6326.2(a) of the certified LCP.

8. Add the following text at the beginning of paragraph 2 on staff report page 43:

According to the Commission's Senior Ecologist, Dr. John Dixon, the minimum buffer that should be applied to the wetlands in this case is 150 feet, including because of the proximity to the important habitat at Pilarcitos marsh, because of the documented uncertainty of the delineated wetland boundary (as shown by the observance of wetland vegetation by the Applicant's biologists, for which they advised that a revised delineation was necessary, but the vegetation was subsequently plowed and disked), and due to the sensitive nature of the potential species and habitat present at this location.