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W18b

Staff: Mike Watson - SC
Staff Report: 6/30/2017
Hearing Date: 7/12/2017

STAFF REPORT: CDP HEARING

Application Number: 3-14-1613

Applicant: California Department of Parks and Recreation (State Parks)

Project Location: On the former Fort Ord property west of Highway One between the cities of Marina and Sand City/Seaside, in Monterey County.

Project Description: Construct and operate a new campground facility including 45 full hook-up recreational vehicle (RV) sites, 43 tent sites, 10 hike/bike-in sites, two campground host sites, four restroom buildings, multi-use building, campfire center, entrance station, three operations-and-security modular structures, overflow parking, storage yard, maintenance station, beach access trail, military storage bunker interpretative walk, relocation of a portion of the Monterey Bay Sanctuary Scenic Trail, on- and off-site utilities, site grading, native dune restoration, and related development.

Staff Recommendation: Approval with Conditions.

SUMMARY OF STAFF RECOMMENDATION

The California Department of Parks and Recreation (State Parks) proposes to develop a new campground facility at the Fort Ord Dunes State Park (FODSP) unit in the southern Monterey Bay area. The campground would include both tent and RV camping, including walk-in and bike-in sites, as well as a full complement of additional public amenities, including a multi-use center designed to accommodate State Parks' school instructional and other ecological programs. The project also includes a day use component, including to help visitors reach the beach along

the roughly four miles of shoreline associated with the Park unit. State Parks indicates that this would be the first full campground of this size developed in the coastal zone since the 1980s.

Staff is supportive of a campground of this sort for this location, and has worked closely with State Parks staff on this project for many years. Prior to that, the Commission conceptually supported a campground at this location when the land was transferred to State Parks as part of the federal Consistency Determination for the Army's Fort Ord reuse program back in 1994. The campground will serve an acute need for recreational overnight facilities, including lower-cost tent camping facilities, on oceanfront land suitable for recreational uses in this area, and will be the only campground between State Parks' Sunset Beach unit in Santa Cruz County (located 26 miles to the north) and the Andrew Molera State Park campground in Big Sur (located 36 miles to the south). The campground and its associated programs and day use facilities will also enhance public access into FODSP, which currently provides only limited facilities and accessibility over its nearly 1,000 acres located seaward of Highway 1.

At the same time, the campground project is not without issues relating to adverse impacts to coastal resources, primarily because almost all of FODSP is sand dunes that are considered environmentally sensitive habitat area (ESHA). To address these concerns, State Parks proposes to site the campground in the portion of the Park that is most occupied by former Army development (namely roads and remnant asphalt areas that were part of former Army activities) and which has undergone lead contamination remediation (i.e., certain areas of the Park have had lead contamination issues from old Army munitions). State Parks estimates that new project sand dune coverage would be about the same as, but slightly less than, the existing coverage that would be removed as part of the project (8.1 acres of new coverage compared to 8.6 currently covered acres that would be restored). Even so, the completed campground and roads would occupy almost 17 acres of the sand dunes, and the project overall would impact some 50 acres of dunes as part of the construction. State Parks proposes to restore areas around the campground (around six acres) and the remainder of the area affected by construction that does not contribute to coverage (27 acres) as part of the project, but does not propose offsetting mitigation for other ESHA impacts. In other words, State Parks proposes to restore 33 acres of the 50 acres of dune that will be disturbed in order to build out the proposed project, but does not propose as part of the project description compensatory mitigation for the remaining 17 acres of dune habitat lost due to permanent coverage of the proposed development.

Fundamentally, although portions of the proposed project might be considered interpretive (e.g., interpretive pathways etc.) and potentially allowable in ESHA, the proposed campground overall is not a resource-dependent use and it is not allowed in ESHA under the Coastal Act. In addition, the campground would occupy 17 acres of dunes once complete, and it would result in indirect impacts to surrounding dune ESHA from increased activity in the area. These ESHA inconsistencies would normally require that the project be denied. However, denial would mean that other Coastal Act objectives related to public recreational access would not be realized, as compelled by the Coastal Act's public access policies. In other words, the project presents a conflict between Coastal Act policies that protect ESHA and those that seek to achieve maximum public recreational access, including lower-cost facilities on oceanfront land suitable for recreational uses. In this type of case, the Coastal Act provides that this conflict be resolved in the way that is, on balance, the most protective of significant coastal resources. Staff believes

that approval in this case would be the most protective of the various resources at issue in this proposed project, provided that inconsistencies are resolved to the maximum extent feasible to maximize the project's public recreational access benefits and to minimize/mitigate for impacts to ESHA and other coastal resources.

State Parks' objectives for the campground and for FODSP overall provide a good starting point baseline for conditions that can address ESHA and public access and other coastal resource issues appropriately. Thus, Commission staff has worked closely with State Parks staff on a mitigation program that will provide for increased dune restoration (adding some 56 acres of dune restoration in critical locations near the campground site to mitigate for the 17 acres of dune acreage lost due to coverage from the proposed development at an approximately 3:1 mitigation ratio) as well as other measures to address ESHA impacts (e.g., minimizing grading, minimizing roads and coverage, managing public access, and providing educational and interpretive signage). The program will also help facilitate maximum public access use and enjoyment of the new facility, including through providing for day use parking to help visitors to get to the day use trails and ultimately the beach, and it will help to avoid other coastal resource impact concerns (e.g., protecting the Highway 1 view). In this way, the campground can be developed to facilitate the public access policies set forth in the Coastal Act, and a large and contiguous restoration can be achieved to provide habitat improvement and connectivity to mitigate the project's inconsistencies with Coastal Act ESHA policies. As such, and on balance, staff believes that the approved project will serve to provide important public recreational improvements as well as dune restoration in a location where both are critically needed.

Thus, staff recommends that the Commission conditionally approve a CDP for the campground project as further discussed in this report. The approval motion and resolution are located on page 5 below.

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APPENDICES

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EXHIBITS

Exhibit 1: Vicinity and Project Location Maps

Exhibit 2: Photographs of Project Site

Exhibit 3: Project Plans

Exhibit 4: Dune Restoration Areas

Exhibit 5: Mitigation, Monitoring, and Reporting Program

Exhibit 6: Restoration, Monitoring, and Reporting Plan

Exhibit 7: Grading Plan Excerpts

CORRESPONDENCE

I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission approve Coastal Development Permit Number 3-14-1613 pursuant to the staff recommendation, and I recommend a yes vote.*

***Resolution to Approve CDP:** The Commission hereby approves Coastal Development Permit Number 3-14-1613 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. **Revised Plans.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit two full size sets of Revised Plans with graphic scale to the Executive Director for review and approval. The Revised Plans shall be substantially in conformance with the plans prepared by the California Department of Parks and Recreation dated July 30, 2014, and dated received in the Coastal Commission's Central Coast District Office on September 12, 2014, but shall be modified to achieve compliance with this condition, including that the Revised Plans shall show the following required changes and clarifications to the project:

- (a) **Road Development Minimized.** All road development providing access to the campgrounds, including the primary travel lanes as well as secondary roads to the south of the tent-site campground loop, shall be the minimum necessary to provide access to the campgrounds, including in terms of road width and length. The existing asphalt pavement that extends between the former military storage bunkers shall be removed where feasible, and any asphalt to remain shall be reduced to a maximum 12-foot width and adjacent areas restored in accordance with the approved Final Dune Restoration Plan (see Special Condition 7).
- (b) **Dune Grading Minimized.** Though the project includes grading and re-contouring of the sand dunes to facilitate construction of the campground and related facilities, all such dune manipulation shall be minimized to the maximum extent feasible.
- (c) **Pathways.** All pathways for pedestrian/ADA use shall be sited and designed to blend into the dune aesthetic (including through use of materials, colorization, non-linear and curvilinear contouring, and surface roughness) to the maximum extent feasible.

The Permittee shall construct, develop, and operate all project components shown on the approved Revised Plans.

2. **Public Access Sign Plan.** PRIOR TO OCCUPANCY OF THE CAMPGROUND, the Permittee shall submit two copies of a Public Access Sign Plan (Sign Plan) to the Executive Director for review and approval, and shall implement the Executive Director-approved plan. The Sign Plan shall identify all signs and any other project elements that will be used to facilitate, manage, and improve public access for both the campground and other related access (e.g., day use of paths, multi-use building, day-use parking spaces, etc.) in Fort Ord Dunes State Park associated with the approved project, including identification of all public education/interpretation features that will be provided on the site (i.e., educational displays, interpretive signage, etc.). Sign details showing the location, materials, design, and text of all public access signs shall be provided. The signs shall be sited and designed so as to provide clear information without significantly impacting public views and site character. At least one interpretive panel/installation that provides interpretation of the site, dunes, erosion and coastal hazards, the Monterey Bay, or other related and/or similar subjects shall be provided at the beach overlook, and appropriate signage (e.g., interpretive panels, main entrance signs, etc.) shall include the California Coastal Trail and California Coastal Commission emblems and recognition of the Coastal Commission's role in providing public access at this location.

- 3. Public Access Use Hours.** All elements of the project open and available for day use to non-campground users (including but not limited to the day use pathway system and the beach accessway) shall be open and available to the general public during at least daylight hours (i.e., from sunrise to one hour after sunset) seven days a week, except that the beach area shall be available to the public 24 hours a day. Limited closures for protection of sensitive habitats may be allowed subject to Executive Director approval and with concurrence from the U.S. Fish and Wildlife Service.
- 4. Campground Tent and RV Sites.** By acceptance of the CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns, that:

 - (a) Campground Fees.** The Fort Ord Dunes State Park campground fees shall be in accordance with the published fee schedule for nearby area State Park units (i.e., in the Central Coast Region).
 - (b) Campground Length of Stay Provisions.** All campground sites (including tent and RV sites) shall be open and available to the general public. Sites shall not be rented to any individual, family, or group for more than seven consecutive days or more than 30 days total per calendar year.
 - (c) Conversion.** The conversion of any of the 50 non-RV camping sites (i.e., the 40 tent camping and 10 hike/bike-in camping sites) to any other use shall be prohibited. Conversion of any of the 45 approved RV sites to tent or cabin use is allowed subject to Executive Director review and approval unless the Executive Director determines that an amendment to this CDP or a separate CDP is legally required.
- 5. Circulation and Access Plan.** PRIOR TO OCCUPANCY OF THE CAMPGROUND, the Permittee shall submit two copies of a Circulation and Access Plan to the Executive Director for review and approval. The intent of the Circulation and Access Plan is to describe how public access to the project site shall be provided and managed, including with respect to campground/RV users, general day-use users, bicycle/pedestrian access, special events and programs, and how these different user groups will be managed so as to ensure both maximum general public access and efficient campground operations. The Circulation and Access Plan shall clearly describe the manner in which both vehicular and non-motorized (bicycle, pedestrian, and wheelchair) access associated with the approved project (both general public day use access and campground-specific access) is to be provided and managed, with the objective of maximizing public access and recreational use of all public access areas associated with the approved project (including, but not limited to, entrance stations, day use parking, educational opportunities, beach access, Monterey Bay Sanctuary Scenic Trail/California Coastal Trail connections, dune paths, interpretive areas and facilities). At least 20 free day-use parking spaces shall be identified in a location that maximizes their utility to users (e.g., at the multi-use building parking lot, at the drumstick parcel, or elsewhere at a location that minimizes any impacts associated with parking there), and appropriate signage and wayfinding shall be provided.
- 6. Public Access Reconstruction/Relocation Required.** In the event that the approved public access amenities (including but not limited to the pathway system, overlook, and beach

stairway) are threatened to a degree that they are in danger of being damaged or destroyed, or are damaged or destroyed by coastal erosion, such amenities shall be reconstructed with due diligence and speed, and with minimum disruption to continued public use (and relocated inland as necessary to provide long-term stability). Prior to reconstruction, the Permittee shall submit two copies of a Reconstruction Plan to the Executive Director for review and approval. If the Executive Director determines that an amendment to this CDP or a separate CDP is legally required, the Permittee shall immediately submit and complete the required application. The Reconstruction Plan shall clearly describe the manner in which such amenities are to be reconstructed (and relocated as applicable), and shall be implemented immediately upon Executive Director approval or approval of the CDP or CDP amendment application, unless such approval, CDP, or CDP amendment identifies a different timeframe for implementation.

- 7. Final Dune Restoration Plan.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit two copies of a Final Dune Restoration Plan to the Executive Director for review and approval. The Final Dune Restoration Plan shall be prepared by a qualified resource specialist approved by the Executive Director; shall be in substantial conformance with the restoration, monitoring and reporting plan (including its appendices) submitted with the application (prepared by Denise Duffy and Associates and dated May 2015 and received in the Central Coast District Office on May 8, 2015) except to the extent as revised by this condition; and shall provide for dune habitat restoration and monitoring of all dune restoration areas (see Exhibit 4), including as necessary to achieve compliance with this condition, including providing for, at a minimum, the following components:

- (a) Restoration Areas, Sequence, and Timing.** The Plan shall include a program and timeline for restoration (with appropriate native dune plants) of at least the following dune habitat areas. Dune restoration activities, including non-native and invasive plant removal and initial site planting of Restoration Areas 1, 2, and 3, and Landscape Area 4 shall begin as soon as possible, and shall be initiated for Restoration Areas 1 and 2 and Landscape Area 4 prior to occupancy of the approved campground. Restoration activities for Restoration Area 3 shall be completed as soon as possible, and all restoration areas and the landscape area shall be restored no later than ten years from the date of the opening of the campground to the public. All other Fort Ord Dunes State Park restoration other than within these areas should be prioritized in a manner that maximizes habitat continuity and minimizes habitat fragmentation. Subsequent restoration efforts should progress in a manner designed to best establish a continuum of habitat throughout the Park. The Restoration and Landscape Areas are described below.

- 1. Restoration Area 1.** Approximately 27 acres of coastal dune habitat surrounding the perimeter of the campground facilities, roads, parking lots, trails, and related development (shown in green on Figure 2 of the May 2015 plan – see Exhibit 4). The Restoration Area 1 plant palette shall include a mix of woody vegetation and herbaceous species that provide habitat value. Restoration Area 1 is a transition zone to the more full-fledged coastal dune scrub restorations in Restoration Areas 2 and 3.
- 2. Restoration Area 2.** Approximately 22 acres of coastal dune habitat in the storage bunker area. The entire dune and bluff area surrounding the former Army storage

- bunkers fronting the tent and RV campground areas, and bounded to the north by the beach access pathway up to the staircase, shall be included in the Plan as Restoration Area 2 (see Exhibit 4). Restoration Area 2 shall undergo complete restoration of the sand dunes and bluffs to self-functioning and thriving habitat for both plant and animal species, including to help enhance habitat continuity and vegetation dispersal, as well as to serve as a habitat corridor.
- 3. Restoration Area 3.** Approximately 34 acres of coastal dune scrub habitat consisting of the area extending as fragments from the bunker portion of the campground east to Beach Range Road (as shown in blue on Figure 2 of the May 2015 plan – see Exhibit 4). Restoration Area 3 includes complete restoration of the sand dunes to self-functioning and thriving dune habitat for both the animal and plant species known to occur at Fort Ord Dunes State Park, including special-status dune plant and animal species.
 - 4. Landscape Area 4.** Approximately six acres of dunes shall be planted with native dune plants in the immediate vicinity of all tent camping and RV parking sites (shown in yellow on Figure 2 of the May 2015 plan – see Exhibit 4). The Landscape Area 4 plant palette shall consist primarily of woody shrub species that can provide some separation and screening of camp sites in a manner that enhances habitat values as well as providing more resistance to foot traffic and continuous disturbance.
- (b) Dune Grading Plans.** Final contours within Restoration Area 1 and Landscape Area 4 shall be designed to replicate natural dune landforms and integrate into the surrounding dunes to the maximum extent feasible. No grading shall be allowed in Restoration Areas 2 or 3.
- (c) Monitoring.** Detailed description of the monitoring methods, a clear rationale for method selection, and the analytical framework intended to be used for assessments shall be provided. Power analyses should inform design of the sampling scheme, in order to ensure that there will be adequate statistical power to detect differences between success criteria and on-the-ground conditions within the restoration areas (or sub-areas).
- (d) Success Criteria.** For each of the four areas (Restoration Areas 1, 2, and 3 and Landscape Area 4), final success criteria based upon either reference sites or literature review shall be provided, and shall include native species cover, non-native species thresholds, species diversity, and specifics for all sensitive species including salvaged specimens. Statistical thresholds shall be established as assessment rules.
- (e) Reporting.** As initial restoration activities (i.e., non-native and invasive plant removal and initial native plantings) are completed through each of the four identified areas above (or as sub-areas approved within the Final Dune Restoration Plan), the Permittee shall submit annual restoration monitoring reports covering each of such areas to the Executive Director for review and approval for at least five years and if necessary, until final success criteria have been achieved. This will allow for the phased restoration to be addressed progressively through the relevant areas rather than all at once for the project in whole. Annual reports shall identify restoration implementation and progress (including a

presentation of monitoring results, assessment of progress toward meeting final success criteria, and any adaptive management recommendations). Raw data and associated metadata shall be provided with the reports. The Permittee shall implement any changes identified in the approved annual restoration monitoring reports.

Following achievement of final success criteria for any given area, reporting for that area may shift to a five-year period until all of Restoration Areas 1, 2, and 3, and Landscape Area 4 have achieved final success criteria. Once all four areas have achieved final success criteria, a cumulative restoration monitoring report prepared by a qualified resource specialist shall summarize the prior annual reports by area (or sub-area), provide a detailed timeline of the overall project's progress and success, and include sufficient detail to demonstrate restoration compliance as well as photos of plant species and plant coverage. The cumulative restoration monitoring report shall certify conformance with completion of the approved Final Dune Restoration Plan, and be submitted for the review and written approval of the Executive Director.

If the certified cumulative report or Commission biologist's inspections indicate that the restoration is not in conformance with or has failed to meet the success criteria specified in the approved Final Dune Restoration Plan, the Permittee shall submit a revised or supplemental restoration plan to the Executive Director for review and approval. The revised or supplemental restoration plan shall be prepared by a qualified specialist approved by the Executive Director, and shall specify measures to remediate those portions of the original approved plan that have failed or have not been implemented in conformance with the original approved plan. These measures, and any subsequent measures necessary to carry out the approved plan, shall be carried out in coordination with the direction of the Executive Director until the approved plans are established to the Executive Director's satisfaction.

- (f) **Dune Restoration Maintained.** All dune restoration activities pursuant to the approved Final Dune Restoration Plan shall be the Permittee's responsibility for as long as any portion of the approved development exists at this site.

8. Pre-Construction Biological Surveys and Monitoring During Construction. The Permittee shall enlist a qualified biologist acceptable to the Executive Director to conduct sensitive species pre-construction surveys and to monitor the project site during all construction activities per the following:

- (a) **Pre-Construction Biological Surveys.** Project areas to be developed and out to 100 feet surrounding shall be surveyed to determine the presence and behavior of any sensitive species prior to commencement of any construction activities. In the event that the biologist reports finding any sensitive wildlife (within 30 days or less of intended construction) or plant species (within the preceding bloom season, in order to salvage seeds for restoration) during the pre-construction surveys, the Permittee shall delay work, implement any pre-approved mitigation measures, and promptly notify the Executive Director as well as CDFW and USFWS. Project activities may commence upon approval from the Executive Director, following consultation with CDFW and USFWS.

(b) Biological Monitoring During Construction. Prior to commencement of construction each day, the biologist shall inspect the active project areas to ensure that the day's activities will not result in impacts to sensitive species. Construction activities may not occur until any sensitive wildlife species have left the project area and its vicinity and/or any sensitive plant species have been sufficiently protected or salvaged in accordance with the approved Final Dune Restoration Plan. In the event that the biologist determines that any sensitive species exhibit reproductive or nesting behavior, the Permittee shall cease work and promptly notify the Executive Director as well as CDFW and USFWS; construction activities may resume upon approval from the Executive Director. If impacts or injury occur to sensitive species, the Permittee shall promptly notify the Executive Director as well as CDFW and USFWS, and will be advised of the appropriate action or mitigation to be taken. The biologist shall document the results of each daily pre-construction survey and the Permittee shall retain and make these available upon request.

9. Fencing. PRIOR TO OCCUPANCY OF THE CAMPGROUND, the Permittee shall submit two copies of a Fencing Plan to the Executive Director for review and approval, and shall implement the Executive Director-approved plan. All proposed site fencing shall be the minimum amount of fencing necessary to meet project objectives (including in terms of sensitive habitat protection, wayfinding and public access, etc.), and where such fencing is sited and designed to be compatible with the dune landscape (e.g., rough-hewn wooden split rail, low rope and pole barriers for restoration areas as needed), to facilitate wildlife passage, and to minimize public view impacts to the maximum extent feasible. 'No-Climb' fencing of any kind shall be prohibited unless specifically required by the U.S. Fish and Wildlife Service in accordance with an approved Habitat Conservation Plan. Minor adjustments to the fencing parameters (i.e., types and configurations) may be authorized by the Executive Director to allow for adaptation in response to habitat changes and/or campground use patterns. All changes are subject to Executive Director review and approval unless the Executive Director determines that an amendment to this CDP or a separate CDP is legally required.

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

(a) Coastal Hazards. That the site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, sea level rise, tsunamis, tidal scour, coastal flooding, liquefaction and the interaction of same;

(b) Assume Risks. To assume the risks to the Permittee and the property that is the subject of this CDP of injury and damage from such coastal hazards in connection with this permitted development;

(c) Waive Liability. To unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such coastal hazards;

(d) Indemnification. To indemnify and hold harmless the Coastal Commission, its officers, agents, and employees with respect to the Commission's approval of the development

against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such coastal hazards; and

- (e) **Property Owner Responsible.** That any adverse effects to property caused by the permitted development shall be fully the responsibility of the property owner.

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

- (a) **Permit Intent.** The intent of this CDP is to allow for the approved development to be constructed and used consistent with the terms and conditions of this CDP for only as long as it remains safe for occupancy and use without additional measures beyond ordinary repair and/or maintenance to protect it from coastal hazards (see also Special Condition 10 above).
- (b) **Shoreline Protective Devices Prohibited.** No future shoreline protective devices (including, but not limited to, seawalls, revetments, retaining walls, elevation of structures, groins, etc.) shall ever be constructed to protect the development approved pursuant to this CDP (including, but not limited to, the campgrounds and their associated facilities, restrooms, roads, parking areas, campfire center, public access trails, beach stairway, overlook decks, former storage bunkers, etc.), including in the event that the development is threatened with damage or destruction from such coastal hazards in the future, including as may be exacerbated by sea level rise.
- (c) **Section 30235 Waiver.** By acceptance of this CDP, the Permittee hereby waives, on behalf of itself and all successors and assigns, any rights to construct such shoreline protective devices that may exist under Public Resources Code Section 30235.
- (d) **Development Removal.** The Permittee shall remove the development authorized by the CDP (including, but not limited to, the campgrounds and their associated facilities, restrooms, roads, parking areas, campfire center, public access trails, beach stairway, overlook decks, existing former storage bunkers, etc.) if any government agency has ordered that the structures are not to be occupied due to any of the coastal hazards identified above, or if any portion of the development has fallen onto or encroaches on the public beach or the public trust, or if any public agency requires the structures to be removed to protect public safety, whichever occurs first.
- (e) **Removal and Relocation Plan.** Prior to removal or relocation of any approved development, the Permittee shall submit two copies of a Removal and Relocation Plan to the Executive Director for review and approval. The Removal and Relocation Plan shall clearly describe the manner in which such development is to be removed and/or relocated, and the location of any relocated development. With respect to the former storage bunkers, the Removal and Relocation Plan shall require and, to any extent required by law, be subject to State Historic Preservation Officer consultation requirements. All areas (i.e., the beach, dunes, and bluffs) where development has been removed shall be restored with appropriate native plant species. In the event that portions

or all of any approved or existing (i.e., military storage bunkers) development thereof, fall to the beach or onto the bluff or the bluff face before they are removed and/or relocated, the Permittee shall remove all recoverable debris and lawfully dispose of the material in an approved disposal site. Any removal or relocation contemplated under the Plan shall require an amendment to this CDP except that the Executive Director may waive the requirement for a CDP amendment if it is determined that an amendment is not necessary.

12. Minor Changes. The Permittee shall undertake development in conformance with the terms and conditions of this CDP, including with respect to all Executive Director-approved plans and other materials, which shall also be enforceable components of this CDP. Any proposed project changes shall require a CDP amendment or, if the Executive Director determines that no amendment is legally required for such project changes, such changes may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

IV. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION AND DESCRIPTION

Situated seaward of Highway 1 between the cities of Marina and Sand City, the project site is located within Fort Ord Dunes State Park (FODSP), which occupies a portion of the former Fort Ord military base. The former Fort Ord military base was comprised of approximately 27,830 acres of land historically used by the U.S. Army for military training, storage of munitions in bunkers, and open space. The military base was closed in 1994 and the land was divided and transferred to adjacent local jurisdictions (e.g., the cities of Marina and Seaside, unincorporated Monterey County, the California State University system, and the California Department of Parks and Recreation). The project site is located in the coastal zone on the seaward side of Highway 1 within FODSP in the unincorporated area of Monterey County. A roughly mile-long section of the Monterey Bay Sanctuary Scenic Trail, which is a segment of the California Coastal Trail, is present at the project site.

FODSP includes approximately 990 acres of parkland characterized mainly by sand dunes and native and non-native dune vegetation, and includes four miles of shoreline and beach. The project site's boundaries comprise roughly 130 acres of the 990-acre Park, although the proposed Park improvements, which include campsites, buildings, roads, and related infrastructure, cover roughly 17 acres of this 130-acre area. Grading for the campground facilities will impact roughly 50 acres of dunes, of which 33 acres will be restored with native dune plantings after construction in accordance with an approved campground restoration, monitoring, and reporting plan. The remaining 17 acres will be developed with the proposed Park improvements.

The project site is surrounded primarily by undeveloped coastal sand dune formations within FODSP but also includes remnants of former military uses, including the former Fort Ord ammunition storage area, existing railroad loading docks, and other military structures. Much of the area within the project site's boundaries (i.e. more than 90 acres) consists of disturbed dune

habitat where native vegetation has been mostly replaced by ice plant that was brought in by the Army to stabilize the highly erodible dunes. These ice plant mats are most notable in the vicinity of the proposed campground spurs and storage bunkers. Other invasive species, such as non-native grasses, are also present. There is also evidence of dune degradation due to previous extensive human use and dune manipulation; however, the site nevertheless remains an important and productive component of the Monterey Bay dune system.

The project consists of the construction and operation of a campground facility and associated infrastructure within FODSP, as well as the restoration of surrounding native dune habitat. The project also includes shoreline access improvements and redesign/re-siting of a portion of the Monterey Bay Sanctuary Scenic Trail bike and pedestrian path. Specifically, the project includes:

- 45 full hook-up RV sites, including two host sites
- 43 traditional tent sites;
- 10 hike-in/bike-in sites;
- Two campground host sites with wood storage structures;
- New campground entrance road;
- Paved parking for 40 vehicles;
- Unpaved parking for an additional 40 vehicles;
- Four combination restroom/shower buildings with outside rinse station;
- An 1,800-square-foot multi-use building;
- Outdoor facilities (campfire center, interpretation areas, and two viewpoints/overlooks);
- RV dump station and turn-around;
- Service utilities (e.g., water, wastewater, electrical, lighting, etc.);
- Renovation of two existing ammunition bunkers for interpretive purposes and storage;
- Construction of an historic ammunition bunker interpretive walk;
- Construction of an approximately 525-square-foot entrance station;
- Approximately 50 acres of grading;
- Three modular operations-and-security structures (each approximately 1,400 square feet);
- Storage yard and maintenance shop (including office, restroom, 996 square foot support structure);
- New beach access trail with stairway access to the beach;
- Realigning of a portion of the Monterey Bay Sanctuary Scenic Trail;
- Native dune restoration, interpretive signing, and symbolic fencing;

See **Exhibit 1** for project vicinity and location maps; **Exhibit 2** for photographs of the project site; and **Exhibit 3** for project plans.

B. ARMY BASE REUSE BACKGROUND

Fort Ord was established by the War Department in 1917 as a military post, and was utilized by the U.S. Army as such until it was designated for closure in 1991 pursuant to the Defense Base

Closure and Realignment Act of 1990. In 1994, the State Legislature established the Fort Ord Reuse Authority (FORA) to oversee the civilian reuse and redevelopment of Fort Ord. FORA is charged with implementing the adopted 1997 Base Reuse Plan, and is comprised of members from neighboring cities, Monterey County, special districts, and state and federal legislatures. The Base Reuse Plan identified all areas of Fort Ord within the coastal zone for transfer to the California Department of Parks and Recreation (State Parks), and in July 1992, State Parks applied to the Department of the Interior (National Park Service)¹ for the conveyance of coastal Fort Ord property for parks and recreation purposes. The application was approved in 1994, and in January 1995, Fort Ord Dunes State Park was named and classified by the State Park and Recreation Commission. At that time, FODSP was added to the Monterey Bay State Seashore, which was established in 1994 by the State Legislature, and is composed of 13 state park units between Natural Bridges in Santa Cruz and Point Joe in Pebble Beach, which encompass 23 miles of shoreline and over 2,500 acres. FODSP will be the largest component of this State Seashore.

In April 1997, the U.S. Army Corps of Engineers prepared an Installation-Wide Multi-Species Habitat Management Plan (HMP) as a mitigation measure for the impacts on vegetation and wildlife resources resulting from pre-disposal, disposal, and reuse actions, such as hazardous materials remediation, at Fort Ord. The Army and U.S. Fish and Wildlife Service (USFWS) signed the HMP in April 1997, and in 2000, FORA prepared a supplement to the HMP to enable it to qualify as a Habitat Conservation Plan (HCP) in compliance with the federal Endangered Species Act. The Draft HCP supplement together with the HMP will serve as a programmatic HCP and a Natural Communities Conservation Plan (NCCP) to address a group of actions at the former Fort Ord military reservation as a whole, rather than require individual HCPs for each non-federal entity. The Draft HCP and NCCP will support the issuance of take authorizations from the California Department of Fish and Wildlife (CDFW) under Section 2835 of the California Fish and Game Code, and from the USFWS under Section 10(a)(2)(B) of the federal Endangered Species Act. As such, the Draft HCP and NCCP will allow for incidental take of listed species and provide assurances to local jurisdictions that no further mitigation for impacts to those species or their habitats would be required except as provided in applicable federal and state laws and regulations. FODSP will be included in the base-wide incidental take authorization under the HCP.

In 1996, State Parks began the process of preparing a General Plan for FODSP, and in 2004, the FODSP General Plan and EIR were approved by the State Park and Recreation Commission. The General Plan is a program-level document that is intended to guide future development in a manner that conforms to all other applicable plans and regulations, including the HCP, the Coastal Act, the Monterey County General Plan, and the National Marine Sanctuary Act. Specific development proposals contemplated by the plan will be subject to subsequent project-specific environmental analysis and permit reviews.

¹ The National Park Service is the agency responsible for transfer of surplus Federal real property for public park and recreational use, or for use of historic real property, under the Authorization of the Federal Property and Administrative Services Act of 1949, Section 203(k), 63 Stat. 385 as amended, 40 U.S.C. 484, Public Law 91-485; Federal Lands for Parks and Recreation, 16 U.S.C. 4601-5.

On September 29, 2006, the Department of the Army assigned the property to the Department of the Interior, and on December 11, 2006, the Department of the Interior requested that State Parks take constructive (actual) possession of the property. With this action, State Parks assumed all obligations and liabilities of ownership, as well as responsibility for the care and handling of, and all risks of loss or damage to, the property.

The various plans, determinations, and governing documents applicable to the project site are discussed in greater detail below.

Consistency Determination CD 16-94

In 1994, the U.S. Army submitted a consistency determination (CD-16-94) to the Commission for the disposal and reuse of the former Fort Ord military base for proposed uses including a desalination facility, an aquaculture/marine research facility, a through road from Marina to Seaside, a multi-use Asilomar-type conference facility, and a golf course. At the time, Commission staff expressed concern regarding the impacts on coastal zone resources from reuse of the roughly 28,000 acres, including with regard to public access, traffic, water supply, environmentally sensitive habitat protection, agricultural resources, and visual impacts. Responding to Commission staff concerns, the Army agreed to transfer the entire portion of the base located within the coastal zone (i.e. 990 acres) to State Parks. The Army also agreed to remediate² the firing ranges within the coastal zone, and to sign the multispecies HMP developed in conjunction with the USFWS. These measures ensured the protection of public access and recreation by committing the reuse of all 990 acres of coastal lands for a state park, which was also required to be managed consistent with natural resource protections. Sensitive habitats were likewise protected by the development of an HMP directed towards mitigating impacts to all affected species by designating and preserving selected key areas of habitat. The remaining concerns regarding traffic, water supply, visuals resources, and other coastal resources, were addressed to various degrees by commitments of the Fort Ord Reuse Authority (including representatives of seven involved local governments), and also by the Commission's continuing regulatory authority to assert federal consistency review over certain activities affecting coastal zone resources.³

In particular, and as it directly relates to Fort Ord Dunes State Park, in preparation for conveyance to State Parks in 1994, more than half of the Park was preliminarily designated by State Parks in its application for the transfer of land west of Highway 1 as a "disturbed habitat zone (DHZ)," including the portion of the Park within which the campground would be situated. The DHZ includes areas where the original topography has undergone significant modification and includes evidence of former military development such as roads, storage and ammunition bunkers, firing ranges, and related facilities. Consistent with the findings on the Commission's concurrence of the Army's consistency determination for the land disposal (i.e., CD-16-94), it

² By removing unsafe ordinance and deteriorating structures.

³ The Army included in its consistency determination a letter from the FORA in which representatives from local jurisdictions committed to mitigation measures to protect coastal zone resources from the impacts of intensification of development on Fort Ord with respect to water supply, traffic impacts, and public views. The FORA group committed to further planning and tailoring development intensities to available traffic and water supply capacities, and screening inland development from Highway 1 with landscaping.

was anticipated that areas designated as DHZ could be used for the development of both day use and overnight visitor-serving facilities such as “family, group, and hike-in/bike-in campgrounds, a hostel, and a campground center for interpretive programs.” Additionally, public access was envisioned via the use of existing roads and/or construction of new hiking trails. Though not part of the Army’s consistency determination, in its staff report on CD-16-94 the Commission expressly opposed certain tentatively proposed uses, including a desalination facility, an aquaculture/marine research facility, a through road from Marina to Seaside, a multi-use Asilomar-type conference facility, and a golf course. The Commission rejected all of these uses as being incompatible with the goals of expanding public access and recreation while protecting and maintaining sensitive coastal resources for this coastal property.

Fort Ord Reuse Authority – Base Reuse Plan

After closure of the Fort Ord military base in 1994, the FORA adopted a Base Reuse Plan (BRP) and associated Environmental Impact Report (1997), which assigned land use designations, goals, policies, and objectives related to reuse of the former military base. The BRP designated the FODSP area as open space with anticipated recreational day use, overnight camping, and related uses. Although State Parks is not obligated to adhere to the specific land use designations of the BRP, the BRP does recognize future recreational reuse of the Park and provides the context and support for a future campground at FODSP.

1996 Preliminary General Plan

In 1996, State Parks prepared a preliminary General Plan that identified a range of potential uses for the site that included 805 acres of open space managed primarily for habitat restoration, 60 acres for visitor-serving uses, and 23 acres for public facilities. The preliminary General Plan included extensive concession opportunities, a 300-site campground, an 80-room lodge, and a restaurant. State Parks subsequently reduced development intensities in response to comments received about impacts to biological resources, traffic and circulation, and potential impacts to adjacent communities associated with the scale of proposed recreational use. A new General Plan was prepared in 2004 (see discussion below) that substantially reduced the intensity of recreational use at FODSP, and this new General Plan was adopted by the State Parks Commission in 2004.

Installation-Wide Multi-Species Habitat Management Plan

The closure, disposal, and reuse of the former Fort Ord military base required consultation between the U.S. Army and the USFWS because these activities had the potential to affect several federally-listed plant and/or animal species that inhabit the Park. Through the consultation process, the U.S. Army developed an Installation-Wide Multi-Species Habitat Management Plan (HMP) that assigned the types of activities that could occur within the former Fort Ord with the intent to promote preservation and restoration of habitat and populations of special status species while allowing development on select parcels. State Parks relied on the HMP for direction when developing the General Plan for the Park.

The HMP establishes guidelines for conservation and management of species and habitats by identifying lands that are available for development, lands that have some restrictions on development, and habitat reserve areas. As part of the transfer of property to land recipients, HMP requirements applicable to specific parcels were incorporated via deed restrictions that

limit the extent of developable portions of specific parcels, as well as identify applicable habitat management and restoration requirements that must be implemented by each recipient.

As it applies to FODSP, the HMP identified two zones and four parcels within the parkland west of Highway 1, including a Coastal Dune Zone (CDZ, parcel S3.1.2) and a Disturbed Habitat Zone (DHZ, parcels S3.1.1 and S3.1.3), and one “development” parcel (parcel S3.1.4).⁴ The proposed campground project is located within both the DHZ and the “development” parcels. To accommodate State Parks’ future plans, the DHZ parcels were designated for development with reserve areas and restrictions, and the “development parcel” was designated for unrestricted development. The HMP identifies management requirements and development restrictions within the DHZ parcels and no management requirements for the “development” parcel.

The CDZ is composed of areas where the original dune topography is generally intact, though much of it dominated by non-native vegetation and iceplant. The CDZ provides habitat for rare and endangered species and would be used primarily for preservation of restored coastal dunes, though public beach access and interpretive/educational opportunities are also supported for this HMP designation. The proposed FODSP campground project includes an ADA-accessible beach access trail and interpretive walk connecting the campground to the beach.

The HMP was approved by the USFWS and requires State Parks to restore a minimum of 700 acres of dune habitat in FODSP to its native condition to enhance habitat values for sensitive species. Restoration activities are targeted to improving conditions for western snowy plover, Smith’s blue butterfly, Monterey spineflower, and sand gilia. Specifically, the HMP requires that all disturbed and degraded lands within the DHZ and CDZ that are not developed with recreation, access, or support facilities to be maintained as open space and restored to native habitat.

2004 FODSP General Plan

The FODSP General Plan was prepared in 2004 prior to “opening up” the Park for day use to the public. The General Plan identified and divided the Park into different land use zones based primarily on existing resource conditions and specific management goals/objectives.⁵ The General Plan contains specific management guidelines to address each zone’s unique site characteristics. The proposed campground is located primarily in the Storage Bunker Management Zone (SBMZ) but portions of the project are also located in the Parks Support/Administrative Zone and First Street Zone. The SBMZ consists of approximately 80 acres that include the former ammunition bunkers, former firing ranges, and access roads. The campground was proposed in the SBMZ because of the absence of hazardous materials (i.e., spent ordinance, which has been remediated at this location) and because the area was already

⁴ FODSP originally also included an 11-acre parcel east of Highway 1, but this parcel was subsequently transferred to the City of Seaside. The 11-acre parcel is approved for new commercial development in connection with the City’s Main Gate proposal, which includes a requirement to provide public parking for FODSP purposes.

⁵ The FODSP General Plan management zone designations have different names but contain similar functions to the management zone designations of the Installation-Wide Multi-Species Habitat Management Plan. For example the General Plan Natural Resource Zone limits uses to habitat protection / restoration, passive recreation (i.e., hiking trails), and nature study. Similarly, the Coastal Dune Zone classification in the Installation-Wide Habitat Management Plan is reserved for preservation of restored dunes, hiking trails, beach access, and public education.

considered developed/disturbed. The presence of existing development minimizes the potential for new habitat disturbance, thus making the area more suitable for development. The General Plan identifies future uses and facilities within the SBMZ including a variety of visitor-serving and public facilities, such as 50 to 110 group-and-family campsites, day use beach access, adaptive reuse of the bunkers, paved and unpaved trails, restrooms, and other support uses within this area.

The entrance station, the operations-and-security modular structures, and other elements of the project fall into other management zone designations that allow for more limited development opportunities (i.e., Parks Support/Administrative Zone and First Street Zone).

The State Parks Commission adopted the General Plan and certified a programmatic Environmental Impact Report (EIR) in 2004, which evaluated the potential environmental effects associated with the future use of FODSP as a recreational facility (e.g., campground facilities, beach access, interpretive elements, etc.). The EIR concluded that the implementation of the FODSP General Plan would not result in any significant unavoidable impacts, and all effects were less than significant with mitigation. Commission staff reviewed the EIR and made recommendations, including that comments submitted by the USFWS on the draft habitat conservation plan (HCP) (see discussion below) being prepared for the reuse of the former military base be incorporated into the FODSP General Plan.

Habitat Conservation Plan (HCP)

The Installation-Wide Multi-Species HMP does not provide specific authorization for incidental take of federally or state listed species to existing or future non-federal land recipients under the federal Endangered Species Act or California Endangered Species Act. As a result, the FORA and its partner agencies, including State Parks, are currently in the process of obtaining Incidental Take Permits from the USFWS and CDFW, which will provide coverage for the take of federal and state listed wildlife and plant species to all non-federal entities that received land that previously was part of the former Fort Ord. The process involves the preparation of an HCP for potentially impacted species.

The USFWS has undertaken a detailed review of the draft HCP and has recommended clarifications needed to assure that: development is phased with habitat restoration, adequate funding for the HCP is provided, appropriate monitoring standards are incorporated, incidental take is minimized and fully mitigated, and additional information on the biology and habitat needs of covered species are included so that the link between habitat needs, management techniques and success criteria are clearly understood. The draft HCP is currently under ongoing review by the USFWS.

C. PRIOR COMMISSION ACTIONS

Since 1994 and the Commission's concurrence with the federal Consistency Determination on the disposal and reuse of the former Fort Ord land (CD-16-94), the Commission has conducted a federal consistency review regarding the Army's demolition of Stilwell Hall and removal of the adjacent riprap revetment (CD-15-02), and issued a waiver of permit requirements to the Fort Ord Reuse Authority for the removal of four failing storm drain outfall structures and the

creation of temporary stormwater detention basins within the coastal dunes adjacent to Stilwell Hall.^{6,7} Also in March of 2007, the Commission approved CDP application 3-06-069 (submitted by State Parks), which provided for initial public use of Fort Ord Dunes State Park, including pedestrian and vehicular access during daylight hours at the north end of the Park (i.e., 8th Street).

D. STANDARD OF REVIEW

Coastal development permit jurisdiction for lands above the ambulatory mean high tide line was granted to Monterey County in 1988 following certification of the Monterey County Local Coastal Program (LCP). The Commission, however, retains jurisdiction below the ambulatory mean high tide elevation, in public trust lands, and areas of deferred certification. The portion of the Fort Ord military installation within the coastal zone was not included in the Monterey County certified LCP because at the time of LCP certification, this area was under federal ownership (and was thus subject to federal consistency determinations for proposed projects, as opposed to coastal development permitting requirements). Because the area of Fort Ord within the coastal zone has been transferred to the State and is no longer under federal ownership, it is now subject to coastal development permit requirements of the Coastal Act. The Coastal Commission will retain permit jurisdiction over this area until such time that the Monterey County LCP is amended to include policies and standards that pertain to the Park. The standard of review for new development in the Commission's original jurisdiction area is the Coastal Act.

E. ENVIRONMENTALLY SENSITIVE HABITAT AREAS

Applicable Policies

The Coastal Act is very protective of habitat areas, including those areas considered environmentally sensitive habitat areas (ESHAs). Coastal Act Section 30250 generally protects coastal resources, stating:

30250. (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources....

(c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

In addition to the general protection of habitat as a coastal resource, the Coastal Act also calls out

⁶ Redevelopment of inland portions of the former Army base will be required to provide on-site stormwater percolation, and thereby allow use of the dunes for such purposes to be phased out.

⁷ Both the former Stilwell Hall and the storm drain outfall structures were located on a different portion of the 990-acre FODSP property than the proposed campground.

rare and especially valuable species and habitat areas as ESHA, ensuring them additional protections. ESHA is defined by the Act as:

Section 30107.5. “Environmentally sensitive area” means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Coastal Act Section 30240 specifies:

Section 30240. (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Thus, the Coastal Act is clear that when a habitat area rises to the level of ESHA, only very limited development is permissible, namely uses and development that are dependent on the ESHA resource itself. Such activities are typically restoration-related, and in some cases interpretive, but have not been considered by the Commission to extend to uses and development that function to remove the resource (e.g., logging an ESHA forest). When a resource-dependent use is allowed in ESHA, it still must avoid significantly disrupting habitat values. Areas adjacent to ESHA shall serve as buffers and avoid significant degradation of the adjacent sensitive resources, and must be compatible with the ongoing health and vitality of the resources in question. In short, the Coastal Act provides a very specific set of rules for ESHA that strictly limit development in and around such resources.

Overview

The Monterey dune complex

Fort Ord Dunes State Park is located along four miles of shoreline seaward of Highway 1 in north Monterey County and includes 990 acres of parkland, and consists of coastal sand dunes fronting the beach. These Flandrian-era (i.e., recent) dunes are part of the larger Monterey dune complex that runs continuously along a roughly 11-mile stretch of coastline between the Salinas River and the northern part of the City of Monterey, extending from four to six miles inland, and constituting a total area of approximately 40 square miles.⁸ The project site is located near the shoreline and is generally in the middle of the Park, in the area where the Park is widest between Highway 1 and the ocean (see **Exhibit 3** for project plans).

As noted previously, the proposed project site is comprised primarily of undeveloped coastal sand dunes but also includes remnants of former military uses (e.g., the former Fort Ord ammunition bunkers and both existing and abandoned roads and remnant asphalt areas). Coastal sand dunes are a limited natural resource of statewide significance, and the Commission has

⁸ Cooper WS. 1967. Coastal Dunes of California. The Geological Society of America, Memoir 104. 147pp.

historically placed a high priority on the protection and preservation of such dune systems for their role in providing habitat for unique assemblages of flora and fauna, which have adapted to the particularly harsh and dynamic conditions found in this environment

Remediation and restoration across the Park

State Parks, in conjunction with the U.S. Army and others, has implemented a number of enhancement projects within FODSP, including within the boundaries of the proposed project site, to both remediate the site's legacy military use as well as to restore its sensitive ecology. Efforts have generally aimed to remove impervious pavement, buildings, and other structures associated with the former military use and, to-date, have included the removal of 70 military-era structures, 5.5 acres of impervious surfaces, and the restoration of over 200 acres of dune habitat. The Army has also undertaken significant site remediation efforts to clean up and remove spent ordnance, lead, and other contaminants and remnants from past military activities. Additionally, State Parks, in coordination with USFWS, developed a Habitat Management Plan (HMP) as a mitigation measure for the impacts on protected vegetation and wildlife resources resulting from pre-disposal, disposal, and reuse actions at Fort Ord. The intent of the HMP was to establish large, contiguous habitat restoration areas and corridors to compensate for future development (such as that proposed in this application). The HMP anticipated losses to special status species resulting from redevelopment activities at FODSP, and though the HMP prescribes specific standards to assure the long-term viability of FODSP's biological resources, it does not provide specific authorization for the incidental take of federal or state-listed species. Thus, since 2000, the Fort Ord Reuse Authority (of which State Parks was member) prepared a supplement to the HMP to enable it to qualify as a Habitat Conservation Plan (HCP) in support of an incidental take permit in compliance with the federal Endangered Species Act. Example plant and animal species that would be covered under the HCP include the federally-endangered Smith's blue butterfly (*Euphilotes enoptes smithi*), beach layia (*Layia carnosa*), Menzie's wallflower (*Erysimum menziesii*), sand gilia (*Gilia tenuiflora* ssp. *arenaria*), the federally-threatened Western snowy plover (*Charadrius alexandrinus nivosus*), Monterey spineflower (*Chorizanthe pungens* var. *pungens*), and California black legless lizard (*Anniella pulchra nigra*).

As required by conditions of the HMP and as-drafted HCP, State Parks implemented a large-scale native dune restoration project and non-native plant control project in areas of FODSP where lead remediation had taken place. These areas were re-contoured to create more natural dune forms and revegetate with native plants (primarily Monterey spineflower, sand gilia, coast wallflower, seacliff buckwheat, and coast buckwheat). Over 200 acres at FODSP have been restored to date, with the ultimate goal of at least 700 acres of restored coastal dune habitat as set forth in the HMP and draft HCP. As indicated in the FODSP General Plan, restoration on State Parks' lands is designed to partially mitigate for impacts to some species (e.g., Monterey spineflower, seacliff buckwheat, etc.) that will occur due to development elsewhere on the former Fort Ord military base. Ongoing dune restoration activities in FODSP as outlined in the HMP/HCP will re-establish a natural dune system and provide for a continuum of native dune habitat.

With respect to Western snowy plover, black legless lizard, Smith's blue butterfly, and other listed species known to occur at FODSP, the draft HCP includes management and protection provisions to ensure that no take of these species occurs as a result of expanding public recreational use of the park and beaches. In essence, the requirements of the draft HCP fall into a

few general categories: protocol-level surveys performed prior to grading and site disturbing activities; species salvage and relocation in accordance with protocols developed by the appropriate managing agency (i.e., USFWS, CDFW, etc.); construction monitoring; restoration and habitat enhancement; control of invasive species and predators. In addition, perhaps the top priority is to ensure there is adequate funding to implement the draft HCP's management and protection provisions. State Parks has requested an augmented budget for that specific purpose. Thus, FODSP will be governed by a comprehensive HCP under the watchful eye of the USFWS, with specific requirements on how to manage the park and restore over 700 acres of dune habitat.

Existing conditions in the project area

In terms of structural development in the project area, there are 1.6 miles of road that would be repurposed for use in the proposed project. There are also areas that were previously paved as part of former Army activities long since abandoned. These remnant asphalt areas are prominent in the proposed campground area itself, including relatively intact roads near the storage bunkers in the foredune area. At the same time, it is clear that the dunes are inclined to reclaim these remnant asphalt areas, and in some cases have covered them. Per State Parks, existing coverage associated with roads and asphalt areas totals 17.3 acres within the project site's 130-acre boundary. Of that existing coverage, State Parks indicates it would reuse almost 8.7 acres of road and asphalt area as part of the project, and would restore the other 8.6 acres to sand dune). In addition, the proposed project includes some 8.1 acres of new coverage. In short, State Parks estimates existing coverage at 17.3 acres and proposed coverage at 16.8 acres (i.e., 8.7 acres reused and 8.1 acres of new coverage), or a slight reduction in coverage, roughly 0.5 acre, at project completion.

At and extending out from the proposed main campground location, currently more than 90 acres within the project site's boundaries consist of disturbed dune habitat where native vegetation has been mostly replaced by iceplant that was brought in by the Army to stabilize the dunes back in the 1940s (see **Exhibit 2** for site photos). These iceplant mats are most notable in the vicinity of the proposed campground spurs and storage bunkers, in and around the remnant asphalt. Other invasive species, such as non-native grasses, are also present. In addition, there is evidence of dune degradation due to previous activities associated with former Army use (e.g., areas graded to construct buildings, firing ranges, and other military facilities).

While the proposed project site no longer represents pristine dune habitat, there is evidence even in the absence of prescribed restoration that the natural systems are resilient enough to potentially support recovery. Given that former military structures within the project area have been removed following the base's closure in 1994, patches of bare dune substrate have been made available for native vegetation to recruit and, in some cases, successfully establish and even persist among the remaining pavement and iceplant. The remaining structural development at the project site includes both useable (e.g., existing roads) and abandoned features (e.g., areas of remnant asphalt), which can be repurposed where suitable to limit the extent of any new impacts or otherwise be removed to facilitate restoration of important dune habitats. Thus, despite the largely disturbed and degraded condition of the dunes at present, the site remains a valuable component of the larger Monterey dune complex that can serve to connect ecological resources along the coastal axis as well as to inland areas.

Past planning efforts

In 1991 the former Fort Ord military base was designated for closure and in 1994, the U.S. Army agreed to transfer the entire portion of the former Fort Ord military base located within the coastal zone (i.e., the 990 acres west of Highway 1) to State Parks. As a condition of the transfer, the Army agreed to remediate several large segments of the base within the coastal zone that had exhibited high levels of lead contamination, the byproduct of years of use as an Army training and firing range. Upon acquiring the land, State Parks set out to characterize the Park and to prepare a preliminary General Plan for the eventual reuse of the lands for public access and recreational purposes. When the preliminary document was completed in 1996, more than half of the Park had been designated as a “disturbed habitat zone (DHZ),” where the native dune topography had been significantly modified (i.e., to support development of roads, storage and ammunition bunkers, firing ranges, and related military facilities). The preliminary General Plan also identified the proposed project area for future recreational use as a campground, chosen due to an absence of hazardous materials (i.e., lead from munitions) and recognition as having previously been developed/disturbed. State Parks identified the existing vegetation at the proposed project area as being a combination of coastal dune habitat that was dominated by invasive species.

In the Commission’s concurrence with the Army’s consistency determination for the land disposal and transfer to State Parks (CD-16-94), it was anticipated that areas designated as DHZ could be used for the development of day use as well as overnight visitor-serving facilities such as family, group, and hike-in/bike-in campgrounds, a hostel, and a campground center for interpretive programs. Despite concerns regarding potential development in dune habitats, the Commission concluded in 1994 that reuse of these lands for camping and public day use in this particular location would not necessarily result in a significant adverse impact. At the same time, the Commission did not specifically approve a campground so much as it provided a conceptual approval that a campground appeared to be appropriate, and that such a project would need to go through its own project-specific application process, thus this CDP application.

ESHA Determination

Determinations of habitat and species rarity are made by CDFW, USFWS, and other expert groups (e.g., California Native Plant Society). The Coastal Commission is tasked with protecting ESHA based in-part upon these determinations. The California Natural Diversity Database is a state depository of lists of rare plant and animal species, and rare natural communities (e.g., habitats, vegetation communities), generated by an array of regional, state, national and international sources, that are vetted, maintained and continually updated by the Biogeographic Branch of CDFW. The Commission has a subscription to the Database and Commission staff routinely use this resource to determine the rarity status of habitats and species that have been identified or may be likely to occur on potential project sites.

Rare habitats

Three dune-related habitat types occur within the proposed project area: central foredunes (G1 S1.2), central dune scrub (G2 S2.2), and central maritime chaparral (G2 S2.2).⁹ Though this

⁹ Global and State level-1 communities or species are identified as “critically imperiled - at very high risk of extinction due to extreme rarity (often 5 or fewer populations), very steep declines, or other factors.” Global and State level-2 communities and species are identified as “imperiled – At high risk of extinction due to very restricted

somewhat differs from classifications used in State Park’s preliminary General Plan, it represents CDFW updates to classifications and rarity rankings. Previously, the dune habitat zone at FODSP was identified as inclusive of northern foredunes, central dune scrub, and central maritime chaparral. Since that time, central foredunes have been recognized as distinct from northern and southern foredune vegetation communities, and are represented by a dominance of endemic and circumarctic forb species.¹⁰ Of the three regional foredune communities in California, central foredunes are the rarest. In the southern Monterey Bay region, common species associated with foredunes include hummock-forming yellow sand verbena (*Abronia latifolia*) as well as beach bur (*Ambrosia chamissonis*) and beach sagewort (*Artemisia pycnocephala*), which can be observed in areas nearest the bluffs, blowout, and towards the proposed beach trail where iceplant has not overtaken available surfaces. Intergrading with the foredune habitat, central dune scrub represents a more diverse vegetation community including characteristic species such as California goldenbush (*Ericameria ericoides*), dune bush lupine (*Lupinus chamissonis*), which can be readily observed at the proposed project site. As dune scrub reaches inland, it transitions to central maritime chaparral characterized by vegetation such as manzanita (*Arctostaphylos spp.*) and ceanothus species (*Ceanothus spp.*), and live oaks (*Quercus agrifolia*).

Rare plant species

A variety of rare plant species are known to occur or have potential to occur in the proposed project area. These include but are not necessarily limited to: Pajaro manzanita (*Arctostaphylos pajaroensis* – 1B.1); sandmat manzanita (*Arctostaphylos pumila* – 1B.2); Monterey spineflower (*Chorizanthe pungens* var. *pungens* – federally-threatened/1B.2); robust spineflower (*Chorizanthe robusta* var. *robusta* – federally-endangered/1B.1); Seaside bird’s beak (*Cordylanthus rigidus* ssp. *littoralis* – state-endangered/1B.1); sand-loving wallflower (*Erysimum ammophilum* – 1B.2); Menzie’s wallflower (*Erysimum menziesii* – federally and state-endangered/1B.1); sand gilia (*Gilia tenuiflora* ssp. *arenaria* – federally-endangered and state-threatened/1B.2); Kellog’s horkelia (*Horkelia cuneata* var. *sericea* – 1B.1); beach layia (*Layia carnosae* – federally and state-endangered/1B.1); northern curly-leaved mondarella (*Monardella sinuata* ssp. *nigrescens* – 1B.2); and, yadon’s piperia (*Piperia yadonii* – federally-endangered/1B.1). Of these species, only spineflower was specifically identified in the project area during protocol-level surveys conducted in 2011-2012 and 2013. At that time, 67 occurrences of Monterey spineflower were recorded within the project site, where each occurrence had six or fewer individual plants. However, while on-site in May 2017, CCC Ecologist Dr. Lauren Garske-Garcia observed an abundance of Monterey spineflower in-bloom within a portion of the project area from which it had not previously been reported.¹¹ This recent

range, very few populations (often 20 or fewer) steep declines, or other factors.” And Global and State level-3 communities and species are identified as “vulnerable – at moderate risk of extinction due to a restricted range, relatively few populations (often 80 or fewer), recent and widespread declines, or other factors.

¹⁰ California Department of Fish and Wildlife – Biogeographic Data Branch. 2010. List of Vegetation Alliances and Associations. Vegetation Classification and Mapping Program, California Department of Fish and Game. Sacramento, CA. <https://www.wildlife.ca.gov/Data/VegCAMP/Natural-Communities/List>, accessed: 16 June 2017.

¹¹ Personal communication on May 22, 2017. The area of Monterey spineflower occurrence observed was located near the proposed entrance station, adjacent to the vehicle underpass, and covered an area of at least 50 square feet, representing perhaps 30 or more individual plants.

observation likely reflects the product of an unusually wet winter season following several years of drought and the subsequent expression of existing seedbanks; it also suggests that Monterey spineflower (and potentially many other species, including those that may be rare) likely exists across much wider areas than have been documented in preparation for the proposed project. Notably, the USFWS designated nearly the entire FODSP as critical habitat for the species in 2008.¹²

Rare wildlife species

Several rare species of wildlife have also been identified as occurring or likely occurring within the proposed project area. The beach and toe of the bluff at FODSP serves as breeding and foraging habitat by Western snowy plover (*Charadrius alexandrinus nivosus*), which is a federally-threatened species and a California Species Special of Concern (S2¹³). Particularly when nesting, these tiny shorebirds are sensitive to disturbances including those by recreational activities as simple as a person walking through adjacent dunes or along the beach. The entire beach strand and portions of the foredune bluff have been designated critical habitat by USFWS¹⁴ (Unit CA22; 2012) and plovers have been observed nesting in significant numbers along the beach and bluff toe area below the proposed campground. Though the project site is located inland of the bluffs, improved access will undoubtedly increase use of this adjacent and sensitive area.

The bank swallow (*Riparia riparia*) is a State-threatened species (S2) that historically occurred throughout coastal and inland California. Habitat use is dictated by the availability of bluffs and vertical banks made up of friable soils, which allow the birds to create their distinctive burrows. The birds feed predominantly on insects caught while in-flight and thus, tend to favor areas that support large volumes of insect biomass across wide, open habitat areas such as coastal grassland and coastal scrub adjacent to suitable burrowing areas, much like that observed near the proposed project area. Coastal populations have been decimated over the past century and are believed to have been extirpated from southern California, leaving only a few known breeding populations¹⁵. The southernmost of these occurs adjacent to the proposed campground area, in the ocean-facing slopes of the dune bluffs.

Smith's blue butterfly (*Euphilotes enoptes smithi*) is a federally-endangered species (State-ranked as S1) with a range extending from the Salinas River mouth to northern San Luis Obispo County. The USFWS recognizes two distinct regions within its range, and identifies the northern region between the Salinas River and the City of Monterey along central foredune and dune scrub habitats as the butterfly's most threatened habitat.¹⁶ Importantly, the butterfly is obligate to

¹² US Fish and Wildlife Service. 2008. Designation of critical habitat for the Monterey spineflower (*Chorizanthe pungens* var. *pungens*). Federal Register January 9, pp. 1525-1554.

¹³ The California Department of Fish and Wildlife ranks species according to their status within California. A rank of S1, S2, or S3 indicates that the species is considered critically imperiled, imperiled, or vulnerable, respectively.

¹⁴ US Fish and Wildlife Service. 2012. Revised designation of critical habitat for the Pacific Coast population of the Western snowy plover; Final Rule. Federal Register June 19, pp. 36727-36869.

¹⁵ Laymon SA, BA Garrison, JM Humphrey. 1987. Historic and Current Status of the Bank Swallow in California. State of California, The Resources Agency, Department of Fish and Game - Wildlife Management Division, Administrative Report 88-2. 47pp.

¹⁶ US Fish and Wildlife Service. 2006. Smith's Blue Butterfly (*Euphilotes enoptes smithi*) 5-Year Review: Summary

its host plants throughout its life cycle, these being two species of buckwheat that occur in the coastal zone (*Eriogonum latifolium* and *E. parvifolium*). Smith's blue butterfly is known to occur at FODSP, and both species of buckwheat occur within the proposed project area¹⁷.

Black legless lizards (*Anniella pulchra nigra*) are considered by CDFW to be a Species of Special Concern (S2). Its very few populations are restricted to the southern Monterey Bay and Monterey Peninsula where much of its habitat has been lost due to human development, including agriculture, housing, sand mining, and the introduction of invasive exotic plant species that have altered its native ecosystem.¹⁸ The lizard is a burrowing species that typically occurs on beach dunes and chaparral, in sparsely vegetated areas with occurrences of native bush lupines (such as *Lupinus arboreus* and *L. chamissonis*) and mock heather (*Ericameria ericoides*), as have been observed within the proposed project area. Black legless lizards are known to occur throughout the former Fort Ord, including locations within FODSP and are likely to occur within the proposed project area.

The Monterey dusky-footed woodrat (*Neotoma macrotis luciana*) is another California Species of Special Concern (S3) and has been observed occupying nests within the row of Monterey cypress trees between the proposed tent and RV sites. It is a nocturnal species associated with maritime chaparral habitat and woodlands between the southern Monterey Bay and northern San Luis Obispo County. Like other woodrats, it builds distinctive nests that can be used over multiple generations and are thus, susceptible to disturbance.

Other sensitive wildlife species potentially occurring within the proposed project area include the globose dune beetle (*Coelus globosus* – S2) and several raptor species, which have been observed at FODSP including at the proposed project area. Though nesting raptors are generally protected under the Migratory Bird Treaty Act, some are also considered rare or are otherwise protected in California including: short-eared owl (*Asio flammeus* – CA Species of Special Concern/S3); northern harrier (*Circus cyaneus* – CA Species of Special Concern/S3); white-tail kite (*Elanus leucurus* – State fully-protected/S4); and, peregrine falcon (*Falco peregrinus anatum* – State fully-protected/S4).

Epecially valuable habitat

In addition to the habitats already identified as either rare themselves or designated as critical for rare species, the buckwheat species that support Smith's blue butterfly warrant special consideration. Although coast and seacliff buckwheat (*Eriogonum latifolium* and *E. parvifolium*) are not recognized as sensitive species in and of themselves, their role as the host plants for the butterfly makes them especially valuable. The two species occupy similar vegetation communities, are somewhat separated along the north-south axis of the California coast, and overlap in the southern Monterey Bay. Within the proposed project area, both species have been recorded. While not all areas with host plant species are necessarily occupied by Smith's blue, population trends are believed to parallel that of the available habitat – thus, where the

and Evaluation. 28pp.

¹⁷ While both species of buckwheat have been documented within the relevant area, *E. parvifolium* appears to occur more frequently than its conspecific. Most documented occurrences have been along the foredunes and dune scrub along the proposed beach access trail.

¹⁸ Papenfuss TJ, JF Parham. 2013. Four New Species of California Legless Lizards (*Anniella*). *Breviora* 536: 1-17.

buckwheat species are in decline, it is generally interpreted that so are Smith's blue populations. The USFWS has estimated that more than 50% of the dune habitat in the butterfly's northern region, which includes the proposed project area and vicinity, has been either lost to or significantly altered by human activities, and thus remaining habitat fragments are particularly important.

ESHA determination conclusion

As described above, FODSP (including the project area) is situated within central foredune, central dune scrub, and central maritime chaparral habitats, which are assigned global and state rankings of G1 S1.2, G2 S2.2 and G2 S2.2, respectively. Because they are rare and can be easily disturbed or degraded by human activities and developments, they readily rise to the level of ESHA. It should be noted that given the rarity of dune habitats across the state and the ease with which they are degraded by human activities, the Commission has considered coastal dunes, even those that are significantly degraded, to meet the definition of ESHA^{19,20}.

In addition, several rare plant and animal species are known to occur or are considered likely to occur in the Park and the proposed project area. Among the 12 plant species that have been highlighted are those possessing a California Rare Plant Rank of either 1B.1 or 1B.2, indicating that they are rare. Notably, seven of these are also federally or state-protected plant species. Similarly, ten animal species have been discussed, which are ranked by CDFW as S1, S2, or S3, indicating that they are rare. Along with two additional raptors, most of these are also federally or state-protected wildlife species. Because these plant and animal species are rare and can be easily disturbed or degraded by human activities and developments, the areas they occupy or potentially occupy rise to the level of ESHA.

Especially valuable habitat also occurs within the Park and the proposed project area. In particular, coast and seaside buckwheat (*Eriogonum latifolium* and *E. parvifolium*), which uniquely support the federally-endangered Smith's blue butterfly through their role as host plants necessary for the butterfly's life cycle. Because these plants can be easily disturbed or degraded by human activities and developments, and the northern region of the Smith's blue butterfly's distribution is considered to be its most threatened, the areas occupied or likely to be occupied by either or both species of buckwheat, *E. latifolium* and *E. parvifolium*, rise to the level of ESHA.

In conclusion, three habitats and the areas occupied or likely to be occupied by the various rare or otherwise sensitive species described occur within the proposed project area, which as a whole constitutes ESHA under the Coastal Act. Despite a legacy of past military use and the presently degraded state, the site continues to demonstrate significant ecological value.

Coastal Act Consistency

Resource-Dependent Use

The project consists of the construction and operation of a 100-unit campground facility, day use amenities, and associated structures and infrastructure that would occupy a total of 16.8 acres of the site. Because 8.7 acres are already covered with roads and remnant asphalt, the project would result in an additional 8.1 acres of new sand dune coverage. Coastal Act Section 30240 allows

¹⁹ City of Oxnard LCP Amendment 1-05 (Oxnard Shores)

²⁰ City of Malibu LCP Amendment 1-07 (Malibu Bay Company)

only resource-dependent uses in ESHA, and requires development adjacent to ESHA to be sited and designed to prevent impacts that would degrade the ESHA, and to be compatible with the continuance of the habitat. Although portions of the proposed project might be considered interpretive (e.g., interpretive pathways, etc.) and potentially allowable in ESHA, the proposed campground overall is not a resource-dependent use. Thus, it is not allowed in ESHA, and thus the proposed project is inconsistent with the allowable use requirements of Coastal Act Section 30240.

Project Impacts

As proposed, the campground project involves grading and direct site manipulation of over 50 acres of coastal dunes (see **Exhibit 7**). State Parks indicates that 50 acres is the minimum area necessary in order to level the site in preparation for the construction of roads, campground spurs, restroom facilities, other structures, and related facilities, and also to obtain gradients that comply with ADA requirements. The proposed project would result in a total footprint of roughly 17 acres when completed. Another 33 acres that would be manipulated/graded would be restored following construction. Both the 17 acres and the 33 acres would be a significant impact since both have the ability currently to function as dune habitat. While some of these impacts are tempered by the fact that the area includes remnant asphalt, some of which will be removed and these areas restored as part of the project, this is a significant dune habitat impact for numerous reasons, including due to disturbance of seed bank and temporary loss of habitat for sensitive species.

In addition to such direct impacts, the proposed project will also fragment habitat along the north-south coastal axis, effectively limiting wildlife passage and vegetation dispersal to and from surrounding areas. While the proposed project does include a 200-foot-wide wildlife corridor on the eastern side of the campground development, this is bounded on its eastern edge by roadways, impermeable barriers in most cases. It also omits continuity for species that are associated with shoreward microclimates and communities, including the bluffs and central foredunes. Along the east-west axis, between the shore and Highway 1, permeability for species and habitat is again limited by the development footprint.

Other indirect impacts beyond the development footprint itself occur as well, which could further impact sensitive natural resources and dune areas (e.g., construction noise deterring nesting wildlife or debris making its way into habitat). State Parks has submitted a construction plan with best management practices (e.g., staging and storage locations, construction methods, plans, and fencing, worker education, material and debris clean-up, etc.) that will be implemented during all construction activities to ensure that adjacent habitat areas are protected. In addition, a Mitigation, Monitoring, and Reporting Program (MMRP) (see **Exhibit 5**) created for the CEQA process is included in the project description and requires, among other things, measures to protect sensitive habitats and species during grading and site preparation, such as a requirement for pre-construction surveys for sensitive plant and animal species, and that a biological monitor be present during ground-disturbing activities. However, the construction BMPs and the MMRP require additional specificity to adequately protect natural resources under the Coastal Act.

Similarly, a significant portion of the proposed campground coverage is in the form of paving for a new campground access road and the retention of impervious surfaces in and around the existing storage bunkers. State Parks maintains that the latter is needed to maintain vehicle

access for storage bunker reuse. However, in certain locations, the roadway width exceeds what is necessary for access and safe vehicle operation. Once again, roads, paving, and similar improvements are not resource-dependent and are not allowed in ESHA.

The proposed project includes artificial night lighting that does not currently exist throughout the project site. The restrooms, multi-use building, RV waste station, support structures, campfire center, and entrance station include light fixtures with the latest visor technology to shield the night sky and the lowest possible intensity to address safety issues while meeting dark sky standards. Per the submitted plans, all light fixtures will be down-facing and shielded to provide adequate light of the area immediately adjacent to these structures for safety purposes while preventing the spillover of light into the adjacent dunes.²¹ The RV waste station will have a 20-foot pole light fitted with a full cutoff fixture to shield the night sky and motion control so that the area will only be illuminated when in use. Thus, even though no artificial night lighting currently exists throughout the project site, as proposed, the lighting associated with the project is the least environmentally damaging possible and is not expected to significantly impact the adjoining dune habitat.

In short, the proposed project would remove some eight acres of dune ESHA and replaces it with a campground and related development that would ultimately occupy 17 acres of the site, and would significantly alter some 33 additional acres of dune habitat as part of overall construction activities. This would ultimately result in fragmentation of the local landscape as well as the greater Monterey dune complex by disrupting habitat and continuing to isolate sensitive populations such as Smith's blue butterfly. While the 33 altered acres would be ultimately restored as part of the proposed project, these areas would still be impacted in the near-term, causing significant ESHA disruption and degradation, and the project is inconsistent with Coastal Act Section 30240.

Approvable Project

Conflict resolution

Thus, as described above, the proposed project is inconsistent with the Coastal Act's ESHA policies. Such inconsistencies would normally require its denial. However, its denial would mean that other Coastal Act objectives related to public recreational access would not be realized. In other words, denial would cause a conflict between Coastal Act Sections 30240 and Sections 30210 – 30213 and 30221. In this case, denial would preclude the development and operation of a new 100-unit coastal campground and day use facility in a location where there are limited lower-cost overnight and recreational facilities and demand for such facilities is extremely high. These facilities provide educational and recreational opportunities for California residents including those from inland and underserved communities. Development and operation of a campground in this location was considered in the Commission's consistency determination (CD -16-94) for the disposal of the property, and the location has subsequently been identified and designated for a campground use in the FODSP General Plan. Clearly, denial of the project would not maximize public access as required by Coastal Act Section 30210.

²¹ The Campfire Center includes multiple 4.4W (watt) LED bollard lights to light pathways, multiple 2.1W LED recessed lights that provide lighting at stairs and entrance points, and four 42W emergency lights at the stage area. These lights are not shielded but they are very low intensity lights.

In short, denial of the project to maintain consistency with the Coastal Act's ESHA policies would result in a conflict with the Coastal Act's public recreational access policies. In this type of case the Coastal Act provides that such conflict "be resolved in the manner which on balance is the most protective of significant coastal resources" (Section 30007.5). As described more fully in the Conflict Resolution section of these findings (see Section J. below), approval in this case would be the most protective of the various resources at play in this proposed project. In such approval, all Coastal Act inconsistencies need to be resolved to the maximum extent feasible, and thus the project needs to be conditioned to maximize the project's public recreational access benefits and to avoid, minimize, and then mitigate for any impacts to ESHA.

Project Modifications

Thus, if the project is approved to avoid such conflict, the ESHA inconsistencies need to be minimized to the maximum extent feasible and mitigated for. Fortunately, the project lends itself to such refinement. First, it appears clear that the project's roads and retained asphalt can be further minimized, and thus **Special Condition 1(a)** requires such, including via eliminating excess pavement where feasible and otherwise reducing pavement in the vicinity of the storage bunkers to a maximum 12-foot width.

Second, although impacts to dune ESHA associated with grading and site preparation overall are unavoidable in this case, it appears that grading can be performed in a more precise and methodical way to further reduce impacts to ESHA. Accordingly, **Special Condition 1(b)** requires all dune manipulation activities to be minimized to the maximum extent feasible to minimize impacts to ESHA.

Third, State Parks has prepared a Restoration, Monitoring, and Reporting Plan (RMRP; see **Exhibit 6**). The RMRP includes several elements: a Dune Restoration Plan, Landscaping Plan, Sensitive Species Salvage Plan, Revegetation Plan, and a Mitigation, Monitoring, and Reporting Program. The RMRP includes methods for site preparation, seed collection and salvage, a plant palette, planting methods, non-native plant eradication, maintenance, monitoring, contingency measures, and adaptive management strategies. As envisioned under the RMRP, restoration of 33 acres of the areas impacted by construction activities is proposed to mitigate impacts to the coastal dune ESHA in the vicinity of the campground and related development. Specifically, the RMRP identifies six acres of landscaping with native plants in the immediate vicinity of the campground area and 27 acres of coastal dune scrub restoration in areas surrounding the campground that would be disturbed or graded during construction (see **Exhibit 4** for these areas). **Special Conditions 7(a)(4) and 7(a)(1)** respectively incorporate this proposed landscaping and restoration into this approved project.

At the same time, although there are benefits to use of native landscaping in-between the campground spurs and parking areas to help screen and beautify the campground, aid in attaining a natural dune aesthetic, minimize water demands, and avoid the introduction of inappropriate species to adjacent sensitive habitats, these landscaped areas are unlikely to provide much habitat value given the campground development and high-use associated with typical campground activities. Realistically, the six acres of native landscaping are expected to offer neutral value, neither particularly harming nor benefiting the dune ecosystems. Similarly, it's recognized that the restoration of the 27 acres of dunes adjacent to and surrounding the perimeter of the campground development may also provide visual screening, improved habitat value relative to

the landscaped areas in the campground, and act as a transitional zone between the developed areas of the campground and open space dunes. However, portions of the proposed restoration area will be left fragmented by the proposed development, surrounded by degraded dune habitat (i.e., areas carpeted by invasive non-native ice plant), or isolated as narrow strips between accessways and unrestored areas. Thus, as proposed, constraints imposed on habitat continuity will limit the intended value enhancement and require continual maintenance and monitoring to ensure that non-native, invasive plant species do not creep back into these localized areas of restored dunes. All told, the proposed 33 acres of dune restoration under the RMRP (i.e., six acres of native landscaping and 27 acres of dune restoration) would only revegetate areas affected during construction and grading but would not provide mitigation for the permanent project-related dune loss to the development footprint nor ensure continuity of habitat necessary to facilitate wildlife and plant dispersal across the greater Monterey dune complex, which are needed to ensure that the project's direct impacts to ESHA are offset to the maximum extent feasible.

Regarding the protection and enhancement of habitat for species such as the federally-protected Monterey spineflower and Smith's blue butterfly, which are expected to be impacted by the proposed project given their documented presence and locations, the location of the main restoration activities identified in the RMRP will generally follow the perimeter of the proposed development rather than establish large contiguous dune areas. As proposed, the restoration is framed strictly within the context of the project's footprint and leaves restored habitat fragmented. Some of the proposed restoration is immediately adjacent to unrestored dunes without measures to ensure that the dense mats of non-native and highly invasive plant species will not continue to encroach on native restoration, nor facilitate beneficial exchange of native material, seed, plants, etc. As a result, the proposed restoration efforts will likely achieve only limited benefits for impacted sensitive species. Thus, while the proposed RMRP intends to restore areas affected by construction, it will not result in the kind of high-quality, self-sustaining habitat necessary to mitigate for the project's impacts to sensitive dune resources.

The RMRP also omits plans to restore the crest of the dune bluffs and central foredune habitat that flanks the retained concrete and mostly sub-surface military storage bunkers. The vision for the campground is to preserve these former military base features and adaptively reuse them for historic/educational purposes, and for storage of campground materials. At this time, only two of the twelve bunkers are planned for reuse. Located in a row set within the dune bluffs, the habitat topping the bunkers is heavily degraded and dominated by iceplant that was originally planted by the Army to stabilize the blowing sands. State Parks' historians contend that the use of iceplant by the Army is a character-defining feature of the bunker area and thus, the iceplant has attained historic status and should be retained; however, from an ecological perspective, iceplant is a non-native and highly invasive plant species²². Indeed, it is recognized by the California Invasive Plant Council as one of the single greatest threats to dune ecosystems across the State. Evidence is readily available throughout the 990-acre park of just how successful iceplant is at outcompeting native plant species in the harsh dune environment through mechanisms such as monopolizing limited water resources as well as the open substrate necessary for native plant recruitment.

²² As an alternative, Parks could consider using the history of iceplant on-site as an opportunity for interpretive signage that combines history and restoration ecology.

The submitted RMRP provides for the restoration of 33 acres of dune habitat that will be disturbed during construction. While Parks will be grading dune habitat, pre-construction surveys and salvage measures are included to ensure that sensitive species will be appropriately relocated and seed banks preserved, and extensive non-native vegetation would be eliminated. In this particularly harsh dune environment, native vegetation species are adapted to recolonize open spaces and are expected to quickly recover in graded areas supported by active revegetation efforts.

While the proposed project includes what might be considered adequate mitigation for construction impacts, it lacks mitigation for the 17 acres of permanent impacts imposed through the direct loss of habitat to the developed footprint area (including its potential where remnant development exists). To assure maximum protection and minimize degradation of dune ESHA, and to mitigate for impacts to dune ESHA as much as possible, additional restoration of dune habitat is necessary to find that on balance, the approved project will be the most protective of coastal resources, as required by Coastal Act Section 30007.5. Specifically, additional adjacent dune habitat areas must be restored and protected over the long-term to offset impacts to ESHA from the proposed non-resource-dependent active recreational uses. The submitted dune RMRP can form the basis for long-term restoration and protection provided it is modified to meet the Commission's needs and to include additional on-site restoration. Accordingly, **Special Condition 7** requires Parks to submit a revised Dune Restoration Plan in substantial conformance with the RMRP, for Executive Director approval. The revised plan will necessarily include among other things: the locations, sequence, timing (see **Special Condition 7(a)**), and amounts of additional dune habitat restoration required to offset project-related permanent impacts to ESHA. In terms of the amounts, State Parks already proposes to restore approximately 27 acres of habitat that would be impacted by construction but not committed to directly supporting campground facilities (see **Exhibit 4**). In addition, **Special Condition 7(a)** identifies two more restoration areas totaling roughly 56 acres. The first is a 22-acre area along the storage bunkers seaward of the campground facilities, and the second is a 34-acre area filling in gaps between the proposed restoration and expanding out to various locations beyond the campground, entrance station, and facilities where restoration to high-quality central foredune, dune scrub, and maritime chaparral habitats is believed to be achievable (see **Exhibit 4** for the locations of these restoration areas). The placement of these additional areas is optimal in that they take advantage of the campground being situated within the widest portion of the 990-acre Park, which also provides the opportunity to improve habitat continuity along the eastern and western sides of the project site. Effectively, these two additional restoration areas will provide the much-needed habitat corridors for species along the shoreward edge of the dunes as well as the backdune and chaparral areas. Together, the 56 additional acres of restoration slightly exceed the Commission's minimum mitigation ratio of 3:1, and compensate for the 17-acre area that would be permanently covered by the project following its completion.²³ When combined with the 27 acres proposed in the RMRP, a total of 83 acres would be restored as part of the approved project, thus ensuring the project's compatibility with the continuance of dune habitats.

²³ It has been the Commission's practice to require a minimum 3:1 mitigation ratio for project-related impacts within dune ESHA (e.g., see Marin County CD 026-10 (Point Reyes National Seashore); Monterey County CDP 3-05-059 Pletz & Reinstedt (Asilomar Dunes)).

Additionally, **Special Condition 7** contains provisions for: final grading contours to ensure that the manipulated dunes ultimately replicate natural dune forms (**Special Condition 7(b)**); inclusion of critical details necessary to ensure that a phased monitoring and analytical framework will accurately inform the restoration and its progress (**Special Condition 7(c)**); criteria and interpretive thresholds appropriate for each of the restored areas and resources including salvaged materials (**Special Condition 7(d)**); dune restoration monitoring reports (**Special Condition 7(e)**); and, that the restored dunes be maintained over the long-term, in accordance with the approved Final Dune Restoration Plan (**Special Condition 7(f)**).

Special Condition 8 augments the submitted RMRP's mitigation measures with additional detail and ensures that Commission staff is informed of any sensitive species that are encountered before or during construction so that any necessary steps, including records and consultation with partners at the USFWS and CDFW can occur quickly. It also provides pre-approval for implementation of the submitted mitigation measures.

The proposed project includes fencing in and around the campsites, campground roads, RV waste disposal site, the multi-use building and public access trails. Fencing is proposed as a means to demarcate campsites, to discourage unmanaged access in the dunes, and to aid in the restoration and recovery efforts of the surrounding dune habitat. By and large most of the proposed fencing in the campground is of the low post and rope variety and would be used in conjunction with educational and interpretive signing to successfully manage access. Guy post and rope is proposed along the perimeter of the campground to prevent campground users from venturing out into sensitive dune areas, and "no climb" fencing would be installed along the bluff crest to prevent persons from scrambling down the bluff to the beach below. The proposed fencing generally presents an impact to visual resources but it also can potentially impact wildlife, particularly if it precludes free passage of wildlife. The Commission recognizes the need to manage access within the vicinity of the campground to prevent unintended impacts to surrounding ESHA, while also taking into account the need to protect scenic and natural resources (see also "Visual Resources" section). **Special Condition 9** requires the submittal of a fencing plan that identifies the kinds and location of fencing necessary to achieve project objectives in terms of sensitive habitat protection and managing public access, where the objective is to limit the amount of fencing as much as possible.

Conclusion

Both the Commission and State Parks have identified a campground as an appropriate and desirable use at this location in past actions (i.e., State Parks General Plan and the 1994 Coastal Commission federal consistency action on Fort Ord reuse). At the same time, the proposed project is not consistent with Coastal Act ESHA requirements, which would ordinarily require its denial. However, in this case denial would lead to conflicts with the Coastal Act's public recreational access policies. In these kinds of cases, the Act allows approval to avoid such a conflict provided it is structured to be the most protective of coastal resources. In this case, the project is approved subject to conditions to minimize project ESHA impacts as much as possible (e.g., minimizing grading, roads, fences; construction BMPs; etc.) and to provide a robust ESHA restoration program to offset project ESHA impacts, including restoration of the 33 acres proposed by the Applicant and an additional 56 acres surrounding the project site. In this way, the campground can be developed, and a large and contiguous restoration can be achieved to provide habitat improvement and connectivity. As such, and on balance, the approved project

will serve to provide important public recreational improvements as well as dune restoration in a location where both are sorely needed.

F. PUBLIC ACCESS, RECREATION, AND LOWER-COST VISITOR SERVING FACILITIES

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the first public road and the sea “shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3.” Coastal Act Sections 30210 through 30213, 30221, 30223, and 30250 specifically protect public access and recreation. In particular:

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

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

30212. (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway. ...

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

30214(a). The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following: (1) Topographic and geologic site characteristics. (2) The capacity of the site to sustain use and at what level of intensity. (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses. (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

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

already adequately provided for in the area.

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

30250. *(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources....(c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.*

Analysis

The Coastal Act calls for the provision of maximum public access and recreation, consistent with the protection of natural resource areas from overuse, and protects and prioritizes oceanfront land for recreational, and visitor serving recreational uses (Sections 30210, 30211, 30212, 30221 and 30250). The Coastal Act also protects upland areas necessary to support coastal recreational uses (Section 30223) and protects and encourages the provision of lower cost visitor and recreational facilities (Section 30213).

The California Department of Parks and Recreation (State Parks) plays a critically important role in providing public access to the coast and facilitating coastal recreation in Monterey County. As a public agency that owns and manages valuable coastal lands, and that provides and maintains facilities which serve coastal access and recreation, State Parks' mission facilitates the Coastal Act's objectives of maximizing opportunities for coastal access and recreation in numerous ways. One of the primary ways in which State Parks supports coastal access and recreation is by providing campgrounds along the coast, including those that provide lower-cost overnight tent camping opportunities.

Fort Ord Dunes State Park includes approximately 990 acres of parkland characterized mainly by sand dunes and native and non-native dune vegetation, and includes four miles of shoreline and beach. Currently, however, the only improved²⁴ access is a free day-use-only parking lot in the northern part of the Park, with an associated ocean overlook and a trail to the beach, and a dirt trail to the beach in the southernmost part of the park.

The proposed project involves the development of a 100-unit campground (43 tent sites, 10 hike-in/ bike-in sites, 45 RV sites, and two campground host sites) and associated infrastructure (see **Exhibit 3**). Other proposed amenities include a new beach access interpretive walk and overlook area (ADA accessible), a stairway to the beach, a military bunker interpretive walk (ADA accessible), and relocation of a portion of the Monterey Bay Sanctuary Scenic Trail (also ADA accessible) so that bicycle and pedestrian access is separated from campground vehicular traffic. The project also includes signage and other mechanisms (e.g., fencing) to guide and direct the public within the new park.

²⁴ Other unimproved "volunteer" trails exist on the property.

The proposed campground and associated improvements are for the specific purpose of expanding and enhancing public recreational access, including in terms of lower-cost overnight accommodations (i.e. tent camping) and low-cost access otherwise (day use of the trails, e.g.). Coastal Act policies require that maximum public recreational access opportunities and lower-cost facilities be protected, encouraged, and provided in the coastal zone. The proposed project, including the overnight RV and tent-camping accommodations, as well as the new beach access interpretive walk and overlook area, the stairs to the beach, the military bunker interpretive walk, and the realigned portion of the Monterey Bay Sanctuary Scenic Trail, will provide overnight and day use access for a variety of users (i.e., pedestrians, hikers, bicyclists, pedestrians, persons in wheelchairs, etc.). Thus, the proposed project maximizes public access and lower-cost recreational opportunities consistent with Coastal Act requirements, including Coastal Act priority lower-cost visitor-serving facilities, in an oceanfront location where demand for such facilities is high.

The proposed project also includes a multi-use community building, which will include educational and interpretive exhibits for park visitors, and will also be available to rent for special events. This building will also serve as an educational center for schoolchildren on field trips to FODSP, including children from underserved inland communities who may never have had an opportunity to visit the ocean.

The Applicant has indicated that management and operational aspects of the Park are still under consideration and review to address any operational and safety conflicts that could arise with expanded day use at the Park and opening the Park to camping activities. Thus, the details of the FODSP access program have not yet been finalized. Accordingly, **Special Condition 5** requires State Parks to submit a Circulation and Access Plan prior to occupancy of the campground that describes in specific detail how public access to the project site will be provided and managed, including with respect to campground/RV users, general day-use users, bicycle/pedestrian access, special events and programs, and how these different user groups will be managed so as to ensure both maximum general public access and efficient campground operations. Furthermore, the proposed project includes development (e.g., the new beach access trail and stairway, the bunker interpretive walk, etc.) that will likely lead to an increased demand in day use in the southern portion of the Park. However, the proposed project does not include a day use parking area in the southern area of the Park. Thus, **Special Condition 5** also requires that a minimum of 20 free day-use parking spaces be provided in a location that maximizes their utility to day-use visitors.

Additionally, regarding timing of public access use, to comply with the maximization of public access provision in Coastal Act Section 30210 and in implementing the public access policies taking into account the appropriate time, place, and manner of public access per Coastal Act Section 30214(a), **Special Condition 3** provides that all day use amenities will be open and available for general public use during daylight hours (i.e., sunrise to one hour after sunset), seven days a week, and further stipulates that the beach shall be open 24 hours a day (to allow continuous access to the public trust tidelands) except for limited closure for the protection of sensitive habitats and/or species with concurrence from the USFWS.

As proposed, the FODSP campground includes 43 traditional tent camping sites and 10 hike/bike-in camping sites. The conversion of any of these tent camping sites to another use would be a significant impact given the scarcity of tent camping opportunities in north Monterey County.²⁵ There are also 45 RV sites proposed at FODSP, which are also an important public recreational element. In order to protect these important and extremely valuable visitor-serving recreational facilities, special conditions are attached that 1) prohibit the conversion of any tent or hike/bike-in site to any other use but allows the conversion of RV sites *only* to tent or cabin use subject to additional approval (**Special Condition 4(c)**), and 2) limits the stay at any site to seven consecutive days or 30 days total annually to ensure that these campsites remain available for general visitor use (**Special Condition 4(b)**). Lastly, to ensure that the campground fees are generally consistent with the camping fees at other nearby State Park units, **Special Condition 4(a)** requires that the camping fees for FODSP shall be in accordance with the published fee schedule for Central Coast Region State Park units.

The proposed project includes signage to manage and direct users through the Park, as well as interpretive signage to inform the public about the natural and human history at FODSP. However, the specific elements of the proposed signage have not yet been developed. Therefore, **Special Condition 2** requires the submission of a public access sign plan that specifies signage detail, including the location, materials, design, and text of all interpretive and public access signs, and also requires signs to be sited and designed to provide clear information without significantly impacting public views and site character.

In conclusion, the project will further the goals and intent of the applicable Coastal Act public access and recreation policies cited above by improving public recreational access and lower-cost visitor-serving accommodations and amenities in and around Fort Ord Dunes State Park, including by providing additional options for ADA access. The project will enhance access and recreation opportunities by providing multiuse non-motorized paths, access to the beach, a multiuse educational building, and overnight camping opportunities. As conditioned, the Commission finds the proposed development consistent with the above-cited public access and recreation policies of the Coastal Act.

G. COASTAL HAZARDS

Applicable Coastal Act Policies

Coastal Act Section 30235 addresses the use of shoreline protective devices:

30235. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

²⁵ The closest tent campground (that is near the ocean) is located 26 miles north at Sunset State Beach in Santa Cruz County; in Monterey County, the closest is at Andrew Molera State Park (36 miles south of FODSP).

Coastal Act Section 30253 addresses the need for development to ensure long-term structural integrity, minimize future risk, and to avoid landform altering protective measures in the future. Section 30253 provides, in part:

Section 30253. *New development shall do all of the following:*

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Together, Coastal Act Sections 30235 and 30253 acknowledge that seawalls, revetments, cliff retaining walls, groins, and other such structural or “hard” shoreline protection methods designed to forestall erosion often alter natural landforms and natural shoreline processes. Accordingly, Section 30235 compels approval of such shoreline protective devices when required to serve coastal dependent uses or to protect *existing* structures or public beaches in danger from erosion, *and* when designed to eliminate or mitigate adverse impacts on shoreline processes. Furthermore, Section 30253 requires that new development be sited and designed in a manner to be safe from hazards and not require construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The Coastal Act provides these limitations because shoreline structures can have a variety of negative impacts on coastal resources, including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beaches, which are a fundamental coastal resource. Thus, new development must be located in areas safe from coastal hazards without shoreline protective devices now or in the future in order to comply with Chapter 3 coastal hazards policies.

Geologic Setting

FODSP consists of approximately 990 acres of coastal dunes and beach strand along the southern Monterey Bay. Because of the unconsolidated nature of the dunes at the project location and the exposure of southern Monterey Bay to high wave energy, this region has among the highest long-term bluff retreat rates in the State. The United States Geological Survey (USGS) has reported bluff retreat trends for the southern Monterey Bay area, finding that 382 feet of erosion had occurred in the vicinity of FODSP in the 65 year timeframe between 1933-1998 (for an average erosion rate of 5.9 feet per year).²⁶ Similarly, Dr. Ed Thornton of the Naval Postgraduate School determined that the average erosion rate in the southern Monterey Bay between 1940 and 1984 was 6.4 feet per year. As such, the Applicant’s engineers, Pacific Geotechnical Engineering, reviewed the coastal erosion literature and concluded that coastal erosion rates in the project area are estimated to range between 1.5 feet to 7 feet per year. Over a 100-year period, and using the highest and most conservative erosion rate estimate (including to account for potential impacts from future sea level rise that would exacerbate erosion trends), there would be 700 feet of bluff erosion at the project site over a 100-year timeframe.

²⁶ *National Assessment of Shoreline Change, Part 4: Historic Coastal Cliff Retreat along the California Coast* by Cheryl Hapke and David Reid (Open File Report 2007-1133).

Analysis

As described above, the beaches and dunes surrounding the project site are subject to coastal erosion, with the identified conservative 100-year erosion line of 700 feet. However, excluding the public beach access pathway, overlook, and staircase (which by nature must be located on or adjacent to the beach), the proposed project, including the proposed tent and RV campgrounds, associated restrooms, and multi-use building, are located on relatively flat ground 700 feet or more from the shoreline.²⁷ As such, these facilities are sited and designed outside of identified erosion/hazards areas, even when using the very conservative scenarios of a seven-foot-per-year erosion rate and 100-year timeframe. However, that does not mean the site is not without potential hazards risk. The proposed project is located in an area that may be subject to coastal hazards due to the inherent nature of its beachfront location, including due to future sea-level rise, large-scale episodic bluff failure events, and other potential uncertainties. As such, applicants are regularly required to acknowledge site hazards, recognize and assume the potential hazard risks, and agree to waive any claims of liability on the part of the Commission for allowing the development to proceed. Accordingly, this approval is conditioned for the Applicant to assume all risks for developing at this location (see **Special Condition 10**).

While the project does not propose any form of armoring or shoreline protective device, in order to ensure that no such armoring is used to protect against coastal hazards in the future, **Special Conditions 11(b) and (c)** prohibit all shoreline protective devices including, but not limited to, seawalls, revetments, and groins, and extinguishes any rights that may exist to construct such shoreline protective devices, including any rights under Coastal Act Section 30235²⁸. In-lieu of shoreline protective devices to respond to/protect against any threatened development, a series of conditions are included to articulate that the proper response is removal and site restoration over time (see **Special Conditions 11(a), (d), and (e)**, which all make clear that the intent of the CDP is to allow development for only so long as it remains safe for occupancy and use, and that if such development is not safe for use, the response to abate such hazards is through development removal/relocation out of hazardous areas, and site restoration). Finally, because of the critical public access function the pathway system, overlook, and beach stairway provide, **Special Condition 6** requires these facilities to be rebuilt (including being rebuilt inland and away from hazards if necessary) should they become damaged or destroyed in the future.

As conditioned, the proposed project is sited and designed in a manner safe from coastal hazards, includes necessary restrictions on shoreline protective devices, and specifies that the proper

²⁷ The proposed RV dump station, operations and security structures, storage yard and maintenance shop, entrance kiosk, and the realigned portion of the Sanctuary Scenic Trail are all located hundreds of feet further inland from the main campground areas.

²⁸ It should also be noted that California State Parks' policies encourage unimpeded natural coastal processes and discourage siting of permanent park facilities in areas subject to coastal hazards danger. Specifically, Policy 0307.3.2 of the State Parks Operation Manual (SPOM) notes that coastal State Parks properties are subject to dynamic forces such as waves, storms, seasonal beach changes, bluff erosion, and sea cliff retreat, and these processes are problems only when facilities are in jeopardy, or when public safety is threatened. Furthermore, SPOM Policy 0307.3.2.1 states that it is State Parks' intent that natural coastal processes should be allowed to continue without interference and that permanent new structures and coastal facilities should not be constructed in areas subject to ocean wave erosion, sea cliff retreat, and unstable cliffs. This policy further provides that new structures or facilities in these areas shall be expendable or movable.

response to potential hazard abatement in the future is through removal and site restoration. As conditioned, the project is thus consistent with Coastal Act Sections 30235 and 30253.

H. VISUAL RESOURCES

Coastal Act Section 30251 states:

Section 30251. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Consistency Analysis

Coastal Act Section 30251 calls for the protection of the scenic qualities of coastal areas and requires new development to be sited and designed to protect views to and along the coast. Fort Ord Dunes State Park is a highly scenic area in northern Monterey County that is prominent in the viewshed from Highway 1 and from the adjacent Monterey Bay Sanctuary Scenic Trail (MBSST). From these vantage points, one can look out across the undeveloped dunes of FODSP and catch glimpses of Monterey Bay and the Monterey Peninsula.

The proposed project consists of the construction and operation of a campground facility and associated infrastructure located primarily within the former Storage Bunker Management Zone (SBMZ) at FODSP (see **Exhibit 3**). In addition to the campground, the project also includes shoreline access improvements and re-siting of a portion of the MBSST bike and pedestrian path. Guy post and wire fencing will be utilized along the new beach access trail and in areas of sensitive habitat restoration to keep the public out of the dunes. The project also includes development of a multi-use building, operations and security structures, a storage yard and maintenance shop, and an entrance station kiosk (all located outside of the SBMZ). Finally, the project includes restoration of surrounding native dune habitat, including areas around and between the campground sites as well as the dune crest area that surrounds the storage bunkers.

The choices for the development of a campground and its related amenities (e.g. additional parking areas, campfire center, etc.) were severely limited in terms of location by past military uses.²⁹ The presence of lead contamination and/or undisturbed natural resources outside the SBMZ precludes development and use of those areas for more intensive public access and recreational uses. Thus, State Parks determined that the SBMZ was the sole location within FODSP that was suitable for the development of a campground and related public access

²⁹ The bunkers were used to store ammunition for use at Fort Ord's firing ranges, which were located outside of the SBMZ. When the military base was closed, the SBMZ was found to be relatively free of lead and other contaminants. The SBMZ is the only area within the entire 990-acre park area that did not have extensive lead contamination or the presence of highly sensitive, undisturbed natural resources.

amenities. It is expected, though, given its proximity to Highway 1 and the MBSST, that some of the development associated with the campground project will be within the viewshed of these transportation corridors. However, most of the proposed development is screened either by topography, distance,³⁰ and vegetation. The campground facilities, by design, are mostly low lying (i.e., roads, parking spurs, paths, etc.) and will not block or significantly degrade coastal views. Taken together, the existing dune topography and the proposed restoration with shrubby dune vegetation will be effective in the screening of this low-lying campground development.

Siting and design considerations also play a significant factor in screening other more significant campground and related development from public view. For example, the campground includes plans for 45 RV sites. RVs come in many sizes, ranging from 20 to 40 feet in length and up to 13 feet in height. Vegetation alone would not be sufficient to adequately screen these large vehicles, which when lined up side-by-side could introduce a fairly significant visual impact into the public viewshed. However, the RV campground will be located a substantial distance (i.e., approximately 1,100 feet) from Highway 1 and roughly 800 feet from the MBSST. Furthermore, State Parks has carefully considered the siting of the RV camp loop and the use of existing dune contours, including a gentle dune knoll located between Highway 1 and the RV campground loop, along with mature existing vegetation (Monterey cypress trees), to ensure that views of the RV's and RV-loop restrooms from Highway 1 and the MBSST will be minimized.

The proposed project includes 43 traditional (i.e., drive-in) tent sites. Fewer than eight of these sites may be briefly visible from Highway 1 and the MBSST. Again, it is not the campground improvements per se that would be visible, but rather the vehicles parked at the tent sites.³¹ Generally speaking, the typical vehicles parked at tent sites are generally smaller and lower in height than RV's and thus are less visually prominent. Existing topography and vegetation will be effective in screening the majority of the tent campground sites and their associated parked vehicles. The vast majority of the tent sites are located in areas hidden from Highway 1 views. The eight or fewer tent sites that may be visible from Highway 1 and the MBSST will be located against a backdrop of coastal dunes. Thus, any vehicles or campground facilities at these tent sites will be located well below the crest of the dunes. No blue water views will be impacted by these tent sites, or any other part of the proposed project. The traditional tent camping sites will also be located nearly one-quarter mile from Highway 1 and the area surrounding these sites will be landscaped with native dune vegetation specifically chosen to aid in the screening of the vehicles and campground improvements. For all these reasons, the tent camping sites should not have a significant adverse impact on public views from Highway 1 and the MBSST.

The multi-use building and associated parking area is located in an area of "low visibility" with respect to views from Highway 1. State Parks has designed the structure with natural looking materials (i.e., composite board and batt and board-formed concrete siding) and an architectural form (i.e., simple nearly square footprint, uncomplicated roof) that will blend with the coastal dune aesthetic. Even though the multi-use building may be visible, it will be set against a

³⁰ At its closest point, the proposed campground is approximately 800 feet from the Monterey Bay Sanctuary Scenic Trail and approximately 1,100 feet from Highway 1; the proposed tent /hike-in bike in campground sites are approximately 325 feet from the Monterey Bay Sanctuary Scenic Trail and approximately 635 feet from Highway 1.

³¹ The proposed 10 hike-in/bike-in campsites are located in a "low visibility" area with respect to views from Highway 1 and the Monterey Bay Sanctuary Scenic Trail.

backdrop of native dune and upper canopy vegetation and will not otherwise block or degrade important coastal views, including blue water views of Monterey Bay.

Similarly, the FODSP entrance station kiosk will likely be visible from Highway 1 and the MBSST near the Divarty Street underpass. However, this small structure is designed with a minimal 15' x 35' footprint (i.e. roughly 525 square feet), it is low-profile (10 feet in height), will be constructed with natural materials, and is consistent with the aesthetics of the State Parks' kiosk motif. Also, there will be roughly 10 feet of vertical separation between the kiosk and the Highway 1 road elevation, which should help to minimize views of the kiosk from Highway 1. The area around the new entrance station kiosk will be landscaped with native dune vegetation. For these reasons, the entrance station kiosk will not have a significant impact on public views.

The proposed modular operations and security structures, the storage yard, and the maintenance shop will all be located behind a knoll in a lower-lying area of the site, and thus will not be visible from Highway 1 or the MBSST.

Lastly, the submitted plans indicate that lighting for all structures on the site will be shielded downward and placed on timers or motion sensors so that it does not obstruct nighttime views across the dunes.

In short, the proposed campground development has been designed and sited to avoid intrusion into the public viewshed where possible, and includes measures to otherwise minimize visual impacts, such as the use of natural materials and architectural designs that are compatible with the character of the dunes, and screening vegetation as part of restoration activities as appropriate. Notwithstanding these measures, subtle project refinements would further lessen the degree of the project's visual impact as required by Coastal Act Section 30251. **Special Condition 1(a)** requires all new road development to be minimized and any existing asphalt areas to remain to be reduced to a maximum 12-foot width. **Special Condition 1(b)** requires all grading and dune manipulation to be minimized. **Special Condition 1(c)** requires all pathways to be sited and designed to blend into the dune aesthetic via use of colorization and texture. **Special Condition 7(a)** requires roughly 56 additional acres (i.e., beyond the 33 acres proposed by State Parks) of dune restoration in and around the campground and storage bunkers to occur prior to occupancy of the campground (see discussion in Conflict Resolution section for justification of the additional acreage of dune restoration), which will serve to improve habitat but also to improve the viewshed. **Special Condition 7(b)** requires that final dune contours within restored areas be designed to replicate natural dune landforms. And **Special Condition 8** requires the preparation of a fencing plan that minimizes fencing while achieving habitat protection and access management goals. This condition also requires that the materials that will be used for fencing to be primarily of natural colors and materials that are designed to blend with the surrounding environment. **Special Condition 2** requires signage to be minimal and unobtrusive. Finally, the purpose of the campgrounds is to allow the public to experience the highly scenic nature of this State Park, including its expansive seascape and undeveloped shoreline. Given all the above, and as conditioned, the proposed project is consistent with Coastal Act Section 30251 regarding the protection of views to and along the ocean in scenic coastal areas.

I. TRAFFIC AND PUBLIC SERVICES

Applicable Policies

Coastal Act Section 30250(a) requires new development to be served by adequate public services, including with respect to traffic, water supply, and wastewater treatment. Furthermore, Coastal Act Section 30254 states that when services are limited, certain land uses, including public recreation and visitor-serving uses, are to have priority for such services over other non-priority development.

Section 30250(a). New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Section 30254. ... Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.

In addition, because the proposed project is located seaward of the first through public road and the sea, the Coastal Act's public access and recreation policies apply to any proposed development at this location. Coastal Act policies that are applicable for public access, specifically traffic and circulation, include:

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

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

Analysis

Water and Wastewater

Water is a finite commodity in great demand in the greater Monterey peninsula. Water supply in this area is extremely limited and existing and new water extractions to serve development raise a series of significant and complicated issues. The proposed project will receive its water supply

from the Salinas River groundwater basin, which is overdrafted.³² As part of the 1994 Fort Ord reuse plan, the water that the army base had been using was transferred to a series of different uses on the former base's property, including 45 AFY to State Parks for their activities within FODSP. The campground will use 24.8 AFY of this existing supply. In other words, the campground will not result in new extractions per se from the basin because it will be using water that the base had been using for many years. At the same time there is no arguing that even *existing* withdrawals from the basin are problematic, given the degree of overdraft. In some cases, allowing even continued water use could be considered problematic, let alone new water uses, when basins are overdrafted in this way. The Coastal Act is instructive on this point because it provides that where existing water supplies can only accommodate a limited amount of development, such water supply is required to be allotted to explicitly-identified high priority uses, including public recreational and visitor-serving land uses such as the proposed project (Section 30254). Thus, in this case, and despite concerns regarding limited water supply and the health of the basin, this project is one of the identified high Coastal Act priority uses that the Coastal Act identifies as the only type of development that is allowed and appropriate in such cases (e.g., the same cannot be said for a use not identified as a high priority, such as residential subdivisions). Thus, the project can be found consistent with the Coastal Act with respect to water resources.

With respect to wastewater treatment and disposal, such services would be provided via connection to the regional wastewater plant operated by the Monterey Regional Water Pollution Control Agency. The regional wastewater plant is currently operating well below capacity and thus has adequate capacity to treat the wastewater generated from the proposed campground project. As such, the Commission finds that the proposed project is consistent with the Coastal Act in terms of wastewater disposal.

Traffic and Circulation

The project site is adjacent to Highway 1, which is the primary shoreline access route through this part of the coast. Vehicular access to the campground facility would be provided via the Diverty/First Street underpass, and bicycle and pedestrian access would be provided at a separate underpass adjacent to the First Street underpass. Highway 1 in the project area is heavily used, and during peak traffic times operates at level of service (LOS) D or lower for most of the stretch of highway fronting the site. Surface streets and intersections in the project vicinity are much less impacted by traffic and currently operate at acceptable levels of service.

The proposed project is estimated to generate 18 AM vehicular peak trips and 67 PM vehicular peak trips during the average weekday peak periods,³³ and 37 vehicular peak trips during

³² Per 2015 Monterey County Resource Management Agency reports, the groundwater basin's overdraft is between 17,000 and 24,000 acre-feet per year (AFY) (based on a safe yield of roughly 499,000 to 506,000 AFY and a historic withdrawal (annual average extraction between 1959 and 2013) of roughly 523,000 AFY). In addition, the Department of Water Resources considers the basin to be 'critically overdrafted' under the State's Sustainable Groundwater Management Act, thus requiring a groundwater sustainability plan by 2020.

³³ The weekday AM peak hour of traffic is generally between 7:00 and 9:00 AM and the weekday PM peak hour is typically between 4:00 and 6:00 PM. The Saturday peak period is between 1:00 and 3:00 PM. The project's Traffic Impact Analysis was based on the estimate of the proposed facilities (i.e., 45 tent sites, 55 RV sites) and assumed that two vehicles would occupy each of the 45 tent sites and 55 RV sites. The 10 hike/bike sites were assumed to not generate any vehicular trips.

Saturdays. The results of the Traffic Impact Analysis prepared for the project's Mitigated Negative Declaration found that all existing *surface* road intersections would operate at an acceptable LOS under existing, existing plus project, and background plus project conditions. However, the Highway 1 segments would continue to operate at an unacceptable LOS under all scenarios, including with *and* without the project. Thus, the proposed project would introduce additional traffic on the already congested highway, including during peak use periods.

However, the project as designed provides multi-modal access opportunities, including to reduce traffic congestion and to mitigate for any traffic impacts. The proposed project fosters park access via bicycle and pedestrian modes, including through improvements and realignment of the Monterey Bay Sanctuary Scenic Trail (with its connections to population centers in north Monterey County and the Monterey peninsula) to enhance its safe use. The project also includes hike/bike camp sites to reduce reliance on automobile access. The project also proposes improvements to internal park circulation (e.g., dedicated pedestrian/bike path) to promote non-automobile access as well as to prevent user conflicts between pedestrians, cyclists, and motor vehicles.

Thus, as proposed, while the project will introduce additional vehicular trips to the congested Highway 1 corridor in the project area, such traffic and access impacts will be appropriately mitigated via multi-modal transportation options to ensure public access to and along the coast is maintained, enhanced, and maximized consistent with the Coastal Act. As proposed, the project can be found consistent with Coastal Act requirements to maintain and enhance public access to the coast, specifically with respect to parking and traffic adequacy.

J. CONFLICT RESOLUTION

Section 30007.5: Legislative findings and declarations; resolution of policy conflicts. The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.

Section 30200(b): Where the commission or any local government in implementing the provisions of this division identifies a conflict between the policies of this chapter, Section 30007.5 shall be utilized to resolve the conflict and the resolution of such conflicts shall be supported by appropriate findings setting forth the basis for the resolution of identified policy conflicts.

As noted previously in this report, the proposed project would be located entirely in environmentally sensitive habitat area (ESHA), inconsistent with Section 30240 of the Coastal Act, which limits development in ESHA to resource-dependent uses. However, as explained below, the Applicant's proposal would provide needed oceanfront lower-cost overnight tent camping and related recreation activities on land suitable for such recreational uses. Denying or modifying the proposed project to eliminate these inconsistencies would result in a failure to

provide maximum public access and lower-cost visitor serving recreation facilities needed to meet current and future demand for said facilities on oceanfront land, inconsistent with Coastal Act Sections 30213 and 30221. In such a situation, when a proposed project is inconsistent with a Chapter 3 policy and denial or modification of the project would be inconsistent with another policy, Section 30007.5 of the Coastal Act provides for resolution of such a policy conflict in a manner that is most protective of coastal resources.

Analysis

In past resolution of conflicts through application of Section 30007.5 the Commission has implemented the following seven analytic steps:

- 1) The project, as proposed, is inconsistent with at least one Chapter 3 policy;
- 2) The project, if denied or modified to eliminate the inconsistency, would affect coastal resources in a manner inconsistent with at least one other Chapter 3 policy that affirmatively requires protection or enhancement of those resources;
- 3) The project, if approved, would be fully consistent with the policy that affirmatively mandates resource protection or enhancement;
- 4) The project, if approved, would result in tangible resource enhancement over existing conditions;
- 5) The benefits of the project are not independently required by some other body of law;
- 6) The benefits of the project must result from the main purpose of the project, rather than from an ancillary component appended to the project to “create a conflict”; and,
- 7) There are no feasible alternatives that would achieve the objectives of the project without violating any Chapter 3 policies.

The proposed development meets all of the above criteria for applying conflict resolution, as follows:

Step 1

First, for the Commission to apply Section 30007.5, a proposed project must be inconsistent with an applicable Chapter 3 policy. Here, approval of the proposed development would be inconsistent with Section 30240 because the proposed development, i.e. the campgrounds and other related development, will be located in ESHA but are not a resource-dependent use.

Step 2

Second, the project, if denied or modified to eliminate the inconsistency, would affect coastal resources in a manner inconsistent with at least one other Chapter 3 policy that affirmatively requires protection or enhancement of those resources. A true conflict between Chapter 3 policies results from a proposed project which is inconsistent with one or more policies, and for which denial or modification of the project would be inconsistent with at least one other Chapter 3 policy. Further, the policy inconsistency that would be caused by denial or modification of a project must be with a policy that affirmatively mandates protection or enhancement of certain coastal resources.

Without the proposed campground and related recreational improvements, there would be no lower-cost overnight visitor-serving camping in Fort Ord Dune State Park (FODSP) or the

greater Monterey peninsula. The FODSP campground will provide 50 lower-cost oceanfront campsites (i.e. tent camping) in an area that currently has none. (The closest tent campground near the ocean is located 26 miles north at Sunset Beach in Santa Cruz County, and in Monterey County the closest tent campground near the ocean is 36 miles south at Andrew Molera State Park. Moreover, tent campsites represent a type of lower-cost visitor accommodation which is afforded heightened protection under the Coastal Act.) Denial of the project would also preclude general public day use access in the southern half of the Park, which is an area of the Park that is severely under-utilized due to its inaccessibility by car (i.e., no public roads) and lack of parking facilities. This lack of access improvements would further preclude overnight camping opportunities for recreational vehicles (45 spaces) and a host of interpretive, educational, and recreational experiences. In addition, the project includes improvements that will provide access to the Park for persons with mobility issues and disabilities. In short, denial of the project will result in the loss of lower-cost visitor serving accommodations on oceanfront property suitable for recreational use, for which the Coastal Act affirmatively mandates protection. Not approving the project would thus be inconsistent with Section 30213, which affirmatively requires lower-cost visitor-serving and recreational facilities “to be protected, encouraged, and where feasible, provided” and Section 30221, which requires that “oceanfront land suitable for recreational use shall be protected for recreational use and development.” As previously discussed, Section 30213 compels approval of the proposed project because approval protects, encourages, and provides for lower-cost visitor-serving accommodations in the form of different types of overnight camping spots for traditional car and hiker/biker tent campers in an area of the coast that does not have many such lower-cost visitor serving overnight accommodations. Furthermore, Section 30221 also compels approval of the proposed project because approval protects for recreational use this oceanfront land at Fort Ord which is suitable for recreational use. (As far back as 1994 in the Federal Consistency Determination, the Army, State Parks, and the Commission identified Fort Ord as a suitable project site to implement a State Park campground.) In most cases, denying a proposed project (*i.e.*, the no project alternative) will not cause adverse effects on coastal resources for which the Coastal Act mandates protection or enhancement, but will simply maintain the status quo. In this case, project denial would result in significant impacts to public access and recreation for which the Coastal Act mandates protection.

Step 3

The project, if approved, would be fully consistent with the policy that affirmatively mandates resource protection or enhancement. For denial of a project to be inconsistent with a Chapter 3 policy, the proposed project would have to protect or enhance the resource values for which the applicable Coastal Act policy includes an affirmative mandate. That is, if denial of a project would conflict with an affirmatively mandated Coastal Act policy, approval of the project would have to conform to that policy. If the Commission were to interpret this conflict resolution provision otherwise, then any proposal, no matter how inconsistent with Chapter 3 that offered a slight incremental improvement over existing conditions could result in a conflict that would allow the use of Section 30007.5. The conflict resolution provisions were not intended to apply to such minor incremental improvements.

In this case, Section 30213 states that “Lower cost visitor and recreational facilities ***shall be*** protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred” (emphasis added). Thus, Section 30213 provides an

affirmative mandate to protect and encourage lower-cost visitor serving uses such as the proposed project. Furthermore, the proposed project is feasible within the meaning of the Coastal Act (*see* Public Resources Code section 30108) and provides public recreational opportunities, as further called for in Section 30213. Likewise, Section 30221 states that “Oceanfront land suitable for recreational use *shall be* protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area” (emphasis added). Thus, Section 30221 provides an affirmative mandate to protect oceanfront land suitable for recreational use for recreation, and the present and future demand for such uses is not already provided for in the area. In summary, the project will provide public access to the northern Monterey County coast, including free and lower-cost public access and, as conditioned to ensure maximization of public access, the project is fully consistent with the Coastal Act’s public access and recreation policies.

Step 4

The project, if approved, would result in tangible resource enhancement over existing conditions. This is the case here for several reasons. First, as discussed above, the project will “open up” a significant portion of Fort Ord Dunes State Park to public access and passive recreational uses in a manner that was contemplated when the land was transferred from the federal government to State Parks. In addition, as proposed, the project will provide lower-cost overnight tent camping opportunities, as well as RV camping opportunities, both of which are in short supply in north Monterey County. Moreover, as conditioned, the project will result in significant public access and recreational improvements, e.g. free day use public parking, public trails and beach access.

Step 5

The benefits of the project are not independently required by some other body of law. The benefits of approval cannot be those that a project proponent is already being required to provide pursuant to another agency’s directive under another body of law. In other words, if the benefits would be provided regardless of the Commission’s action on the proposed project, the project proponent cannot seek approval of an otherwise un-approvable project on the basis that the project would produce those benefits, i.e., the project proponent does not get credit for resource enhancements that it is already being compelled to provide. For this project, both the base reuse plan and FODSP General Plan identify in concept the provision of more extensive public access to and recreational use of the Park unit including via a campground facility and beach day use, though State Parks cannot undertake the necessary construction and improvements envisioned in those plans to provide access without a CDP from the Commission. The benefits of the project are therefore not independently required by some other body of law.

Step 6

The benefits of the project must result from the main purpose of the project, rather than from an ancillary component appended to the project to “create a conflict.” A project’s benefits to coastal resources must be integral to the project purpose. If a project is inconsistent with a Chapter 3 policy, and the main elements of the project do not result in the cessation of ongoing degradation of a resource the Commission is charged with enhancing, the project proponent cannot “create a conflict” by adding to the project an independent component to remedy the resource degradation. The benefits of a project must be inherent in the purpose of the project. If this provision were

otherwise, project proponents could regularly “create conflicts” and then request that the Commission use Section 30007.5 to approve otherwise un-approvable projects. The conflict resolution provisions of the Coastal Act were not intended to foster such an artificial and easily manipulated process, and were not designed to barter amenities in exchange for project approval. In this case, the public access benefits of the project result from its primary purpose, i.e. a new public campground and associated amenities and beach and dune access, including trails and a beach staircase.

Step 7

There are no feasible alternatives that would achieve the objectives of the project without violating any Chapter 3 policies. The entire 990 acres of Fort Ord Dunes State Park is considered ESHA and there is no other location outside of the dunes upon which the campground and related development could be constructed to avoid adverse impacts to the ESHA. Ever since the decommissioning of this site by the Army, all involved and governing parties have envisioned reuse of Fort Ord as a State Park campground, as evidenced by the 1994 Federal Consistency upon transfer of the property from the Army to State Parks, notwithstanding the fact that the entirety of FODSP constitutes ESHA. The proposed campground is located primarily in the Storage Bunker Management Zone, an area that has been disturbed by past military uses. The campground project also includes native dune restoration and, as conditioned to include additional mitigation for project-related permanent dune impacts, the project will mitigate for the impacts to dune ESHA. Thus, there are no feasible alternatives that would achieve the objectives of the project without violating any Chapter 3 policies.

Based on the above, the Commission finds that the proposed project presents a conflict between Section 30240 on the one hand, and Sections 30213 and 30221 on the other hand, and that this conflict must be resolved through application of Section 30007.5.

Conflict Resolution Conclusion

With the conflict among several Coastal Act policies established, the Commission must resolve the conflict in a manner which on balance is the most protective of significant coastal resources. In reaching this decision, the Commission evaluates the project’s tangible, necessary resource enhancements over the current state and whether they are consistent with resource enhancements mandated in the Coastal Act. In the end, the Commission must determine whether its decision to either deny or approve a project is the decision that is most protective of significant coastal resources.

In this case, if the project is denied, the most threatened coastal resource in the project area is to public access along oceanfront property in an area of the coastal zone that does not have many similar opportunities, including lower-cost tent camping opportunities. Overall, the approved project is more protective of coastal resources than denial would be because it allows for new public access and recreational opportunities to and along the coast, including lower-cost public access and recreational opportunities. ESHA is also an important resource that will be impacted by the proposed project in a manner not consistent with Section 30240. However, as conditioned to implement grading, fencing/public access, and other necessary development in a manner most protective of ESHA, and as conditioned to require 56 acres of compensatory dune habitat mitigation in addition to the 33 acres of disturbed dune habitat to be restored, the project as

recommended by staff for approval has been revised to minimize conflicts with the ESHA provisions of Coastal Act Section 30240. (*See* discussion in **Section E** above regarding the “Approvable Project.”) In resolving the identified Coastal Act conflicts, the Commission finds that the impacts on coastal public access resources from not constructing the project will be more significant than the project’s ESHA impacts if these impacts are minimized and mitigated as proposed and conditioned. Therefore, the Commission finds that approving the project, as conditioned, is, on balance, most protective of coastal resources.

K. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The California Department of State Parks, acting as the CEQA lead agency, adopted an Initial Study / Mitigated Negative Declaration for the proposed project on June 20, 2014. The Coastal Commission’s review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. (14 CCR § 15251(c).) The preceding coastal development permit findings discuss the relevant coastal resource issues with the proposal, and the permit conditions identify appropriate modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above, which are incorporated herein in their entirety by reference. (One comment was received regarding lead on the project site. This comment has been addressed in the Section E of the report, which explains that the location of the campground was chosen because of the absence of hazardous materials (i.e. lead), and also explains that lead remediation has been performed in areas where other project components will be located, such as trails and the entrance station.)

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as conditioned, would have on the environment within the meaning of CEQA. Thus, if so conditioned, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

1. *Final Initial Study/Mitigated Negative Declaration for the Fort Ord Dunes State Park Campground Project*, Denise Duffy & Associates, May 2013.
2. *Fort Ord Dunes State Park General Plan*, California State Parks, September 16, 2004.
3. *Installation-Wide Multi-Species Habitat Management Plan (HMP)*, U.S. Army Corps of Engineers, April 1997.
4. *Draft Fort Ord Multi-Species Habitat Conservation Plan*, ICF International, March 2015.
5. *Consistency Determination CD-16-94 (Disposal and Reuse of Fort Ord)*, California Coastal Commission, May 1994.
6. *Coastal Development Permit CDP 3-06-069 (Fort Ord State Park Initial Public Use)*, California Coastal Commission, March 2007/

APPENDIX B – STAFF CONTACT WITH AGENCIES AND GROUPS

California Department of Parks and Recreation

United States Fish and Wildlife Service

Marina Coast Water District

Fort Ord Reuse Authority

Transportation Agency of Monterey County