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CDP Amendment Denied: 11/8/2017
Staff: J.Manna - SF
Staff Report: 10/19/2018
Hearing Date: 11/8/2018

REVISED FINDINGS

Application Number: A-2-MAR-08-028-A2

Applicant: Lawson's Landing, Inc.

Project Location: Lawson's Landing camping and recreational facility located at 137 Marine View Drive in the Tomales Dunes complex at the mouth of Tomales Bay, just south of the community of Dillon Beach, in western Marin County.

Project Description: Amend permit to allow for phased construction of a wastewater management system (including collection, treatment and dispersal facilities); construction of the 'Lawson's Landing Center' (including improvements to the existing entrance, gate house, roadway and parking facilities; and construction of equipment storage and repair barn, emergency services center with employee meeting space and offices, store, electric cart storage and charging station, guest processing center, and rooftop photovoltaic or solar thermal collectors); and habitat restoration.

Commission Action: Denied (November 8, 2017)

Staff Recommendation: Adopt Revised Findings

STAFF NOTE

On November 8, 2017, following a public hearing in Bodega Bay, the Coastal Commission denied a coastal development permit (CDP) amendment for the above-referenced proposed project. Because the Commission denied the proposed project when staff was recommending approval with conditions, this report contains revisions to the prior staff report that reflect the

Commission's action (i.e., "revised findings"). These changes are shown in ~~strikethrough~~ (for deletions) and underline (for additions). Commissioners who are eligible to vote on the revised findings are those from the prevailing side who were present at the November 8, 2017 hearing (Commissioners Aminzadeh, Groom, Howell, Luevano, Padilla, Peskin, Chair Bochco and Vice-Chair Turnbull-Sanders). The motion to adopt the revised findings is found on page 10 below.

SUMMARY OF ~~STAFF RECOMMENDATION~~ COMMISSION ACTION

Lawson's Landing is a 960-acre shoreline property that includes agricultural uses in the form of cattle grazing and a 75-acre low-cost, oceanfront campground, located in the Tomales Dunes complex at the mouth of Tomales Bay, immediately south of the community of Dillon Beach, in western Marin County. On July 13, 2011, the Commission approved a consolidated coastal development permit (CDP) for both new and after-the-fact recreational visitor-serving development and habitat restoration and conservation on the property, including: recreational vehicle (RV) and tent camping spaces and 20 standing RVs with drains (estimated to provide approximately 650 total campsites over 33.5 acres), day use parking, boating facilities, support facilities, road improvements, a 465-acre Natural Resource Conservation Service (NRCS) conservation easement, and habitat restoration activities (CDP A-2-MAR-08-028).¹ That CDP was the end result of a many years effort to resolve complicated and controversial enforcement, permitting and related habitat and recreation issues at the Lawson's Landing site, and it included the removal of some 167 residential trailer units as a fundamental component. Because most of the site constituted environmentally sensitive habitat area (ESHA), and because the Commission approved non-resource dependent recreational and visitor-serving camping-related development in ESHA, the Commission's 2011 approval was based in the conflict resolution provisions of the Coastal Act.

As considered on November 8, 2017, ~~The Applicant proposed is now proposing~~ to amend the original CDP to allow for 1) phased construction of a wastewater management system (including collection, treatment and dispersal facilities) to provide wastewater treatment capacity necessary to support the approved recreational uses; 2) construction of a recreational visitor center referred to as the "Lawson's Landing Center" (including improvements to the existing entrance, gate house, roadway and parking facilities; and new construction of equipment storage and repair barn, emergency services center with employee meeting space and offices, campground store, electric cart storage and charging station, guest processing center, and rooftop photovoltaic or solar thermal collectors) to support existing facility operations, enhance the visitor experience, and address traffic and circulation issues; and 3) habitat restoration activities to further enhance sensitive habitat and sensitive species migration corridors and to restore additional areas contiguous to the NRCS easement.

¹ Given the CDP was a consolidated CDP for development in the both the County's as well as the Commission's CDP jurisdiction, the combined CDP Number is CDP A-2-MAR-08-028/2-06-018. For simplicity's sake, the reference that has been used by the Commission for this CDP, including in this report, is CDP Number A-2-MAR-08-028.

With respect to the Lawson's Landing Center, it has always been part of the Applicant's long-term vision for the campground facility, and it is meant to provide necessary onsite support services and visitor-serving amenities. Prior to the Commission's approval of the consolidated CDP in 2011, the initial CDP application approved by Marin County allowed for construction of the Lawson's Landing Center in an area designated as "Area 6", located directly east of and adjacent to the campground entrance gate. The Center included construction of new buildings with a maximum area of 15,000 square feet for recreation support services, including store, boat repairs, retail sales, storage, fueling, administrative offices, recreation and meeting rooms, laundry, and a bed and breakfast subject to approval of a Precise Development Plan.² Since the Center was still only conceptual at the time the Commission took its 2011 consolidated CDP action, the development associated with the Center and its exact location on the property was not identified or approved by the Commission, but only described in general terms to be handled through a later CDP amendment.

Area 6 currently includes two employee houses, utility sheds, various structures (constructed in connection with a previous sand quarry operation or to support ranching activities), a road and parking area, and vegetated areas with a mix of native and non-native species. At the time of its 2011 CDP action, the Commission did not have sufficient information to conclude on the legal permitting status of all of the existing development in Area 6. Area 6 is adjacent to areas of coastal dune scrub that qualify as ESHA, and the Area was itself likely covered with coastal dune scrub prior to any development historically, and still contains some areas of degraded coastal dune scrub. Further, it is located inland of an identified California red-legged frog (CRLF) breeding pond and within a potential migration corridor for the species. As such, the Commission at the time found that the undeveloped portions of Area 6 that are contiguous with adjacent areas of central dune scrub open space, as well as the developed portions of Area 6 that were not legal (e.g., lacking CDPs) constituted ESHA. The Commission specified through conditions that future development of Area 6 could occur only within legally developed areas, that the Applicant must provide evidence that the existing development was authorized, and that any newly proposed development or redevelopment of existing developed areas must be approved as an amendment to the CDP. Lastly, the Commission's 2011 CDP action required the removal of any to be identified unpermitted development in Area 6 and restoration of those areas, in an effort to conclusively resolve questions of violations on the property.

Development of a new wastewater management system and abandonment/removal of the old, existing septic leach fields and holding tanks were also an essential component of the project as originally approved by the Commission. While a general location of the wastewater treatment and disposal facility was identified in 2011, the Commission did not approve the wastewater system at that time, instead requiring the Applicant to come back with supporting documentation for optimum wastewater system siting and design through a future CDP amendment. At the time, and based on the information then known, the Commission directed the facilities to be located in an agricultural pasture area referred to as the "Upper Scale House pasture area" (uphill and inland from the lower-lying Lawson's campground and related facilities) and that sensitive

² In 2008, the CDP approved by Marin County for development within their permit jurisdiction, including the Lawson's Landing Center, was appealed to the Coastal Commission. On January 7, 2009 the Commission found that a substantial issue of consistency with the Marin County LCP was raised by the appeal of the County's approval, thereby taking CDP jurisdiction over the development within the County jurisdiction.

habitat buffers be established around any wastewater system installed in that location (including a 100-foot buffer from wetlands, a 50-foot buffer from central dune scrub ESHA, and a 300-foot buffer from CRLF breeding ponds). In addition, the Commission required that the future proposed system be of adequate capacity to process and dispose of all wastewater generated by the development, and approval of it to be through a future CDP amendment, as is currently being proposed.

In working towards siting and designing the final wastewater management system in the time since 2011, including in working with the San Francisco Bay Regional Water Quality Control Board (RWQCB), new information came to light that resulted in the Applicant reconsidering the location of portions of the proposed system. Namely, in working with the RWQCB and Commission staff, they determined that Area 6 would be a better location for wastewater treatment and wintertime dispersal (including due to the permeability of the soils, depth to groundwater, proximity to staff who would be in charge of managing the system, reduced distance required to pump untreated wastewater, and reduced energy consumption associated with wastewater pumping year-round). It also came to light that the Upper Scale House pasture area would not provide adequate dispersal capacity to support the year round projected wastewater demands for recreational use as approved under the original CDP. Separately but related, at the same time, the Applicant and Commission staff were concluding regarding the nature of legal development in Area 6, and thus the area that could be used for development there. Through that process, it was determined that Area 6 consists of areas of permitted development interspersed with areas of apparently unpermitted development, resulting in a fragmented pattern of subareas that are eligible for development under the base CDP and others that are required to be restored. This fragmented pattern combined with sensitive habitat buffer requirements result in an oddly shaped and limited area within Area 6 that is available for development, and a complementary area in Area 6 deemed to not be legal and to require restoration that is also oddly shaped and configured in relation to adjacent habitat, including much of it being encircled by a permitted roadway, equally frustrating potential habitat benefits.

The limited development area would not be able to support the proposed Lawson's Landing Center and the wastewater treatment facilities. As a result, in this application the Applicant is requesting that the proposed facilities be located partially in Area 6 ESHA areas (and impacts offset through additional habitat restoration and preservation) as an extension of the overall conflict resolution-based approval from 2011 that recognizes that the Commission was unsure about the parameters of appropriate development in Area 6 in 2011, did not have the benefit of current wastewater siting and design information, and directed that all of this come back to the Commission for approval through a CDP amendment. In other words, the Applicant here suggests that the Commission use the process identified in the 2011 CDP to finalize operational parameters necessary for the continued function of the Lawson's Landing facility through this amendment request.

If, instead, the wastewater and Lawson's Landing Center facilities were to be accommodated elsewhere on the site outside of these proposed areas, that would necessarily mean that at least portions of these facilities would need to be sited in the location of other approved facilities. Specifically, locating the Lawson's Landing Center in other portions of the approved camp areas would significantly displace lower cost visitor-serving accommodations (mainly campsites, tent

sites, and day use parking). The campsite buildout potential for Lawson's Landing already appears to be much less than what was estimated by both the Applicant and the Commission in the original CDP approval. The Commission in 2011 estimated there would be approximately 650 campsites as conditionally approved by the CDP; however only approximately 350 total campsites can be accommodated in the area provided as estimated in the latest draft Campground Management Plan submitted by the Applicant. Further, when considering siting the visitor center in other areas, there are hazard considerations (in Camp Areas 1-4), including future sea level rise, flooding, earthquake faults, and possible tsunamis that would also limit the development potential of more substantial structures in these areas, especially those that would house hazardous materials, such as fuel, and generators. Camp Areas 1-4 are also located in and immediately adjacent to high quality ESHA, including wetlands and dunes, and development in these areas is greatly limited by required buffers through the original CDP approval. Lastly, alternative locations for the visitor center would not result in beneficial traffic circulation improvements at the entry gate, or reduce in and out traffic by visitors, potentially interfering with the general public's ability to access nearby coastal areas, including Dillon Beach.

With regards to the proposed wastewater management system, the Upper Scale House pasture area is no longer the preferred alternative based on the system capacity limitations, the distance to staff managing the system, the distance required to pump untreated wastewater, and the additional energy use required for operation. If the wastewater system were limited to only the Upper Scale House pasture area, then wintertime camping opportunities would need to be reduced consistent with the available wastewater treatment capacity, impacting important peak low-cost recreational use periods, such as holiday weekends in November, December and January as well as the opening of crabbing season. Such a reduction would be in addition to the fact that the actual amount of camping that can be provided consistent with the Commission's terms and conditions from 2011 is just over half of what was originally thought, and thus a further reduction of this sort would only exacerbate the already reduced level of camping that is actually available, frustrating the Commission's original CDP objectives in that regard.

Based on the above considerations, the Applicant believes for the proposed Lawson's Landing Center and the wastewater treatment and wintertime disposal facilities as this location would provide necessary visitor-serving enhancements and operational improvements for the approved lower cost recreational uses, and improved management and oversight of the facilities for the benefit of those recreational uses. Recognizing that the proposal includes some impacts to degraded ESHA areas in Area 6 (totaling approximately 37,658 square feet), the Applicant has proposed offsetting restoration of additional degraded habitat in Area 6 (totaling approximately 29,679 square feet) as well as protecting additional habitat areas previously committed to development in camp Area 4 that are located adjacent to the NRCS conservation easement and its respective buffers (restoration of an additional approximately 37,800 square feet). A portion of the proposed restoration in Area 6 would be conducted over the leach fields (14,943 square feet) and cannot be considered as part of the mitigation for habitat impacts. However, the remaining restoration and exchange (52,536 square feet) corresponds roughly to a 2:1 restoration to impact ratio overall.

As proposed by the Applicant, the design of the development proposed for Area 6, including the restoration components, would cluster new development in and adjacent to already legally

developed areas or unpermitted, previously impacted areas, and restore habitat areas that are contiguous with larger, more expansive habitat areas. It would also resolve outstanding issues regarding unpermitted development within Area 6 and allow for restoration activities more likely to succeed by undertaking those activities directly adjacent to existing large and contiguous habitat areas, as opposed to restoring habitat in a fragmented nature in and around newly permitted recreational development. Similarly, the additional offsetting restoration proposed in Area 4 is a means of maintaining the overall 'development to open space' balance established in the original CDP approval in manner which concentrates development and restoration, and minimizes the potential impact to the recreational uses.

Ultimately, however, because such an outcome included some non-resource dependent development in ESHA in Area 6, the Commission found that such a proposal would ordinarily require denial, and that approval through Coastal Act conflict resolution provisions was not appropriate or necessary in relation to the proposed project. The Commission determined that approval of the amendment would be inconsistent with the intent of the original CDP regarding protection of ESHA in Area 6. Namely, all undeveloped areas and areas not proven to be legally developed in Area 6 were considered ESHA and pursuant to Coastal Act Section 30240, non-resource dependent development in these areas is prohibited. Further, the Commission did not find that However, denial of the proposed amendment would reduce the Applicant's ability to provide services to support existing and approved lower cost, ocean-front, visitor-serving recreation, and did not find that denial would result in impacts to public access. The Commission asserted that the original CDP approved significant camping and public access areas throughout the property that are still available to the public and the extent of development proposed in ESHA was not essential to support such access. The Commission directed that any future development proposals within Area 6, including aspects of the proposed wastewater treatment facility and Lawson's Landing Center, must avoid areas established as ESHA, not interfere with California red-legged frog dispersal, and avoid impacts to the California red-legged frog breeding pond, the nearby creek, and Bodega Bay.

Thus, the Commission found the project inconsistent with the Coastal Act and LCP sensitive resource protection policies and denied the CDP amendment.

~~;~~ would fail to address existing traffic issues posed by the facility that may potentially affect the public's ability to access the coast; and would fail to provide a robust wastewater management system to protect water quality and meet the capacity demands of the approved lower cost recreational facilities inconsistent with Coastal Act Sections 30210, 30213, 30221, and 30231, which require the Commission to maximize public access to and from the coast; protect and encourage lower cost visitor and recreational facilities; protect and preserve oceanfront land suitable for recreational use and development; and protect coastal water quality by minimizing adverse effects of wastewater discharges. The proposed amended project would also provide additional benefits required and/or encouraged by the Coastal Act, such as concentrating development contiguous with, or in close proximity to, existing developed areas (Section 30250); minimizing use of coastal access roads and providing non-automobile circulation (Section 30252); and minimizing energy consumption and vehicle miles traveled (Section 30253(d)). In such a situation, when a proposed project is inconsistent with a specific Chapter 3 policy, and denial or modification of the project would conflict with another Chapter 3 policy, Sections

30007.5 and 30200(b) of the Coastal Act provide for resolution of such a policy conflict, as was the case in the original CDP approval from 2011.

It is important to note that in its original CDP approval, the Commission found that existing camping and related development areas proposed for after the fact approval were located in ESHA on the property that included both terrestrial dune habitats and wetlands. Allowing development within ESHA in 2011 was inconsistent with Coastal Act Sections 30233 and 30240. However, the Commission found that denial of the project due to inconsistency with Coastal Act Sections 30233 and 30240 would result in a failure to provide much needed lower cost access and recreational facilities, including coastal dependent boating and fishing, inconsistent with the mandates of Coastal Act Sections 30213, 30220, 30221, 30224, 30234, and 30234.5. Thus, the Commission invoked the use of conflict resolution in approving a project that was on balance most protective of coastal resources. Ultimately, the Commission found that the approved project provided significant lower cost public access and recreation at Lawson's Landing to meet current and future demand for this resource, protected viable agricultural lands and uses while using the site for camping, and preserved the vast majority of existing wetlands and habitat resources on the property including through the 465-acre conservation easement, dune and wetland restoration and buffer protections, and removal of 167 existing residential trailers and their individual wastewater systems.

In the case of this proposed amendment, Commission staff recommends that the Commission find that the impacts on coastal resources from not constructing the amended project, as conditioned, would be more significant than the amended project's potential adverse effects to ESHA. Specifically, denying the proposed amended project because of its inconsistency with Section 30240 would interfere with the use and operation of existing and approved lower cost, visitor serving recreational facilities, result in reduced visitor serving facility enhancements, worsen traffic congestion and associated adverse impacts on public access, and prevent adequate wastewater treatment capacity for peak recreational wintertime demands. In contrast, approving the proposed amended project would further enhance lower cost visitor serving uses and support the management, operation or functionality of these visitor serving uses. The proposed amendment would also concentrate approved development in an area already heavily impacted by historic use, in an area adjacent to legally developed areas, and would also offer additional habitat enhancements and land preservation elsewhere on the site adjacent to larger and more contiguous ESHA areas. In essence, the proposed amendment is a further refinement and improvement to the balance initially struck through the original conflict resolution determination made by the Commission in 2011 to better provide for lower cost visitor serving uses in a manner which is on balance most protective of coastal resources. Importantly, the Commission's 2011 approval deferred final approval of the wastewater facility as well as the Lawson's Landing Center at that time, and instead required that the Applicant come back with supporting information and details for these elements through a CDP amendment at a future date. This application is that CDP amendment, and thus is better characterized as expected refinement than 'another bite at the apple', as some in opposition to the project (now and in 2011) would suggest.

In approving the proposed amendment through conflict resolution, Commission staff also recommends a series of special conditions to ensure potential impacts to sensitive species and habitats within and adjacent to Area 6 are avoided, minimized, and mitigated through appropriate

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~~parameters and requirements for the construction and operation of the proposed development and uses, that construction best management practices be implemented to minimize impacts to access and sensitive species during construction, and that the final materials used to construct the Lawson's Landing Center reflect a rural, agricultural, and coastal theme respectful of adjacent habitat areas consistent with Coastal Act sensitive habitat, public recreational access, and visual resource protection policies.~~

~~Thus, staff recommends approval of CDP amendment application A 2 MAR 08 028 A2 as conditioned. The motion is found on page 10 below.~~

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APPENDICES

Appendix A – Substantive File Documents

Appendix B – Staff Contact with Agencies and Groups

EXHIBITS

[Exhibit 1: Project Location and Site Map](#)

[Exhibit 2: Wastewater Management System Project Plans](#)

[Exhibit 3: Lawson’s Landing Center Project Plans](#)

[Exhibit 4: Construction Staging Areas](#)

[Exhibit 5: Restoration Revegetation Specifications and Criteria](#)

[Exhibit 6: Proposed Area 4 Exchange Areas and Impact to Restoration Calculations](#)

[Exhibit 7: Commission Staff Communication on Area 6 and 8 Development](#)

[Exhibit 8: Allowable Development Area and Buffers \(Camp Areas 1-4\) from 2011 CDP](#)

[Exhibit 9: Communication from Regional Water Quality Control Board](#)

[Exhibit 10: Allowable Development Area \(Area 6\)](#)

[Exhibit 11: 2011 Memo from Dr. John Dixon, Staff Ecologist](#)

[Exhibit 12: Aerial Photos of Area 6, 1972 and 2013](#)

[Exhibit 13: Ann Baker Landscape Architecture, Area 6 Existing Vegetation](#)

[Exhibit 14: Monk & Associates Inc., California Red-legged Frog Migration](#)

[Exhibit 15: Monitoring Well Results 2016 and 2017](#)

[Exhibit 16: Wastewater Management System Operation, Maintenance, and Monitoring Plan](#)

[Exhibit 17: New Monitoring Well Location](#)

[Exhibit 18: Grazing Prohibition](#)

[Exhibit 19: Traffic Management Plan and Feasibility Assessment Excerpts](#)

[Exhibit 20: Wastewater Generation Estimates](#)

[Exhibit 21: California Red-Legged Frog Best Management Practices](#)

[Exhibit 22: Sea Level Rise and Flood Maps for Lawson’s Landing](#)

[Exhibit 23: Correspondence](#)

[Exhibit 24: Communication with Interested Parties](#)

[Exhibit 25: Special Conditions as Amended](#)³

³ As a result of the denial the special conditions as amended do not apply. As such, Exhibit 25 is not part of the revised findings.

I. MOTION AND RESOLUTION

Staff recommends a YES vote on the motion below. Passage of this motion will result in adoption of revised findings as set forth in this report. The motion requires a majority vote of the members of the prevailing side present at the revised findings hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings. The Commissioners eligible to vote are Commissioners Aminzadeh, Groom, Howell, Luevano, Padilla, Peskin, Chair Bochco and Vice-Chair Turnbull-Sanders.

Motion: I move that the Commission adopt the revised findings in support of the Commission's action on November 8, 2017 denying Coastal Development Permit Number A-2-MAR-08-028-A2, and I recommend a yes vote.

Resolution: The Commission hereby adopts the revised findings set forth below for denial of Coastal Development Permit Number A-2-MAR-08-028-A2 on the grounds that the findings support the Commission's decision made on November 8, 2017, and accurately reflect the reasons for it.

~~Staff recommends that the Commission, after public hearing, approve a CDP amendment 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 amendment 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 Amendment Number A-2-MAR-08-028-A2 pursuant to the staff recommendation, and I recommend a yes vote.*~~

~~*Resolution to Approve CDP Amendment: The Commission hereby approves the coastal development permit amendment on the grounds that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.*~~

II. SPECIAL CONDITIONS

~~This CDP amendment is granted subject to the following special conditions:~~

NOTE: Exhibit 25 includes all standard and special conditions that apply to this CDP, as approved by the Commission in its original 2011 action and as modified by all subsequent amendments, including this amendment. All of the Commission's adopted terms and conditions continue to apply in their most recently approved form unless explicitly changed in this amendment action. New conditions and modifications to existing conditions imposed in this amendment action are shown below in underline/strikeout format, and within Exhibit 25, changes to the previously approved conditions are likewise shown in underline/strikeout format.

1. ~~Modify Special Condition 2(C)(4) as follows:~~

Area 4

Camp lots, roads, restrooms, and parking in Area 4, as generally shown on Adobe Associates Sheet 20 dated June 2011 (exhibit 3 of this Staff Report), consistent with the following ESHA protection conditions:

- a. ~~Except for the main access road and CRLF habitat enhancement measures proposed and authorized pursuant to Special Condition 4, a 300-foot buffer shall be provided between all development and other land uses and the California Red Legged Frog breeding pond to the north as depicted in Figure 5 of the June 23, 2011 memo from John Dixon, Staff Ecologist to Ruby Pap, Coastal Commission staff, regarding Lawson's Landing (exhibit 6 of this Staff Report).~~
- b. ~~A 100-foot buffer between development and wetlands as identified and depicted in the June 23, 2011 memo from John Dixon, Staff Ecologist to Ruby Pap, Coastal Commission staff, regarding Lawson's Landing (exhibit 6 of this Staff Report); These wetlands are also depicted in detail on Adobe Associates Sheet 20, dated June 2011.~~
- c. ~~No development shall occur within 25 feet of the ditches as identified and depicted in the June 23, 2011 memo from John Dixon, Staff Ecologist to Ruby Pap, Coastal Commission staff, regarding Lawson's Landing (exhibit 6 of this Staff Report) except that development may occur within 10 feet of the ditches between Memorial Day weekend and Labor Day weekend if preceded by at least a two-week period of minimal rainfall.~~
- d. ~~A 50-foot buffer between development and dune scrub ESHA, as identified and depicted in the June 23, 2011 memo from John Dixon, Staff Ecologist to Ruby Pap, Coastal Commission staff, regarding Lawson's Landing (exhibit 6 of this Staff Report) and Adobe Associates Sheet 20, dated June 2011, shall be provided.~~
- e. ~~The buffers from the wetland and dune scrub ESHA located adjacent to the most eastern camping locations shall be enlarged and extended as depicted on Exhibit 6 for CDP Amendment Number A-2-MAR-08-028-A2. No development shall occur within this expanded buffer except for restoration activities consistent with the requirements of Special Condition 29.~~

~~ef. Fencing that physically excludes people and pets or symbolic fencing, and informational signs shall be constructed around all wetlands and ESHA, and their respective buffer zones, to prevent intrusion of people and domestic animals into the habitat areas. To ensure that the fencing is visually compatible with the area, a fencing materials and a monitoring plan shall be submitted, for review and approval by the executive director, concurrent with the Final Revised Plans in Section 2(A) of this condition. The plan shall include proposed fencing materials and signage that are made of natural materials and colors that blend with the environment. The monitoring plan shall include weekly monitoring and performance criteria to determine if the fencing is effective at keeping visitors and pets out of the wetland and ESHA areas, and provide a mechanism to install alternative fencing if the initial fencing is ineffective.~~

~~fg. No grading is permitted except for minor topographic alterations associated with the Stormwater management plan, associated with detention basins. Modifications to the existing drainage ditches to facilitate flow shall not increase the depth or width of the ditches, and shall be consistent with the hydrological assessment contained in Special Condition 4(A)(4)(d).~~

2. ~~Modify Special Condition 2(C)(6) as follows:~~

~~C. The following development and areas are authorized by this permit:~~

~~...~~

6. ~~Area 6~~

~~a. No development is authorized, including but not limited to relocation of boat and trailer storage, boat repairs and sales, fuel bunker, and fuel service, unless: (1) development is proposed in legally developed areas; (2) the Applicants provide evidence that such previous development was authorized; and (3) an Amendment to this coastal development permit is approved. Construction of wastewater treatment and wintertime dispersal facilities as depicted in Lawson's Landing, Dillon Beach, CA, Area 6 Preliminary Wastewater Treatment and LeachField Plan dated July 2016 (page 2 of [Exhibit 2](#) for CDP Amendment Number A 2-MAR-08-028-A2); construction of the Lawson's Landing Center (including improvements to the existing entrance, gate house, roadway and parking facilities; and construction of equipment storage and repair barn, emergency services center with employee meeting space and offices, store, electric cart storage and charging station, guest processing center, and rooftop photovoltaic or solar thermal collectors) as further as depicted in Lawson's Landing Area 6 Site Plans dated October 15, 2017 ([Exhibit 3](#) for CDP Amendment Number A 2-MAR-08-028-A2); and habitat restoration as depicted on Area 6 DD Landscape & Restoration Plan dated November 4, 2016, revised May 24, 2017 (page 1 of [Exhibit 5](#) for CDP Amendment Number A 2-MAR-08-028-A2).~~

~~b. No additional future development shall occur unless authorized consistent with the limitations on development identified in Special Condition 21.~~

3. ~~Modify Special Condition 7~~ as follows:

~~WASTEWATER TREATMENT AND DISPOSAL SYSTEM~~

~~A. The Permittee shall construct the new wastewater treatment and disposal system, as generally depicted on Lawson's Landing, Dillon Beach CA, Area 6 Preliminary Wastewater Treatment and Leachfield Plan dated July 2016; Lawson's Landing Interim Employee Housing Wastewater Design, Dillon Beach dated January 6, 2017; Lawson's Landing, Dillon Beach, Step System Plan dated October 5, 2017; Lawson's Landing, Dillon Beach, Step System Details dated October 6, 2017; and Lawson's Landing, Dillon Beach Treated Effluent Force Main and Scale House Area Proposed Wastewater Facilities dated May 1, 2017 (shown in [Exhibit 2](#) for CDP Amendment Number A 2-MAR-08-028-A2) by December 31, 2018. The Executive Director may extend this deadline for good cause. Adobe Associates Sheets 2, 3 and 8, dated October 2010 (exhibit 3 of this Staff Report) and Questa Figure 1 "Test Location Map Lawson's Landing" (exhibit 42 of this Staff Report), and Questa Sheet 1 of 1 "Sand Point Proposed STEP Sewer Schematic Plan", dated 4/4/2008, and Questa Figure 1 "Typical STEP Unit Non Traffic Area" (exhibit 23 of this Staff Report) within three years of permit approval (by July 13, 2014). The Executive Director may extend this deadline to July 13, 2016 for good cause.~~

~~B. **BY JULY 13, 2012**, or within such additional time the Executive Director may grant for good cause, the permittee shall submit a Coastal Development Permit Amendment Application for the new wastewater treatment and disposal system and abandonment of the 167 individual septic systems. The Application shall include the final plans for the wastewater treatment and disposal system as approved by the Regional Water Quality Control Board and the Marin County Environmental Health Services. Consistent with the provisions of Special Condition 2, the wastewater treatment and disposal system shall be located outside a 100-foot buffer area from all wetlands, outside a 50-foot buffer area for all central dune scrub ESHA, and 300 feet from California Red Legged Frog breeding ponds. The wastewater treatment and disposal system may not block public access to the coast nor significantly obstruct public views to the coast from significant public vantage points, and shall be of adequate capacity to process and dispose of all wastewater generated by the development.~~

~~B.C. The remaining 6 individual septic systems of the original 167 individual septic systems in Area 2 shall be abandoned within 60 days of construction of the new Interim Employee Housing Wastewater System wastewater treatment and disposal system. Upon conclusion of the abandonment/removal process, the Permittee shall submit evidence from Marin County Environmental Health Services or the Regional Water Quality Control Board, that such removal/abandonment has been completed in accordance with current regulations.~~

~~C.D. If the new wastewater treatment and disposal system has not been constructed within three years, by December 31, 2018 or within additional time the Executive Director may grant for good cause, the Applicant shall cease all uses, including the travel trailers, that~~

~~depend on the new wastewater treatment and disposal system 167 septic systems, until such time that the Applicant has applied, and the Commission has approved, an amendment to this Coastal Development Permit to construct an alternative wastewater disposal system to support such uses.~~

~~D. The wastewater treatment and disposal system shall not be constructed until the Permittee submits evidence of final authorization for the system from the Regional Water Quality Control Board (RWQCB) to the Executive Director.~~

~~E. Operation, maintenance and monitoring of the wastewater treatment and disposal system shall be conducted in accordance with all specifications outlined in [Exhibit 16](#) for CDP Amendment Number A-2-MAR-08-028-A2, in addition to those imposed by the RWQCB. The Permittee shall inform the Executive Director of any changes to the project required by the RWQCB. Such changes shall not be incorporated into the project until the Permittee obtains an amendment to this coastal development permit, unless the Executive Director issues a written determination that no amendment is legally required.~~

~~F. Any proposed future changes to the wastewater treatment and disposal facilities to provide for additional treatment and disposal capacity shall require an amendment to this CDP and approval from RWQCB.~~

4. Modify Special Condition 12 as follows:

TRAFFIC MANAGEMENT PLAN

~~A. **WITHIN SIX MONTHS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT**, or within such additional time as the Executive Director may grant for good cause, the permittee shall submit a Traffic Management Plan to the Executive Director for review and approval. The Traffic Management Plan shall establish standards and management practices to ensure safety and maintain LOS C or better on Dillon Beach roads that provide access to Lawson's Landing, including but not limited to the following:~~

- ~~1. The use of on-site facilities by visitors to avoid off-site trips is encouraged, through educational programs to encourage walking and biking on/off-site among other means;~~
- ~~2. Maximum vehicle levels for campsites are managed to avoid congestion and park entry delays;~~
- ~~3. The maximum allowable number of total daily camping-related vehicles shall be limited to the number of campground lots filled for the day (i.e. one vehicle per lot) pursuant to Special Condition no. 2. An RV towing a maximum of one passenger car or small truck shall count as a single vehicle. A second vehicle may be allowed in up to 150 larger campsites, subject to subsection B(13), if those campsites are specifically identified on revised plans pursuant to Special Condition no. 2.~~
- ~~4. The maximum number of day use visitor vehicles shall not exceed 100, excluding the public parking spaces required by Special Condition 22.~~

- ~~5. The Permittee shall erect signage at Tomales/Highway 1 indicating when the campground is full.~~
 - ~~6. Implementation of required EIR traffic mitigation measures pursuant to Special Condition 11.~~
 - ~~7. A provision to conduct Applicant's proposed feasibility study and environmental review of the use of Sand Haul Road for primary ingress and egress to Lawson's Landing, as part of Marin County's coastal development permit review of the "Phase 2" Lawson's Landing Center, if such Phase 2 ever occurs, or through submission of an updated Traffic Management Plan to the Coastal Commission for review and approval no later than January 1, 2017, whichever occurs first. The plan shall include results and analysis from the required traffic monitoring and any new or revised traffic management measures to assure safe and adequate traffic flows on Dillon Beach roads that provide access to Lawson's Landing.~~
- ~~B. The Plan shall provide for on-going traffic study and adaptive management including, but not limited to:~~
- ~~1. Analysis of current/previous conditions;~~
 - ~~2. Improvement Plans;~~
 - ~~3. Construction related traffic management;~~
 - ~~4. Inventory of all roadways including identification of: (1) which ones will continue to be used by the public; (2) which ones will continue to be used by employees only; (3) which ones will be closed to vehicular usage; and (4) which ones will be abandoned, along with plans for removal and restoration of areas proposed for abandonment.~~
 - ~~5. Establishment of criteria for determining traffic impacts (e.g., level of service, congestion/delay);~~
 - ~~6. Provide indices of congestion (stacking, wait times from a given point); and~~
 - ~~7. Identify maximum levels for: peak time numbers of vehicles, congestion/delay.~~
 - ~~8. Enhanced reservation system;~~
 - ~~9. Staggered arrivals;~~
 - ~~10. Reservation priority lane; and~~
 - ~~11. Traffic reduction incentives for campsite users, including non-peak day arrivals/departures, multiple-occupant versus single-occupant vehicles, in-camp trip reductions, and shuttle.~~
 - ~~12. Offer a shuttle and rental/loaner bicycles for trips to offsite local Dillon Beach store~~
 - ~~13. Mechanisms for managing the number of reservations or vehicles allowed on-site if the monitoring program required in subsection C shows that traffic impacts consistently exceed the established criteria and indices of the plan. Such mechanism shall include limiting the number of allowable second vehicles on larger campsites during peak times.~~
- ~~C. The monitoring program shall include:~~
- ~~1. Traffic counts~~
 - ~~2. Peak time (holiday proximity, good weather) vs. off-peak operations;~~
 - ~~3. Field examinations: numbers, locations, frequency, by independent traffic counting firm (e.g., include Lawson's Landing Resort), number of observers;~~

- ~~4. Duration of monitoring, including frequency before, during, after project phase completions and numbers and types of vehicles (inbound vs. outbound);~~
- ~~5. Types of visitors: day use, overnight, longer term, employee/owner, other; and~~
- ~~6. Unusual vehicle activities, e.g., blocking entrances/exits, U turns.~~
- ~~7. Analysis of whether the objectives established in the ongoing traffic study and adaptive management program are achieved, and proposed additional mitigation, if necessary.~~
- ~~8. A provision for submission of annual traffic monitoring reports to the Commission's Executive Director on an annual basis.~~

~~D. The permittees shall undertake development in accordance with the approved traffic management plan dated June 1, 2017. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.~~

~~B. No additional uses that would generate additional traffic shall be allowed within the approved Lawson's Landing Center, other than those specifically approved as part of CDP Amendment Number A 2 MAR 08 028 A2.~~

~~5. **Modify Special Condition 26** as follows:~~

~~DRAINAGE PLAN~~

~~A. **WITHIN SIX MONTHS OF COMMISSION APPROVAL OF THIS PERMIT**, or within such additional time as the Executive Director may grant for good cause, the permittee shall submit, for the review and approval of the Executive Director, a Drainage Plan signed by licensed engineer that, at a minimum, meets the following conditions:~~

- ~~1. Existing and proposed drainage for Areas 1, 2, 3 and 4, shall be drawn at the same scale as the site plan and detail plans, and show structures, drainage ditches, bioswales, water quality basins and other improvements that affect drainage.~~
- ~~2. The plan must indicate the direction, path, and method of water dispersal for existing and proposed drainage channels or facilities.~~
- ~~3. The drainage plan must indicate existing and proposed areas of impervious surfaces.~~
- ~~4. Flow line elevations where on-site drainage meets water quality management practices (e.g., water quality basins).~~
- ~~5. Water quality basin high water limits.~~
- ~~6. Overland escape location and elevation from water quality basin.~~
- ~~7. Total proposed water quality basin volume.~~
- ~~8. The Drainage plan shall ensure that modifications of the site drainage are limited to the minimum changes that are needed, to drain trailer pads and tent sites so that~~

~~runoff flows to existing drainage ditches without ponding and so that the drainage ditches flow: (a) in Areas 1 and 2, either to Tomales Bay or to water quality management practices described in the Storm Water Management Plan; or (b) in Areas 3 and 4, to the water quality management practices described in the Storm Water Management Plan, with final discharge to the interior wetlands. Modifications to the existing drainage ditches to facilitate flow shall not increase the depth or width of the ditches, and shall be consistent with the hydrological assessment contained in Special Condition 4(A)(4)(d). Changes to the drainage system must have no adverse impacts on coastal resources. Pursuant to Special Condition 27, no grading is authorized in Areas 3, 4, 6, and 8 except for minor topographic alterations associated with the stormwater management plan, associated with detention basins and grading approved in Area 6 under CDP Amendment Number A-2-MAR-08-028-A2.~~

~~B. The permittees shall undertake development in accordance with the approved drainage plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.~~

~~6. Modify Special Condition 27 as follows:~~

~~GRADING PLAN~~

~~**WITHIN SIX MONTHS OF COMMISSION APPROVAL OF THIS PERMIT,** or within such additional time as the Executive Director may grant for good cause, the permittee shall submit, for the review and approval of the Executive Director, a Grading Plan signed by licensed engineer that, at a minimum, meets the following conditions:~~

- ~~a. No grading is authorized in Areas 3, 4, 6 and 8 except for minor topographic alterations associated with the Stormwater management plan, associated with detention basins and grading approved in Area 6 under CDP Amendment Number A-2-MAR-08-028-A2.~~
- ~~b. The Grading Plan must indicate existing and proposed elevation contours where grading is proposed or where the existing slopes have an impact on site storm water management practices (e.g., bioswales or water quality basins).~~
- ~~c. Existing contours shall be shown with dashed lines and proposed contours shall be shown with solid lines.~~
- ~~d. The amount of proposed excavation and fill in cubic yards and the location of proposed deposition and borrow sites for each major element of the project must be indicated as well as the total area of disturbance proposed for the project and the limits of grading.~~
- ~~e. The Grading Plan shall be drawn at the same scale as the site plan and detail plans.~~

- f. ~~The Grading Plan shall ensure that grading is limited to the minimum area and minimum volumes needed to drain trailer pads and tent sites so that runoff flows to existing drainage ditches without ponding and so that the drainage ditches flow either to Tomales Bay or to water quality management practices described in the Storm Water Management Plan.~~
- B. ~~The permittees shall undertake development in accordance with the approved grading plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.~~

~~7. Add Special Conditions 29-32 as follows:~~

~~**29. Area 4 and 6 Additional Habitat Restoration.** The Permittee shall implement the following additional restoration activities in Area 6 and Area 4:~~

- ~~**A. Area 6.** The Permittee shall restore dune habitat over the proposed leach fields and in the area adjacent to the proposed development area as depicted on page 1 of [Exhibit 5](#) for CDP Amendment Number A 2 MAR 08 028 A2, within 90 days after leach field installation. The restoration shall be conducted consistent with the specifications outlined in the Final Preservation, Restoration, and Enhancement Plan for central dune scrub habitat in Restoration Area C to be finalized and approved through Special Condition 4.~~
- ~~**B. Area 4.** The Permittee shall restore the extended buffer area located adjacent to the eastern most camping in Area 4 as depicted on [Exhibit 6](#) for CDP Amendment Number A-2 MAR 08 028 A2. The restoration shall be conducted within 90 days of completion of installation of the wastewater facility improvements in Area 6 consistent with the specifications outlined in the Final Preservation, Restoration, and Enhancement Plan for central dune scrub habitat and wetlands in Restoration Area C to be finalized and approved through Special Condition 4.~~

~~**30. Sensitive Habitat and Species Protection Requirements.** The Permittee shall implement the following additional sensitive habitat and species protection requirements:~~

- ~~**A. Entrance Pond Monitoring and Management.** The Entrance Pond shall be monitored by a qualified biologist at least twice during each breeding season to evaluate the vegetation growth and use of the pond by California red-legged frog (CRLF) for breeding. The biologist shall recommend vegetation removal with the goal of reducing dense vegetation cover surrounding the pond, focusing on non-native and invasive plants via use of a weed-whacker or similar hand-operated device. Mowing and flash grazing are prohibited as agents of vegetation removal. Plant removal shall also occur in the pond, including reduction of vegetative cover in order to create open water habitat conducive to CRLF needs. Vegetation inspection prior to removal shall occur to prevent accidental death of frogs and other wildlife.~~

~~**B. Cattle Prohibition.** After construction of the wastewater treatment and disposal system, all cattle operations, including grazing and loading of cattle, shall be prohibited year-round in the Area 6 leach field dispersal area and in and around the Entrance Pond, as further identified in [Exhibit 18](#) for CDP Amendment Number A-2-MAR-08-028-A2.~~

~~**C. Other Operational Controls In and Around Area 6.** Fencing that physically excludes people and pets, and/or symbolic fencing and informational signs alerting visitors of the presence and significance of CRLF migratory habitat, shall be constructed adjacent to Area 6 restoration areas to prevent intrusion into restored habitat areas. To ensure visual compatibility, a description of fencing and sign materials as well as a monitoring plan shall be submitted, for review and approval by the Executive Director, concurrent with the review and approval of the Final Revised Plans in Special Condition 2(A). The fencing and sign plan shall include proposed materials and signage made of natural materials and colors that blend with the environment, and which will not restrict movement of frogs and other wildlife or pose a hazard to them. The monitoring plan shall include weekly monitoring and proposed performance criteria for effectively keeping people and pets out of the wetland and ESHA areas. If initial fencing and signage is shown by the monitoring to be ineffective at adequately protecting habitat areas, the Permittee shall contact the Executive Director and alternative fencing and signs shall be installed as Directed by the Executive Director.~~

~~**D. Removal of Residential Septic Systems.** The two existing residential septic systems in Area 6 shall be abandoned/removed within 60 days of construction of the new wastewater treatment and disposal system.~~

~~**31. PRIOR TO COMMENCEMENT OF CONSTRUCTION** the Permittee shall submit, for the review and approval of the Executive Director, two copies of a final Construction Plan, with staging areas that substantially conform with the plan submitted to the Commission titled *Proposed Staging Areas* dated May 15, 2017, shown in [Exhibit 4](#) for CDP Amendment Number A-2-MAR-08-028-A2. The final Plan shall demonstrate that all construction, including, but not limited to, clearing, grading, staging, storage of equipment and materials, or other activities that involve ground disturbance; building, reconstructing, or demolishing a structure; and creation or replacement of impervious surfaces, complies with the following requirements:~~

~~**A. Protect Public Access.** Construction shall protect and maximize public access, including by:~~

- ~~1. Construction shall not occur during peak holiday visitation periods (Labor Day, Veteran's Day, Thanksgiving, Memorial Day, and 4th of July and their associated weekends) unless, due to extenuating circumstances (such as tidal issues, extensive delays due to severe weather, or other environmental concerns) the Executive Director provides written authorization for such work.~~
- ~~2. Staging and storage of construction equipment and materials (including debris) shall not take place on in any area other than those areas designated on *Proposed Staging Areas* dated May 15, 2017 shown in [Exhibit 4](#) for CDP Amendment Number A-2-~~

~~MAR-08-028-A2. Construction is prohibited outside of the defined construction, staging, and storage areas.~~

- ~~3. All construction methods to be used, including all methods to keep the construction areas separated from public recreational use areas (e.g., using unobtrusive fencing or equivalent measures to delineate construction areas), shall be clearly identified on the construction site map and described in the narrative description required by subdivision B of this Special Condition.~~
- ~~4. All beach access points, and other recreational use areas impacted by construction activities shall be restored to their pre construction condition or better within three days of completion of construction.~~
- ~~5. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material.~~

~~**B. Construction Site Map and Narrative Description.** The Construction Plan shall include a construction site map and a narrative description addressing, at a minimum, the following required components:~~

- ~~1. A map delineating the construction site, construction phasing boundaries, and the location of all temporary construction phase BMPs (such as silt fences, inlet protection, and sediment basins).~~
- ~~2. A description of the BMPs that will be implemented to minimize land disturbance activities, minimize the project footprint, minimize soil compaction, and minimize damage or removal of non-invasive vegetation. Include a construction phasing schedule, if applicable to the project, with a description and timeline of significant land disturbance activities.~~
- ~~3. A description of the BMPs that will be implemented to minimize erosion and sedimentation, control runoff and minimize the discharge of other pollutants resulting from construction activities. The description shall include calculations that demonstrate proper sizing of BMPs.~~
- ~~4. A description and schedule for the management of all construction phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training), including an identification of any temporary BMPs that will be converted to permanent post development BMPs.~~

~~**C. Construction Site Documents.** The Construction Plan shall specify that copies of the signed CDP and the approved Construction Plan be maintained in a conspicuous location at the construction job site at all times, and be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.~~

D. Construction Coordinator. The Construction Plan shall specify that a construction coordinator be designated who may be contacted during construction should questions or emergencies arise regarding the construction. The coordinator's contact information (including, at a minimum, an email and a telephone number available 24 hours a day for the duration of construction) shall be conspicuously posted at the job site and readily visible from public viewing areas, indicating that the coordinator should be contacted in the case of questions or emergencies. The coordinator shall record the name, phone number, email, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.

E. Notification. The permittee shall notify planning staff of the Coastal Commission's North Central Coast District Office at least three working days in advance of (1) commencement of construction or maintenance activities, and immediately upon completion of construction or maintenance activities, and (2) of any anticipated changes in the schedule based on site conditions, weather, or other factors.

F. Construction Best Management Practices for CRLF: The Permittee shall undertake construction in accordance with the BMPs listed in [Exhibit 21](#) for CDP Amendment Number A-2-MAR-08-028-A2 to prevent potential impacts to CRLF.

32. Revised Project Plans for Lawson's Landing Center. PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE LAWSON'S LANDING CENTER, the Permittee shall submit two full size sets of Revised Project Plans for the Lawson's Landing Center to the Executive Director for review and approval. The Revised Project Plans shall be substantially in conformance with the proposed project plans ([Exhibit 3](#) for CDP Amendment Number A-2-MAR-08-028-A2) except that they shall be revised and supplemented to comply with the following requirements:

A. Aesthetics. The project shall be sited and designed to limit its visibility, and to otherwise reflect a rural, agricultural, coastal theme (such as simple and utilitarian lines and materials, including use of board and bats, stone veneer, corrugated metal, corten steel, and muted earth tone colors). The plans shall clearly identify all measures that will be applied to ensure such design aesthetic is achieved (including but not limited to walkways, paved areas, railings, lighting, and decorative landscaping). At a minimum, the plans shall clearly identify all such project elements, and all materials and finishes to be used to achieve such design aesthetic (including but not limited to through site plans and elevations, materials palettes and representative photos, and product brochures).

B. Exterior Lighting. All exterior lights, including any lights attached to the outside of the buildings, shall be the minimum necessary for the safe ingress, egress, and use of the structures, shall be sited and designed to minimize their impact on views and sensitive resource areas within and adjacent to Area 6, shall be low wattage, non-reflective, and shielded, shall utilize timers to minimize nighttime lighting, and shall have a directional east downward such that no light will shine within the dune habitat area and additional restoration area (see also page 1 of [Exhibit 5](#) for CDP Amendment Number A-2-MAR-08-028-A2).

All requirements above and all requirements of the approved Revised Project Plans for the Lawson's Landing Center shall be enforceable components of this CDP. The Permittees shall undertake development in accordance with the approved Revised Project Plans for the Lawson's Landing Center.

33. No Future Shoreline Protection

- ~~A. By acceptance of this Permit, the Permittee agrees, on behalf of itself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to CDP Amendment Number A-2-MAR-08-028-A2 including, but not limited to, the wastewater management system, the Lawson's Landing Center, and associated development, including in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, bluff retreat, landslides, or other coastal hazards in the future, and as may be exacerbated by sea level rise. By acceptance of this Permit, the Permittee hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under applicable law.~~
- ~~B. By acceptance of this Permit, the Permittee further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this Permit, including the wastewater management system, the Lawson's Landing Center, and associated development, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above, or if any public agency requires the structures to be removed. The Permittee shall obtain a coastal development permit for removal of approved development unless the Executive Director provides a written determination that no coastal development permit is legally required.~~

34. Assumption of Risk, Waiver of Liability and Indemnity.

~~By acceptance of CDP Amendment Number A-2-MAR-08-028-A2, the Permittee acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to earthquakes, liquefaction, tsunamis, flooding, and erosion; many of which will worsen with future sea level rise; (ii) to assume the risks to the Permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project 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 hazards.~~

35. Liability for Costs and Attorneys' Fees.

~~By acceptance of this permit, the Permittee agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys' fees — including (1) those charged by~~

~~the Office of the Attorney General, and (2) any court costs and attorneys' fees that the Coastal Commission may be required by a court to pay — that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission. WITHIN 45 DAYS OF COMMISSION ACTION, the Permittee shall enter into a separate written agreement with the Executive Director agreeing to reimburse the Coastal Commission for all court costs and attorney's fees, consistent with the requirements of this condition.~~

III. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION, HISTORY AND DESCRIPTION

Project Location

Lawson's Landing is located on a 960-acre property that includes existing agricultural activities in the form of cattle grazing on approximately 420 acres, a 465-acre conservation easement area and a 75-acre campground located in the Tomales Dunes complex at the mouth of Tomales Bay, immediately south of Dillon Beach in western Marin County (see [Exhibit 1](#)). Access to the property is provided from Dillon Beach Road, Beach Avenue, and Cliff Street. The property is bounded by Tomales Bay to the south and Bodega Bay and the Pacific Ocean to the west. Lawson's Landing is incredibly rich in natural resources. Though no longer pristine, the Tomales Dunes Complex consists of coastal foredunes, central dune scrub, bare sands, and deflation plains, including dune-slack wetlands and uplands, that together constitute rare habitat that performs the important ecosystem function of supporting rare and sensitive plant communities, including the federally-threatened California red-legged frog (CRLF) and western snowy plover.

The majority of the proposed amendment components would occur within the northern portion of the 75-acre campground on the property, directly southeast of the entrance gate, in an area described in the original CDP approval as Area 6. Area 6 contains both existing permitted, and existing unpermitted development (see Project History section below for additional detail). The remainder of Area 6 is comprised of undeveloped central dune scrub habitat that varies in habitat quality, largely due to the impacts from adjacent uses. Sensitive habitats found surrounding Area 6 include central dune scrub and dune slack wetlands to the south, central dune scrub to the east, and central dune scrub, wetlands and a CRLF breeding pond to the west. The original CDP approval requires a 300-foot development buffer from the CRLF breeding pond which extends into the western portion of Area 6. Potential migration corridors for the CRLF were also identified across Area 6.

The satellite components to the wastewater treatment facilities would occur in allowable development areas throughout the designated campground area on the property adjacent to camping facilities and existing or proposed development. The summertime wastewater spray dispersal would be located approximately 0.6 miles north and east of Area 6 in an area described as the Upper Scale House pasture area. This area is comprised of agricultural land with adjacent

sensitive habitats including CRLF breeding ponds, wetlands, and dune scrub habitat. Potential migration corridors for the CRLF also occur within the Upper Scale House pasture area.

Please refer to [Exhibit 1](#): Protect Location and Site Map.

Project Description

The two main components of the proposed amendment are construction of the wastewater management system and development of the Lawson's Landing Center. The wastewater management system includes construction of wastewater collection, treatment and disposal facilities throughout Lawson's Landing. Development of the Lawson's Landing Center includes improvements to the existing entrance, gate house, roadway and parking facilities; and construction of equipment storage and repair barn, emergency services center with employee meeting space and offices, store with deli counter, electric cart storage and charging station, guest processing center, and rooftop photovoltaic or solar thermal collectors. The proposed project would also restore additional habitat areas located within camp Areas 6 and 4.

Wastewater Management System

The proposed wastewater management system would collect wastewater throughout Lawson's Landing for primary treatment at individual septic tank effluent pump (STEP) units located at each public restroom (7 units), each cluster of 10-12 cottage units and/or RVs with hook ups (2 units), the employee housing (1 unit), the boathouse (1 unit), and the existing residences in Area 6 (1 unit). Each STEP unit would consist of a septic tank with 2 compartments, an effluent filter, turbine pump, a high water alarm and notification system, and emergency storage capacity for high flows or in the event of a temporary pump failure. The units would be controlled and operated on a timer basis with monitoring capabilities, and would be constructed and installed consistent with Marin County and RWQCB regulations requiring water tightness, access risers for maintenance, and buoyancy resistance. The size of the tank at the individual units would be based on the wastewater flow capacity of the associated use, but each unit would be designed with the capacity to hold up to 2 days of peak daily flows for that use. Sewage solids remaining in the STEPs would undergo primary anaerobic treatment and eventually be pumped and hauled to an approved disposal facility. The primary treated wastewater from the STEPs would be pumped to Area 6 for secondary treatment via 2-inch diameter lateral pipes connecting to a 3-inch diameter high density, polyethylene, effluent force main pipe running the length of Lawson's Landing. The force main would be installed under the existing roads about 3 feet deep and the trench dug to install the force main would be backfilled with native sand bedding and backfill material.

See [Exhibit 2](#) for the proposed standard design of a STEP unit and the approximate locations of the individual STEP units.

The secondary treatment system proposed in Area 6 would consist of an Advantex recirculating textile filter, followed by UV disinfection, with the capacity to treat wastewater flows of up to 20,000 gallons per day (gpd), with single day peak flows in the range of 25,000-30,000 gpd. The treatment facilities consist of below ground fiberglass and concrete tanks with a total 50,000 gallon capacity (15,000-gallon septic tank for supplemental primary treatment and pre-anoxic effluent mixing, 15,000-gallon flow equalization tank to absorb wastewater surges and evenly distribute flow into treatment tanks, and two 10,000-gallon recirculation blend tanks), eight

Advantex AX-100 low-profile treatment filter pods, an ultraviolet light disinfection unit, pumps, control and monitoring systems, a back-up power generator, and a small control building. The treatment system would remove nitrogen to an average discharge limit of 30 milligrams of nitrate-nitrogen per liter (mg-N/L) year round. After disinfection, the secondary treated water would collect into a 5,000-gallon buried dosing tank, which would direct the flows to either the Area 6 leach fields during the wet winter months (October –April) or the Upper Scale House pasture area spray field during the dry summer months (May-September). The control system would log data on flow and pump operations and alert system operators if any problematic conditions arise.

The disposal site in Area 6 has been designed with a hydraulic capacity of up to 17,000 gpd, with an infiltration capacity of up to 13,950 gpd. The dispersal area consists of 2,200 lineal feet of 30-inch deep pressure distribution leach fields used for subsurface drip disposal during the wet season (October-April) when wastewater flows are at the lowest (estimated at 8,100 gpd on average, 13,950 gpd at peak). The leach fields would be constructed with 3-foot wide and 2-foot deep infiltration chambers with pressure distribution piping. The infiltration chambers provide additional storage capacity which help store wastewater during peak wintertime demands. During average flows, wastewater application would be approximately 1.23 gpd/square-foot, which is within the accepted rate of 2.4 gpd/square-foot required by Marin County Environmental Health Services regulations for highly permeable sandy soils. See [Exhibit 2](#) for the location and plans of the facilities.

The Upper Scale House pasture area disposal site has been designed with a hydraulic capacity of up to 22,500 gpd, with dispersal capacity of up to 19,000 gpd. The wastewater would first be pumped uphill to a 10,000 gallon receiving tank which would regulate the spray operations to two times a day and adjust sprays during excessively windy periods or unseasonable rain events. The disposal site would consist of a spray irrigation system installed on 6 acres of mostly flat upland pasture land used during the dry season (May-September) when wastewater flows are at their highest (estimated at 13,900 gpd on average, 22,500 gpd at peak). Similar to the effluent main going to the treatment system, the pipelines from Area 6 to the Upper Scale House pasture disposal area would be installed under existing graded roadways. See [Exhibit 2](#) for the location and plans of the facilities.

A future disposal area in the Upper Scale House pasture area of 1.2 acres would also be reserved for potential replacement or expansion needs using subsurface drip dispersal or mound system methods if required in the future. The potential drip disposal capacity for this area is estimated at 7,000-9,000 gpd. However, use of this future disposal area is not currently being proposed. Any future proposed installation or actual use of a reserve system to treat additional wastewater capacity needs would require additional approvals from the RWQCB and the Coastal Commission.

In order to temporarily address the wastewater needs of 7 existing employee housing trailers that would be relocated to the northeast corner of Area 2 prior to completion of the wastewater management system described above, the project proposes installation of a new 2,000 gallon single chamber, concrete, septic tank and interim use of an existing leach field in Area 2 ([Exhibit 2](#)). The new septic tank and existing leach field would treat a projected daily

wastewater flow of 735 gpd from the 7 employee trailers. The existing leach field trench is more than 500 feet from the high tide line, 450 feet from the nearest water feature, at an elevation of 12.55 feet above sea level, and was shown to have an absorption capacity of about 900 gpd. During the interim use period, the tank and leach field would be monitored twice a year and would be cleaned and pumped of tank solids as needed. Once the new secondary wastewater treatment and disposal facility improvements are completed in Area 6 and the Upper Scale House pasture area, a new 2000 gallon septic tank with duplex pumps would be installed adjacent to the interim septic tank, converting the tanks to one of the approved STEP units. Similar to the STEP units described above, this STEP unit would be connected to the effluent force main transporting the wastewater to Area 6 for secondary treatment. Once the STEP unit and effluent connection to Area 6 is complete, the leach field in Area 2 would be abandoned and removed. The STEP unit in Area 2 would be designed to handle flows from the 7 employee housing units plus potentially 3-5 RVs with drains in Area 2. See [Exhibit 2](#) for the interim septic and future STEP system project plans and proposed location map.

The waste water management facilities described above would be constructed in phases. The initial phase would prioritize installation of the leach field and dosing tank in Area 6; the Area 6 treatment system; STEP tanks and pumps at the boat house, new restrooms, cottage units, and owner and employee residences; and the STEP collection force main from Area 2 to Area 6. During this initial phase of construction, pumping and hauling of sewage off-site would continue. In the event that the Area 6 treatment system and leach fields are completed during the season in which they are proposed for use, they may be used to treat wastewater that has already received primary treatment at STEP units installed throughout Lawson's Landing via pumpout and hauling to Area 6. The summer spray irrigation system including irrigation dosing tank, pump system, and pipelines would be installed after completion of treatment facilities in Area 6 and used for operation during the summer season once the system is operational.

Lawson's Landing Center

The proposed Lawson's Landing Center would include a 1,300 square-foot store to provide goods and supplies for the campground visitors with a deli counter; a 2,730 square-foot office and emergency services center to provide administrative office and meeting space to serve the operation of the facility, and emergency service area in the event of an emergency; a 4,495 square-foot barn for boat and equipment storage and repair facilities; electric vehicle parking and charging stations; bicycle storage; a guest processing center; free public access parking spaces; improvements to Sand Haul Road and Area 6 parking areas to improve circulation and accommodate large vehicles; improvements to the entry gate to allow for vehicle stacking and passing lanes; and installation of photovoltaic or solar thermal collectors on the roofs of the buildings proposed for construction. The total floor area proposed would be a maximum of 15,000 square feet with a maximum building height of 25 feet.

See [Exhibit 3](#) for the Lawson's Landing Center Project Plans and Project Renderings.

Restoration

The proposed project also includes dune habitat restoration within Area 6 on top of the proposed leach fields after installation (14,943 square feet) and in an area adjacent to the proposed development area, described as existing upland habitat comprised of predominately non-native

grasses with scattered yellow bush lupine (an area of 14,736 square feet). Restoration activities in the Area 6 leach field areas would include preparation of the site prior to, during and post-construction, installation of the approved restoration plan, and monitoring and maintenance. Prior to leach field construction, the existing habitat would be assessed, all non-native vegetation removed, and native perennials and shrubs temporarily transplanted to an interim clean site with native sand with spray irrigation. Kikuyu grass rhizomes and other smooth ice plant roots would be removed during trenching activities for the leach field. After construction, the site would be re-contoured with clean sand and native plants would be transplanted back to their original location. Additional or replacement native plants would also be planted as needed with the remaining areas being seeded from approved species for dune scrub habitat areas. The restored areas would be monitored and maintained until native plants have established 51% native cover with species approved by the final Preservation, Restoration and Enhancement Plan (PREP)⁴ (see [Exhibit 5](#) for proposed restoration area and revegetation outline specifications and criteria).

The upland habitat proposed by the Applicant for restoration located adjacent to the development area and boat repair tents is considered disturbed habitat and has been historically disturbed by PG&E, AT&T, and Horizon Cable service vehicles accessing power poles to the north and for temporary vehicle and boat parking by Lawson's Landing Inc. The area is now dominated by non-native annual grasses and forbs. The Applicant proposes to restrict future access to this area and restore the native dune plant community, consistent with the revegetation criteria and native species proposed for use in the Area 6 leach field restoration (see [Exhibit 5](#) for proposed restoration area).

Lastly, the Applicant has also proposed to set aside additional land initially approved for campground development in Area 4, to expand existing habitat buffers to the Natural Resource Conservation Service easement area and provide additional habitat restoration within these areas to further enhance the adjacent habitats (37,800 square feet) (see [Exhibit 6](#)). While this proposal would be within development areas proposed for recreational use (19 campsites, one group campsite, and some common use space), it is directly adjacent to an existing drainage and as such, is within an area considered to have the most sensitive sites in Area 4. Since these sites are located closest to sensitive wetlands and dune scrub, the Commission previously approved the Applicant's temporal management proposal which involves a tiered reservation system requiring that the Applicant fill campsites furthest away from the wetlands and dunes scrub first. As a result, these sites are considered tier 3 sites (filled last) and are primarily used only during the busy season between Memorial Day and Labor Day. Further, the Applicant has indicated that the 19 campsites could be relocated to other approved development areas within Area 4, closer to

⁴ A prior (June 3, 2011) version of the PREP, "Final Tomales Wetlands Dune Complex Protection, Restoration, and Enhancement Plan" (Monk & Associates, Inc.), was reviewed by Commission staff, revised by the Applicant and a revised version dated May 16, 2012 was then submitted to the Commission. Based on the review of these submittals, Commission staff identified a need to integrate site hydrology and ecology to develop a successful restoration design, and requested the establishment of a Scientific Review Panel (SRP) to review the PREP and restoration design. The SRP provided a productive venue for idea exchange, concept development and multi-disciplinary collaboration leading to solutions that are ecologically sound, reflect technical consensus and achieve permit compliance. A 2017 version of the PREP has been prepared to address both deficiencies noted by Commission staff with the 2012 version, and to address the SRP's comments. The latest draft PREP was completed and submitted for review on July 17, 2017. Final details are still being worked out but it is very close to completion and approval.

the roadway, not initially depicted on the latest draft Campground Management Plan. Thus, the proposal would offer significant habitat benefits without displacing the estimated 357 campsites.

Project History

In December 2006 the Commission issued a Consent Cease and Desist Order to the Applicant that recognized that there was significant unpermitted development at Lawson's Landing that required a CDP, including unpermitted grading, fill of wetlands, and the construction or placement of trailers, a campground, mobile homes, roads, restrooms, water lines and water tanks, sewage lines and leach fields, a sewage disposal station, sheds, garages, parking lots, a boat house, a snack bar, a shop, a boat mooring facility, boat yard, boats, a laundry facility, and a pier. That unpermitted development spanned the CDP jurisdictions of both Marin County and the Commission. Thus, and pursuant to the Order, Commission staff coordinated closely with Marin County staff and the Applicant on processing two different CDP applications (one to the County and one to the Commission) to address such unpermitted development.

On November 18, 2008, Marin County approved their CDP (and also a Master Plan and a Tidelands Permit). The County's CDP decision was subsequently appealed to the Commission⁵ with appellants raising issues of consistency with LCP wetland, ESHA, visitor-serving, recreation, and public services policies (Appeal Number A-2-MAR-08-028). On January 7, 2009, the Commission found that the appeals raised substantial LCP conformance issues on those points and took jurisdiction over the County CDP application.⁶ Because the Commission had not yet acted on the CDP application for the portions of the project located in its retained CDP jurisdiction (CDP Application Number 2-06-018), and because Marin County, the Applicant, and the Executive Director agreed to a consolidated CDP process (pursuant to Coastal Act Section 30601.3), the Commission thus heard the project as a consolidated CDP application.

On July 13, 2011, the Commission approved a CDP (i.e., CDP A-2-MAR-08-028/2-06-018)⁷ for both new and after-the-fact recreational and agricultural development and uses on the property, including: approximately 650 recreational vehicle (RV) and tent camping spaces and 20 visitor-serving standing RVs with drains; day use parking; boating facilities, including for mooring and launching; support facilities including store, offices, recreational center, employee housing, boat sales and repair, fuel service and storage; road improvements; a 465-acre Natural Resource Conservation Service (NRCS) conservation easement; and habitat restoration activities. The Commission's approval also required the Applicant to remove 167 existing mobile homes used for fulltime residential purposes which each had an individual septic system.

⁵ By two Coastal Commissioners as well as the Environmental Action Committee of West Marin, the Marin Audubon Society, the Sierra Club-Marin Group, and the Alliance of Permanent Trailers.

⁶ Specifically, the Commission found that the County's CDP action raised a substantial issue of conformance with LCP policies because the County-approved development: (1) was located within wetlands and within the required 100-foot buffer from wetlands; (2) was located immediately adjacent to central dune scrub sensitive habitat; (3) raised questions about the feasibility and timing of the new septic systems; and (4) raised questions about residential uses in the C-RCR (resort-recreation) zone and whether the appropriate balance between public access and private interests was being met through the approval.

⁷ As indicated earlier, for simplicity's sake, the reference that has been used by the Commission for this base 2011 CDP, including in this report, is CDP Number A-2-MAR-08-028.

Because much of the existing development at Lawson's Landing had not ever been approved by a CDP or by other County permits and thus was considered unpermitted, the Commission reviewed much of the project "after-the-fact." When the Commission considers after-the-fact development proposals, where development is unpermitted, ESHA and wetland areas disrupted by the unpermitted development are still considered ESHA and wetlands regardless of their current condition.⁸ This conclusion is consistent with the Commission's longstanding practice of evaluating a site for Coastal Act consistency as if unpermitted development had not already occurred. Any other approach to considering after-the-fact action would reward an applicant for circumventing the Coastal Act's permit requirements by allowing the applicant to claim there was no ESHA and wetlands on-site even though the resources had been impacted or removed without the benefit of a required CDP.

The conditionally approved 2011 CDP described conceptual plans for a new wastewater management system, proposed to be developed in the upland area known as the Upper Scale House pasture area located on the northeast portion of the property. The plans consisted of two acres of leach field for winter operation plus spray irrigation in the dry season over a six-acre area of pasture (see [Exhibit 2](#)). A Septic Tank Effluent Pumping (STEP) system with remote secondary treatment and disposal was also planned, with tanks sited in close proximity to the travel trailer space areas and restrooms they would serve, with delivery of treated effluent to the leach field area via a proposed septic line located underneath existing roads. A wastewater treatment system was proposed to produce advanced secondary treated effluent, suitable for water recycling with a subsurface drip dispersal system, and for spray irrigation of five to six acres of pastureland. Although a general location and preliminary design for the new wastewater treatment and disposal system was identified at the time of Commission CDP approval, the Commission did not approve the wastewater system at that time, instead requiring the Applicant to come back with supporting documentation for optimum wastewater system siting and design with the actual specifics to be determined through a future amendment to the CDP. The Commission generally outlined its requirements for the new sewage disposal system in Special Condition 7 as follows:

A. The Permittee shall construct the new wastewater treatment and disposal system, as generally depicted on Adobe Associates Sheets 2, 3 and 8, dated October 2010 (exhibit 3 of this Staff Report) and Questa Figure 1 "Test Location Map Lawson's Landing" (exhibit 42 of this Staff Report), and Questa Sheet 1 of 1 "Sand Point Proposed STEP Sewer Schematic Plan", dated 4/4/2008, and Questa Figure 1 "Typical STEP Unit Non Traffic Area" (exhibit 23 of this Staff Report) within three years of permit approval (by July 13, 2014). The Executive Director may extend this deadline to July 13, 2016 for good cause.

B. BY JULY 13, 2012, or within such additional time the Executive Director may grant for good cause, the permittee shall submit a Coastal Development Permit Amendment Application for the new wastewater treatment and disposal system and abandonment of the 167 individual septic systems. The Application shall include the final plans for the wastewater treatment and disposal system as approved by the Regional Water Quality Control Board and the Marin County Environmental Health Services. Consistent with the

⁸ See, for example, *LT-WR, L.L.C. v. California Coastal Commission* (2007) 152 Cal.App.4th 770, 796-797.

provisions of Special Condition 2, the wastewater treatment and disposal system shall be located outside a 100-foot buffer area from all wetlands, outside a 50-foot buffer area for all central dune scrub ESHA, and 300-feet from California Red Legged Frog breeding ponds. The wastewater treatment and disposal system may not block public access to the coast nor significantly obstruct public views to the coast from significant public vantage points, and shall be of adequate capacity to process and dispose of all wastewater generated by the development.

At the time of the 2011 hearing there was still uncertainty associated with whether future development would occur within Area 6, including the potential Lawson's Landing Center, and there was still uncertainty regarding the legality of the existing development already located within Area 6. In order to acknowledge the Applicant's future plans to redevelop Area 6 with these known and unknown constraints, CDP A-2-MAR-08-028 Special Condition 2 stated that for Area 6:

- a. No development is authorized, including but not limited to relocation of boat and trailer storage, boat repairs and sales, fuel bunker, and fuel service, unless: (1) development is proposed in legally developed areas; (2) the Applicants provide evidence that such previous development was authorized; (3) an Amendment to this coastal development permit is approved.*
- b. No future development shall occur unless authorized consistent with the limitations on development identified in Special Condition 21 [Condition 21 adds an additional limitation confining proposed coastal development permit amendments involving development in areas 5-8 to that specified in Special Conditions 1 and 2 or agricultural development consistent with the LCP or improvements to Sand Haul Road.]*

As outlined above, Special Condition 2 of the base CDP states that no new development is authorized to occur in Area 6 unless: the development is proposed in previously legally developed areas; the Permittee provides evidence that such previous development was authorized; and an amendment to the CDP is approved by the Commission. A detailed analysis of the information submitted by the Applicant with respect to the development history in Area 6 and what was determined by the Commission staff to be permitted and unpermitted through condition compliance can be found in the next section below.

The Commission's findings noted that a potential future development proposal in Area 6 to develop the Lawson's Landing Center could represent a potential increase in land use intensity and vehicle traffic to the site. Accordingly, the CDP required that any proposal for development of the Lawson's Landing Center would evaluate potential project impacts, including an analysis regarding moving the primary road access for the campground from the existing access on Cliff Road to what is known as Sand Haul Road.

Special Condition 12 required submission of a traffic monitoring and adaptive management plan to ensure that traffic impacts to the Dillon Beach community and public access impacts from the development on the public travelling to and from the coast were reduced and traffic safety was enhanced once the campground was operating at full approved capacity. The required traffic

management plan included a provision to conduct an analysis of the potential use of Sand Haul Road as an access alternative, through approval of a potential Lawson's Landing Center permit amendment or submission of an updated traffic management plan in conjunction with the required monitoring reports. See further discussion of the status of compliance of the Traffic Management Plan and how it relates to development proposed as part of this amendment public access section below.

Other conditions of the original 2011 CDP approval integrally related to the current CDP amendment proposal include the following:

- **Special Condition 5, Employee Housing Plan.** The employee housing plan, approved by the Executive Director on June 22, 2016, confirms the number of employees authorized to have on-site residential uses. This number is consistent with that proposed in Area 2, which would be supported by interim wastewater treatment facilities.
- **Special Condition 10, Other State Agency Approvals.** Requires submission of a copy of any permit issued by the Regional Water Quality Control Board, or evidence that no permit or permission is required. This condition includes approval from the RWQCB of any proposed wastewater management system.
- **Special Condition 15, Hazard Response Plan.** The Hazard Response Plan, approved by the Executive Director on January 28, 2014, requires development of a hazard response plan for earthquake, flood and tsunami hazards including identification of pedestrian accessible tsunami shelter areas or locations of high elevation. The proposed project includes an emergency services center within Area 6 outside of designated hazard areas consistent with the Hazard Response Plan.
- **Special Condition 21, Future Development Restriction.** Limits development in Areas 5-8 to those specified in Special Conditions 1 and 2 and agriculturally related development or improvements to Sand Haul Road, if approved through a CDP amendment. The proposal includes development in Areas 6 and improvements to Sand Haul Road.
- **Special Condition 22, Free Public Access Parking.** Requires no fewer than 5 free public parking spaces in or adjacent to Area 6 outside the entry gate on the property. The current proposal includes this free public parking within Area 6.
- **Special Condition 27, Grading Plan.** Prohibits grading in Area 6 except for minor topographic alterations associated with the stormwater management plan. The proposed project would result in 3,600 cubic yards of cut and 1,900 cubic yards of fill, with approximately 1,700 cubic yards to be exported to Area 2.

Prior Amendment Submittal

On December 31, 2015, the Applicant requested an amendment to the 2011 CDP to allow development in Area 6, including construction of a septic leach field in a portion of Area 6 that supports central dune scrub vegetation which had never been legally developed, and was therefore deemed ESHA pursuant to the terms and conditions of the base CDP (CDP Amendment Number A-2-MAR-08-028-A1). In response to the amendment request, the

Executive Director rejected the amendment application, pursuant to Section 13166(a) of the Commission's regulations,⁹ which states as follows:

The executive director shall reject an application for an amendment to an approved permit if he or she determines that the proposed amendment would lessen or avoid the intended effect of an approved or conditionally approved permit unless the applicant presents newly discovered material information, which he could not, with reasonable diligence, have discovered and produced before the permit was granted.

The Executive Director determined that the proposed amendment was designed to extend the wastewater treatment system development into ESHA, and thus that the amendment request would lessen and avoid the intended effect of the CDP. In his rejection, the Executive Director made clear that other elements of the proposed amendment could be considered (i.e., the application included additional requested changes and development besides the request to develop in Area 6 ESHA), and recommended that the Applicant pursue those other proposed changes. Instead of pursuing that course of action, the Applicant chose to appeal the Executive Director's rejection of the amendment application to the Commission itself, as is allowed by the Commission's regulations.¹⁰

In its appeal, the Applicant asserted that it had discovered material information that should allow for consideration of the amendment. At that time, the Executive Director did not believe that the Applicant presented any new information that could not, with reasonable diligence, have been discovered and presented before the CDP was granted. Commission staff published a staff recommendation regarding the Applicant's appeal on March 25, 2016. The Applicant decided to withdraw the amendment application on April 11, 2016 before its appeal was heard by the Commission.

Current Amendment Proposal

In the time since the original amendment withdrawal, Commission staff met with the Applicant onsite on July 22, 2016. After the site visit, the Applicant indicated its intention to submit another amendment application that would present a compromise proposal for development of Area 6, including a reduction in the proposed new wastewater facility components. Another telephone discussion with Commission staff and the Applicant was held on September 16, 2016 to, in part, discuss issues surrounding permitting development to be placed within Area 6. At that time, Commission staff conveyed to the Applicant that any subsequent amendment would need to provide evidence that development of Area 6 would not result in impacts to the NCRS wetland or adjacent coastal dune scrub ESHA or the recommendations of the PREP, and that the proposed system would support the wastewater demands of the campground development it is intended to serve and clearly explain how it relates to the existing and proposed development (such as employee housing, 20 approved RVs with drains, and planned RV and tent camping). Commission staff again conveyed to the Applicant its ability to move forward with the

⁹ Title 14, Division 5.5, California Coastal Commission Regulations (CCR).

¹⁰ CCR Section 13166(a)(1) states: "An applicant may appeal the executive director's determination to the commission...."

wastewater treatment system as approved by the Commission, or proceed with a comprehensive CDP amendment request for a revised proposal with all the information needs as detailed.

However, on December 15, 2016, the Applicant submitted a new CDP amendment application which included a reduction in the proposed wastewater treatment facility development area planned for Area 6 to more closely align with the Commission staff determination of allowable development area space within Area 6 (see below) with additional information as requested. Through the new CDP amendment application review process, and continued discussions with the Applicant regarding condition compliance, the Applicant has submitted additional information that has been integral to determining the feasibility, benefits and drawbacks to the alternative locations proposed for the wastewater treatment facilities and the Lawson's Landing Center. The Applicant has also brought forth proposals, not part of the original amendment application, to restore ESHA in and around Area 6, and has proposed to set aside additional land for conservation and restoration in Area 4 to help rebalance the ESHA preserved on the site. This new information includes:

- *Revised Wastewater Treatment and Disposal Facilities, Area 6, dated July 2016*: Revised amendment proposal more in line with approved development areas.
- *Questa Engineering Corp., Addendum #1 Wastewater Facilities Plan for Lawson's Landing, dated November 16, 2016*: Analyzed potential impacts to surrounding groundwater levels and water quality from the leach field dispersal.
- *Monk & Associates, Inc., California Red-legged Frog Impact Assessment Area 6 Redevelopment Project, dated December 12, 2016*: Analyzed potential impacts to CRLF from construction and changes to groundwater and water quality.
- *Monk & Associates, Inc., California Red-legged Frog Dynamics and Survey Report, dated May 11, 2017*: Included new surveys/observations of CRLF and breeding ponds after heavy rains in 2017.
- *Supplemental information provided by Questa Engineering Corp. in Response to CCC staff questions dated July 11, 2017 and September 12, 2017*: Included a feasibility assessment of using only the upper drip dispersal for wintertime dispersal related to treatment capacity.
- *Final Employee Housing Plan received and approved June 22, 2016*: Justified the need for temporary use of existing septic to support employee housing.
- *Final Traffic Management Plan received and approved on August 14, 2017*: Included feasibility assessment of the use of Sand Haul Road as primary access and justifies locating additional visitor facilities at the entry gate to mitigate traffic impacts.
- *Existing CMP and Draft CMP received on August 20, 2017*: Informed the estimated wastewater capacity needs in the future consistent with the CDP approval.
- *Final Draft Sensitive Resource Protection, Restoration, and Enhancement Plan for Lawson's Landing, received July 15, 2017*: Identified restoration measures and final grading which affects the final campground management plan.
- *Marin Ocean Coast Sea Level Rise Vulnerability Assessment, September 2015*: Identified sea level rise hazard areas under multiple scenarios for the Lawson's Landing property.

Perhaps most importantly in terms of accepting the CDP amendment application this time (and not rejecting it per CCR Section 13166 as had occurred with the first amendment request), by this time the Applicant had submitted additional detail regarding the permit status of development in Area 6 that allowed Commission staff to conclude on the area legally developed versus not. This information was not before the Commission in 2011, and the Commission's 2011 CDP conditions specifically required this conclusion to be drawn so that potential development there could be understood in relation to this information, and specifically required a CDP amendment be submitted to consider any such development. Thus, this was considered by staff to be new material information not available to the Commission in 2011, thus allowing the amendment application to be accepted pursuant to CCR Section 13166.

In addition, Commission staff had continued to coordinate with the Applicant and the RWQCB regarding RWQCB requirements, and this process led to additional new information critical to understanding the feasibility and permitting issues for wastewater treatment facilities at the site. Thus, all told, it is reasonable to review of all the new evidence presented with this current amendment application, alongside of the new information submitted, developed and approved through condition compliance, as new information which was not available and could not be presented at the time of the original CDP approval. This amendment application is therefore properly before the Commission.

History of Development in Area 6

As mentioned above, in approving the original CDP the Commission found that although Area 6 contained some existing development, the Commission lacked specific evidence that the existing development had all been legally developed. The Commission found that the portions of Area 6 that were not legally developed should be treated as ESHA. Special Condition 2.C.6 of the Commission's 2011 CDP approval sets the parameters for future development in Area 6, and specifically states:

Area 6

a. No development is authorized, including but not limited to relocation of boat and trailer storage, boat repairs and sales, fuel bunker, and fuel service, unless: (1) development is proposed in legally developed areas; (2) the Applicants provide evidence that such previous development was authorized; and (3) an Amendment to this coastal development permit is approved.

b. No future development shall occur unless authorized consistent with the limitations on development identified in Special Condition 21 [Condition 21 adds an additional limitation confining proposed coastal development permit amendments involving development in areas 5-8 to that specified in Special Conditions 1 and 2 or agricultural development consistent with the LCP or improvements to Sand Haul Road.]

Thus, Special Condition 2 prohibits new development in Area 6 unless that development is proposed in already legally developed areas and the Commission approves an amendment to the base CDP. Accordingly, areas that were legally developed prior to the effective date of the Coastal Act and its predecessor statute (February 1, 1973), as well as development that received a CDP from either the Commission or the County, can be considered legally developed areas for

which new development may be proposed in a CDP amendment application consistent with the requirements of Special Condition 2.

Over the past 6 years, the Applicant has submitted numerous documents and evidentiary information related to the development history of Area 6. Commission staff has also conducted its own investigation into the status of existing structures and roads within Area 6. The Applicant has submitted memorandums including *Authorized Development, Areas 6 and 8 Lawson's Landing, May 3, 2012* and *New evidence and supporting information, March 25, 2014*, which state that: 1) sand quarry use within Area 6 and facilities related to the sand quarry were approved and permitted by the County in 1971 prior to the passage of Proposition 20 or the 1976 Coastal Act; 2) the sand quarry operations and facilities related thereto were therefore permitted development and uses within an existing agricultural preserve in Marin County (i.e., the primary use of the sand that was quarried was for milk cow bedding at this facility and other local dairy farms); 3) recreational use (i.e., camping) is also a permitted use of a Marin County agricultural preserve; 4) Marin County's regulation and prior authorization of the quarry and the facilities related thereto clearly demonstrate that existing buildings and facilities in Areas 6 and 8 have been previously authorized and/or permitted, and developed legally; 5) the sand quarry and facilities related to the sand quarry were approved and permitted by the County in 1971 prior to the passage of Proposition 20 or the 1976 Coastal Act, supported further by the fact that Marin County did not require local permits for any agricultural buildings until June 21, 1974; and 6) Marin County's regulation and authorization of the quarry, and the facilities related thereto, clearly demonstrate that buildings and facilities in Areas 6 and 8 have been authorized, permitted, and developed legally.

Coastal Commission staff visited Area 6 and also reviewed aerial photos dating from 1972 to 2013.¹¹ Aerial photos from 1972¹² for Area 6 clearly show Mike Lawson's existing residence and associated residential development (note: there is also an existing septic system located underground not visible in the photo), an employee rest area, entrance gate and kiosk, the maintenance shed and development to the rear of the maintenance shed, and the original employee residence and associated residential development (note: there is also an existing septic system underground of this structure not visible in the photo). The development seen in the 1972 photographs pre-date the permitting requirements of Proposition 20 and the Coastal Act, and can thus be considered legal as far as CDP permitting is required. Given Applicant submitted information showing them to have been properly permitted otherwise, these developments are considered legal. Further, a mobile home in Area 6 was replaced with a newer mobile home in 1996 and received the required CDP.¹³ Given that these portions of Area 6 can be considered legally developed, staff communicated to the Applicant on numerous occasions that they could propose a CDP amendment to redevelop the portions of Area 6 occupied by those structures if the development proposed is consistent with the Coastal Act requirements and all otherwise applicable CDP conditions, including the requirements of Special Condition 2 (see [Exhibit 7](#)).

¹¹ From the California Coastal Records Project (CCRP) website <http://www.californiacoastline.org> To open a large version (to show more detail) of a particular photo on the web site, first double click on a particular photo to open it; then double click on the photo again.

¹² CCRP photos 7212048 and 7212049.

¹³ CDP CP 96-468 UP/96-469.

Staff then focused on historic quarry development and development after CDP requirements took effect, including the development of Sand Haul Road and associated access roads and parking areas, the constructed truck shed, oil shed, equipment shed, cattle corral and boat repair tents. A close review of aerial photos from the CCRP website, in addition to an aerial United States Geological Survey (USGS) photo from 1974 submitted by the Applicant, illustrates that the developments in question were constructed between the following time periods:

- Between 1972 and 1974: truck shed, Sand Haul Road and associated access roads and parking areas
- Between 1979 and 1986: equipment shed
- Between 1986 and 1993: oil shed and cattle corral
- Between 1993 and 2005: boat repair tents

The Applicant contends that County permits granted for activities related to the previously permitted sand quarry operations, including grading, paving, gravelling and construction of buildings for equipment storage and "facilities related thereto" (including the truck shed, equipment shed, oil shed, access roads, and parking areas), began in 1971, with subsequent renewal approvals by the County in 1977, 1989, 1991, and 1996. The Applicant states that all these structures were developed consistent with County zoning and agricultural preserve contract requirements. It also contends that these facilities have continually been used for vehicle and equipment parking, repair and storage for decades in an authorized and permitted manner.

Review of the historical quarry permit file records for the subject property shows that the Marin County Planning Commission approved the first Surface Mining and/or Quarrying Permit (Q-71-01) to quarry sand from a portion of the Lawson's Landing property, specifically APNs 100-100-12 and 100-100-48 on September 27, 1971, before the passage of Proposition 20. At that time, the subject property was subject to an agricultural land preserve contract. The County's 5-year Quarry Permit (Q-71-01) was subject to a number of conditions including improvement of an access road, limitations to the excavation area, and prohibition on hauling of sand through the town of Dillon Beach. The Q-71-01 approval found the use appropriate to occur on agricultural preserve contract lands per Marin County Board of Supervisors Resolution #71-38 adopted on February 16, 1971, which states:

The following additional uses shall be deemed to be compatible uses and/or used permitted under contract provided a use permit therefore is issued by the Planning Commission. ... 7. Mining and quarrying and production operations and facilities related thereto.

Given this finding, the Applicant states that the 1971 Quarry Permit functioned as the use permit required by Resolution #71-38 and allowed for not only sand excavation but also for facilities related to sand quarrying. While this is a reasonable assumption given that any sand excavation activities would necessarily need to be supported by appropriate facilities, Q-71-01 does not mention any structural facilities. The only other use clearly permitted by Q-71-01 was the construction and maintenance of the access roads for the quarrying activities. Comparison of the

CCRP website photos from 1972 to the aerial photo from 1974 indicates that the Sand Haul Road access road, as well as the loop access road, parking area, and truck shed in Area 6 were all developed between 1972 and 1974. Since this development was installed subsequent to the approval of the 1971 Quarry Permit, this supports the Applicant's position that the access roads, parking area, and truck shed were developed consistent with Q-71-01 to support the quarry operations.

Evidence submitted by the Applicant notes that Marin County land use requirements and zoning ordinances in effect prior to June 21, 1974 did not require any building permits for proposed "non-residential agricultural buildings on tracts of two or more acres or when such buildings are over fifty feet from any property line." Thus, if the original purpose of the truck shed installation was to support existing agricultural operations, then it would not have needed a building permit. Evidence to date illustrates that the truck shed's primary use was to store trucks used for hauling sand related to the quarrying operations. The Applicant contends that since the primary use of the quarried sand was for milk cow bedding use at Lawson's Landing and other local dairy farms, the truck shed can be considered a supporting agricultural use consistent with the Marin County code ordinance. The truck shed, however, appears to have been used primarily to support the sand mining operation, which was not itself an agricultural use. The Applicant has not established that Marin County did not require building permits for non-agricultural structures at the time the truck shed was constructed. If a building permit was required for the truck shed at the time it was constructed, the truck shed had apparently not received all necessary permits prior to February 1, 1973, the effective date of the permitting requirements of Proposition 20, the predecessor statute to the Coastal Act. Without further evidence to this effect, the Commission is unable to make a definitive determination regarding the legality of the truck shed.

The second Quarry Permit (Q-76-04) issued by the County on March 10, 1977, along with an approved negative declaration of environmental impact, allows for continued authorization and maintenance of the Sand Haul Road access road. There was no mention of the truck shed in Q-76-04, or in the subsequent County-issued Quarry Permit (Q-82-01), or any reference to County use permits for any other structural development.

On February 6, 1991, the Marin County Planning Department approved the 1989 Quarry Permit (Q-89-01) which required a Biological Resource Inventory and Proposed Reclamation Plan (Reclamation Plan). The Reclamation Plan re-addressed development of the quarry access roads and estimated that the road development resulted in disturbance of 0.8 acres of central dune scrub. The Reclamation Plan did not consider this to be a significant environmental impact; however, the Plan recommended that the access roads be reclaimed following abandonment of the quarry operations. Since the Applicant expressed interest in maintaining the roads for ranch operations after quarry operations ended, the Reclamation Plan allowed the roads to be continued to be used and maintained as roads as long as ranch operations continued on the property, but the roads were also required to be reclaimed if and when ranch operations cease. The Reclamation Plan also required that land used for the sand quarry operation be returned to a natural state and subsequently used for wildlife habitat, open space, non-consumptive recreation and livestock grazing. The Applicant has asserted that the Sand Haul Road and the access roads, as well as the loop access road and parking area in Area 6, have all been continually used for ranch operations since quarry operations ceased, as further evidenced by the installation of the cattle corral within

Area 6, which occurred sometime between 1986 and 1993. Since use of the access roads and parking area is consistent with the 1989 Quarry Permit Q-89-01 and with the approved Reclamation Plan, the Commission finds that they can continue to be maintained as roads and parking area and be considered legally developed for the purpose of this analysis. Regardless, the Commission does note that the cattle corral itself did not receive necessary permits and cannot be considered legally developed.

The first direct mention of the truck shed relative to the quarry operations can be found in the application for the 1990 and 1996 Quarry Permit renewals. The negative declaration, use permit, and CDP issued by the County all specifically indicate "the loaders, when not in use, are stored in a tractor shed on the premises, while the trucks are stored in a truck shed at 137 Marin View Drive near the entry toll gate to Lawson's Landing." The referenced use of these facilities confirms the truck shed's relationship to the quarry operations, but these permits did not specifically authorize any new construction activities. The County's 1990 CDP issued for the sand quarry operations included visual resource and community character findings stating that the project was consistent with the County LCP because "No permanent or temporary buildings are proposed as a part of this project." With regard to the oil and equipment shed, as evidenced in the CCRP photos, these structures were installed after the date of CDP requirements for new development. No permit approvals for these structures have been provided to date. Even if approval of the truck, oil, and equipment sheds was part of the 1991 quarry approval or earlier approvals, as discussed above, the Reclamation Plan specifically states that the land reclaimed from sand quarry operations be returned to a natural state and subsequently used for wildlife habitat, open space, non-consumptive recreation and livestock grazing.

On December 7, 1981 the County Planning Department issued a memorandum summarizing the permit history on the property. The Memorandum indicated that the quarrying operations were considered permitted development activities but the Lawson's Landing recreational use facilities consisting of recreational trailer and camping facilities, boat rental, moorage and repair facilities, and an office and store building are "apparently illegally, nonconforming uses under the County's zoning ordinance" and that no valid use permits for the "ranch hand" mobile homes exist on the property. There was no specific reference made by the County to the truck shed in this document and this omission supports the assumption that the County did in fact consider this structure part of the permitted quarrying operations. Further, a letter to the Applicant from Marin County Planning staff dated July 11, 2012 concluded that there was ample evidence in the record demonstrating that the County had authorized the sand quarry operation and associated facilities located in Area 6, including the truck shed.

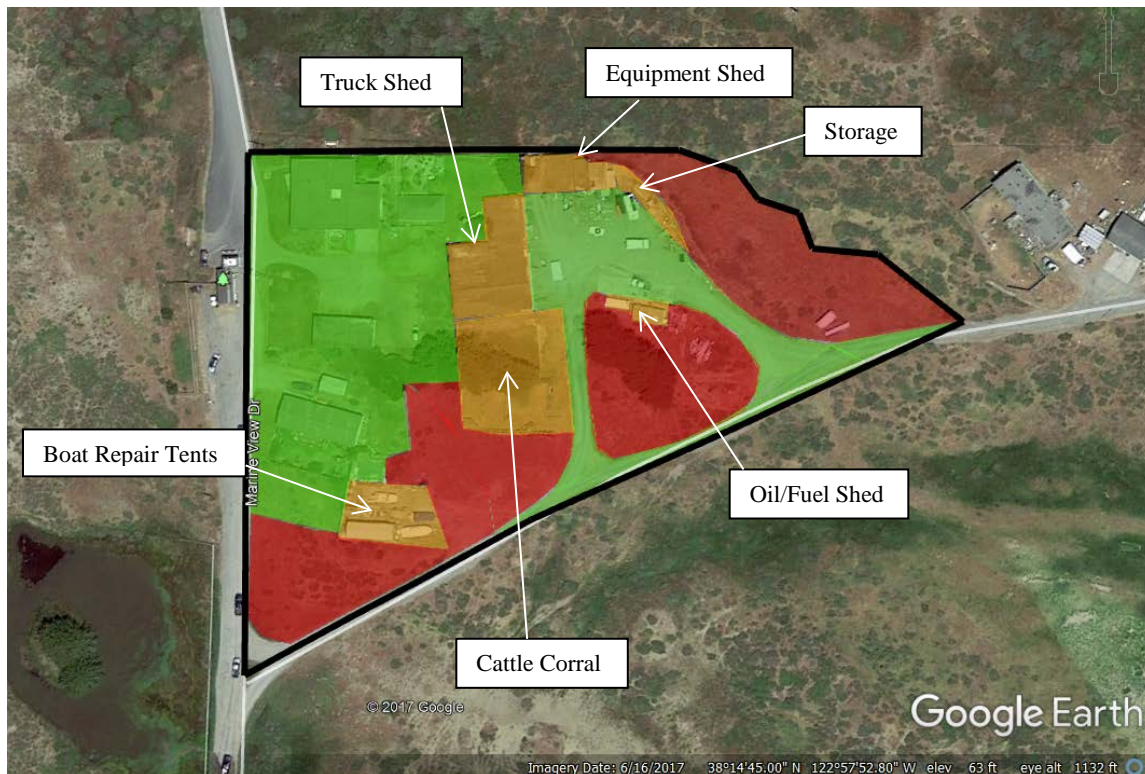
With respect to the boat repair tents, the Applicant has not put forward any evidence regarding the permitting of the boat repair tents and under the current proposed amendment, the boat repair tents would be removed and the affected area restored.

All the evidence above taken together illustrates that there is still a question as to the legality of some of the existing development in Area 6, including the truck shed, equipment shed, oil shed and cattle corral. The Commission does recognize that use of the structural facilities were at one point associated with permitted quarry operations, but the structural facilities have since functioned to support the otherwise allowable agricultural and public recreational uses on the

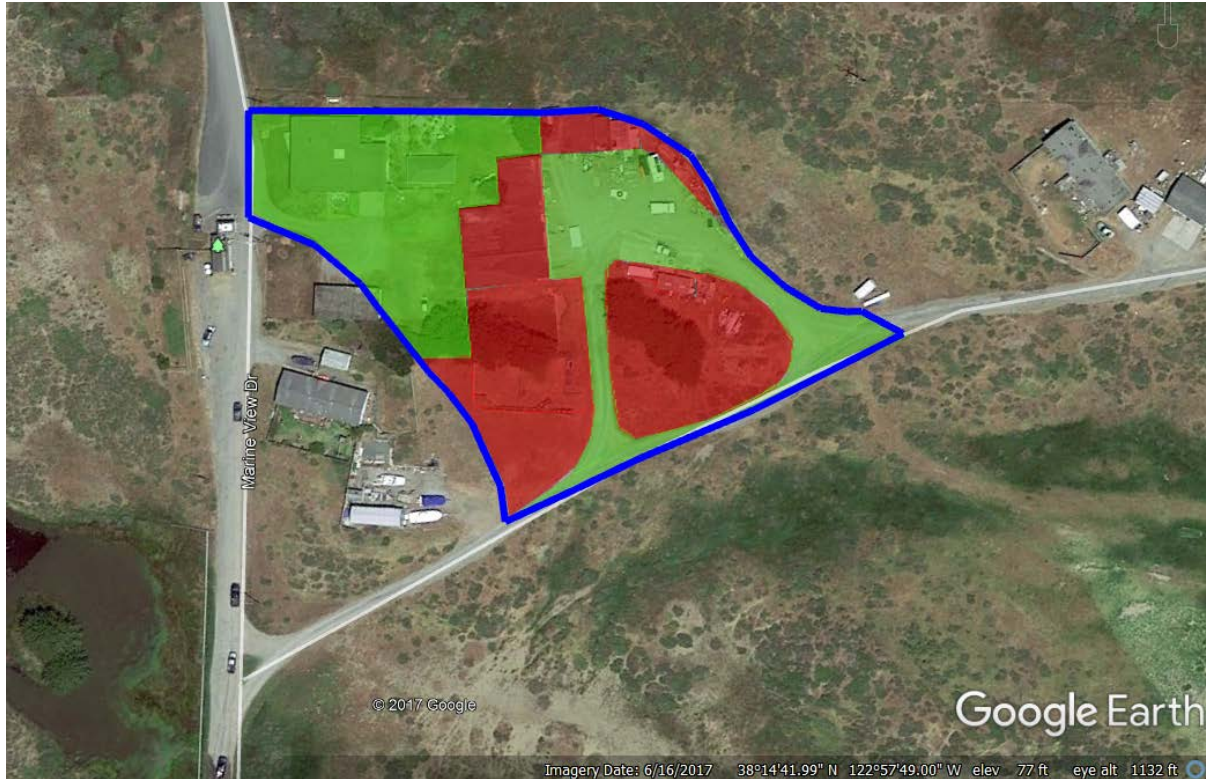
A-2-MAR-08-028-A2 (Lawson's Landing Improvements)

property, as is the more recently constructed cattle corral. Thus, some areas already impacted from the quarry operations were transitioned by the Applicant into support facilities for Coastal Act priority uses, and concentrated development within already existing developed areas.

Since the Commission determined in the original CDP approval that all undeveloped portions of Area 6 are ESHA and new development may only occur in previously legally developed areas, a conservative approach to determining the legally developed areas given the remaining uncertainty regarding the truck shed, equipment shed, oil shed and cattle corral is outlined in figure below. The approach assumes an uncertain status to be unpermitted. The green areas represent legally developed areas, the red areas represent undeveloped ESHA, and the orange represent unpermitted development in existence in Area 6. The black line is the Area 6 boundary.



The figure below more simply demarcates allowable (green) and unallowable (red) development areas within the area of the proposed development footprint that are also located outside the 300-foot CLRF pond development buffer. The blue line is the development footprint boundary.



B. STANDARD OF REVIEW

The original 2011 Coastal Commission CDP for Lawson's Landing covered development in both Coastal Commission and Marin County CDP jurisdictions as a consolidated CDP pursuant to Coastal Act Section 30601.3. As a result, the standard of review for that action was the Coastal Act, with the Marin County LCP providing non-binding guidance. The same standard of review applies to this amendment request as applied to the base 2011 consolidated CDP, including because the Applicant, the County, and the Executive Director have again reaffirmed their agreement to a consolidated review in this case as well. Thus, the standard of review for this amendment application is the Coastal Act with the Marin County LCP serving as non-binding guidance.

C. ENVIRONMENTALLY SENSITIVE HABITAT AREAS

Applicable Policies

Environmentally sensitive habitat areas (ESHAs) are defined in Section 30107.5 of the Coastal Act as areas 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 development. Coastal Act Section 30240 states that ESHA shall be protected against significant disruption of habitat values and that only uses dependent on the resources shall be allowed within an ESHA. Section 30240 also requires that development adjacent to such areas be sited and designed to prevent impacts that would significantly degrade

those areas, and to be compatible with the continuance of the ESHA. Coastal Act Section 30240 states:

(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.

Coastal Act Section 30231 requires that the productivity of coastal waters necessary for the continuance of healthy populations of marine species shall be maintained and restored by minimizing waste water discharges and encouraging waste water reclamation. Coastal Act Section 30231 states:

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

Consistency Analysis

Base CDP A-2-MAR-08-028 ESHA Determination

As concluded in the approval findings for the original base CDP, coastal dune habitats are rare, as are their associated vegetation communities and many species that occupy them. They are also easily damaged by human activities, as demonstrated throughout California, including at the Tomales Dunes. According to former Coastal Commission Senior Staff Ecologist, Dr. John Dixon,¹⁴ in its natural state the entire nearshore dune complex at Lawson's Landing, consisting of foredunes, active unvegetated dunes, vegetated backdunes, dune swales and deflation plains,¹⁵ would clearly have met the definition of ESHA found in the Coastal Act (see page 12 of [Exhibit 11](#)).

All of the pieces of this dune complex are still present today, albeit in a somewhat degraded to severely degraded condition. Despite the significant degradation of the dune habitats and the many stabilizing constraints operating on the dune complex at Lawson's Landing, it still is a dynamic system and the various parts, including the upland portions of the deflation plain, still interact with one another. For example, blow-outs periodically convert areas of deflation plain to

¹⁴ Dr. Dixon retired in 2016.

¹⁵ A dune 'deflation plain' is an area behind the fore dunes that is typically blocked from receiving new sand, allowing for wind scour that sometimes extends to water tables and thus leads to wetland habitats in this area.

dune or create drainages where there previously were none, providing opportunities for new plant and animal colonization. Therefore, regardless of the fact that the Tomales Dunes at Lawson's Landing are no longer pristine, the dune complex of foredunes, central dune scrub, bare sands, and deflation plains, including the dune-slack wetlands and uplands, is rare, performs the important ecosystem function of supporting a rare plant community, rare plant and animal species, including the federally threatened California red-legged frog (CRLF) and western snowy plover, and is easily disturbed by human activities. All of the existing habitat areas of the dune complex at Lawson's Landing are considered ESHA under the Coastal Act. As stated in the original CDP approval findings, such ESHAs include the undeveloped portions of Areas 6 that are contiguous with the adjacent areas of extensive open space characterized by a mosaic of unvegetated sand and degraded central dune scrub (see page 13 of [Exhibit 11](#)).

According to Dr. Dixon, much of the habitat at Lawson's Landing is degraded ESHA, as portions of the site have been drastically altered by development in such a manner that they no longer retain the characteristics of a natural habitat (see page 13 of [Exhibit 11](#)). Even so, because most of the historical development altering the ESHA was undertaken without permits, unless the development (e.g., grading, fill, roads, structures, trailers and camping use) in these areas was previously permitted or otherwise determined to be legal, the underlying land area must still be treated as meeting the definition of ESHA. As determined in the original CDP approval findings, all areas within Area 6 that had not been legally developed are also considered ESHA.

Dr. Dixon also noted that although the Area 6 ESHA is significantly degraded by existing development, Area 6 is crossed by a likely migration corridor for CRLF and is in close proximity to a known CRLF breeding pond (herein referred to as the Entrance Pond), and as such, development activities increasing vehicular access in this area would put CRLF at some additional risk. Recognizing the potential use of this area by CRLF, the Commission's CDP approval incorporated Dr. Dixon's recommended 300-foot buffer around the Entrance Pond and 300-foot wide dispersal corridors between the Entrance Pond and other known breeding ponds located within Lawson's Landing. Dr. Dixon recommended that undeveloped areas within the migration corridors not be developed, but where development already existed, he recommended that the intensity of use not be increased in such a manner as to increase further adverse risk to the CRLF (see pages 14-16 of [Exhibit 11](#)). As such, any unpermitted development within the migration corridors was to be removed and restored per the CDP required special conditions. In order to enhance the migration corridor between the Entrance Pond and other breeding ponds in the interior dune area,¹⁶ the Commission prohibited camping use in Area 5 (south of Area 6 across Sand Haul Road) and required restoration (designated as Restoration Area C), to enhance CRLF dispersal cover and coastal dune scrub habitats. The original CDP approval also proposed a program of managed access for cattle to graze adjacent to the Entrance Pond with periodic flash grazing (briefly grazing a pasture with a high concentration of livestock). The resulting grazed and shorter vegetation was meant to allow more sunlight and warm water to reach the corridor and facilitate use of the pond by CRLF.

The details of the restoration plan for Restoration Area C are described in the Sensitive Resource Protection, Restoration, and Enhancement Plan (Plan) consistent with the requirements of

¹⁶ This portion of the migration corridor is now protected by the required Natural Resource Conservation Service (NRCS) conservation easement.

Special Condition 4. The latest draft of the Plan requires removal of gravel and compacted fill, backfilling with native soil, planting and maintaining existing wetland plants and tall grasses between the Entrance Pond and the 17-foot contour of Restoration Area C to provide continuous cover, weeding, maintenance of an at grade road crossing from Entrance Pond to the dispersal habitat with speed restrictions, monitoring, vegetation establishment success criteria and adaptive management if needed. The Plan also requires revegetation of coastal dune scrub areas above the 17-foot contour using native species.

With respect to Camping Areas 1-4 and the Upper Scale House pasture area where portions of the wastewater collection and dispersal facilities would be constructed, the original CDP made findings relative to respective ESHA in those areas and designated required buffers. See [Exhibit 8](#) and the language of Special Conditions 2, 4, and 7 of the original CDP approval in [Exhibit 25](#) for the habitat protections and approximate development area allowed under CDP A-2-MAR-08-028 for Camping Areas 1-4 and the Upper Scale House pasture area outside of ESHA.

Thus, consistent with the above determination from the original CDP approval, ESHA within and adjacent to Area 6 includes coastal dune scrub, wetlands, dune slack wetlands, the Entrance Pond and related CLRF migration corridors, and proposed Restoration Area C; and ESHA in Camping Areas 1-4 and the Upper Scale House pasture area as designated by [Exhibit 8](#) and the language of Special Conditions 2, 4, and 7 of the original CDP approval in [Exhibit 25](#). This determination also encompasses any undeveloped ESHA contiguous with other ESHAs and any areas that had been impacted by unpermitted development (specifically, within Area 6) as further described herein and shown in [Exhibit 10](#). With respect to what constitutes "contiguous" areas of undeveloped ESHA as specified in the original CDP approval, Dr. Dixon later confirmed that this was not meant to exclude undeveloped habitat areas separated by roads (dirt or paved), as the roads do not act as a barrier to seed transport or species migration.

See [Exhibit 11](#) for Dr. Dixon's memo from the Commission's adopted 2011 CDP findings and a more detailed description of the ESHA at Lawson's Landing.

Proposed Amendment A-2-MAR-08-028-A2 ESHA Determination

Based on the review of aerial photographs of Area 6, many of the deleterious changes to the vegetation in this area took place sometime between about 1972 and 2005. This includes such activities and development as further detailed above including development of the truck shed, equipment shed, oil shed and cattle coral, use of adjacent areas for storage, as well as operation of quarry, agricultural, and public recreational uses in and around these areas (see [Exhibit 12](#)).

A closer assessment of the existing vegetation within Area 6 was provided by the Applicant's landscape architecture consultant,¹⁷ who further delineated the Area 6 vegetation into various vegetative groups including: non-native cypress and pine trees, disturbed habitat areas dominated by non-native grasses and forbs, disturbed habitat areas dominated by non-native grasses and forbs and native plants comprising 15-20% of the total cover varying seasonally, disturbed habitat areas dominated by yellow bush lupine and non-native annual grasses, coastal dune scrub

¹⁷ Ann Baker Landscape Architecture. March 29, 2017 and revised May 22, 2017. Area 6 Existing Vegetation & Land Use Plan.

dominated by mock heather, upland habitat areas predominately comprised of non-native grasses with scattered yellow bush lupine, residential and commercial landscaped areas, compacted road edge, parking and storage areas, and existing paved roads and parking areas (see [Exhibit 13](#)).

Outside of the areas determined to be "legally developed" as described and depicted above, the proposed project would result in impacts to areas shown in [Exhibit 13](#) as non-native cypress and pine trees, non-native tree canopy, disturbed habitat areas dominated by non-native grasses and forbs, disturbed habitat areas dominated by non-native grasses and forbs and native plants comprising 15-20% of the total cover varying seasonally, non-native tree canopy, disturbed habitat areas dominated by yellow bush lupine and non-native annual grasses, residential and commercial landscaped areas, compacted road edge, parking, and storage areas. The highest quality existing dune habitat on the site (coastal dune scrub dominated by mock heather) would be avoided by the proposed development included in this amendment request. However, as most recently determined by Coastal Commission Staff Ecologist, Dr. Laurie Koteen, consistent with Dr. Dixon's original ESHA determination, all of the disturbed, compacted, and developed habitat areas in Area 6 were at one point native dune vegetation and although some of these areas may not currently be providing high quality habitat, they are still considered ESHA for purposes of this evaluation. Further, because a subset of the existing development on the site was apparently developed without legally required permits, the Commission must regard the habitat in these unpermitted areas as though it had not previously been disturbed.¹⁸

Therefore, ESHA within Area 6 includes the undeveloped, degraded habitat areas as well as the unpermitted development areas (see [Exhibit 10](#)). Finally, the ESHA determinations and applicable protections for habitat surrounding Area 6 as well as in Camping Areas 1-4 and Area 8 remain the same as in the original CDP determination. The Upper Scale House pasture area where the spray dispersal and associated infrastructure would be located is mostly comprised of agricultural lands. However, there are wetlands and ponds, found to be utilized by CRLF to the northwest, northeast and east (see [Exhibit 14](#)), and central dune scrub to the south. The original CDP determination did not specifically map out migration corridors for CRLF in the Upper Scale House pasture area. However, the Applicant's biological consultant, Monk & Associates Inc., confirmed evidence of potential migration corridors based on observations of adult and juvenile frogs and frog larvae from previous surveys as well as surrounding habitat areas, which included a migration corridor through the area of the proposed spray irrigation.¹⁹ The ponds, wetlands, and dune habitat in this area are all considered ESHA under the Coastal Act and the intensity of use within the potential CRLF migration corridors should not be increased in such a manner as to increase risk to the frog.

Since a portion of the proposed development is proposed within undeveloped ESHA and unpermitted development areas otherwise considered ESHA and because the proposed development uses are not resource dependent uses and would significantly disrupt the habitat values of the ESHA, this portion of the proposed development is inconsistent with Coastal Act Section 30240(a).

¹⁸ Id (see, for example, LT-WR, L.L.C. v. California Coastal Commission).

¹⁹ Monk & Associates, Inc. May 11, 2017. California Red-legged Frog Dynamics and Survey Report Lawson's Landing, Marin County, California.

The proposed project also raises concerns with respect to consistency with Coastal Act Section 30240(b) as the wastewater dispersal leach fields proposed within Area 6 would disperse secondary treated wastewater into the groundwater, which would flow down gradient to the south and west to areas also comprised of ESHA (coastal dune scrub, dune slack wetlands, and the Entrance Pond). Extensive analysis of the potential wastewater flows, wastewater facility design and potential impacts to the surrounding habitat areas, and the species which utilize those habitats, was conducted to ensure that the proposed development would prevent impacts which would significantly degrade those areas, and would be compatible with the continuance of those habitat areas. Findings and conclusions are presented directly below.

Evidence Presented Analyzing Potential ESHA Impacts

In order to assess the project's direct and indirect impacts on ESHA within the proposed project footprint as well as adjacent ESHAs, the Applicant submitted a report from its wastewater facility design engineer, Questa Engineering Corp. (Questa), entitled *Addendum #1 Wastewater Facilities Plan for Lawson's Landing, Dillon Beach, California Wastewater Plan*, dated November 15, 2016 (herein referred to as "the Addendum"), which evaluated potential impacts associated with the proposed construction and operation of the wastewater treatment system and winter time dispersal systems in Area 6. The Addendum evaluated potential construction impacts, and localized groundwater table, water quality and soil moisture changes and their potential effect on central dune scrub and wetland vegetation in and around Area 6, and the hydrology and water quality of the Entrance Pond. Conclusions made in the Addendum are presented below.

- **Construction impacts:** The Addendum found that excavation and installation of the treatment system would not result in adverse impacts to sensitive habitats as they would be installed under areas historically used for roadways, parking and equipment storage. The Addendum did recognize that temporary impacts would occur in the area of the proposed leach fields from vegetation removal, excavation of soil, installation of equipment, backfilling of soil, and regrading of dune soils. These impacts were categorized as temporary since the leach field area would eventually be recontoured and replanted with native vegetation with only minimal permanent impacts occurring from the ground surface exposure of several utility boxes and inspection pipes.
- **Groundwater mounding:** The analysis of groundwater mounding in the Addendum assumed that operation of the proposed leach fields in Area 6 would be limited to winter months (October-April) when wastewater flows are typically at their lowest (estimated at 8,100 gallons per day (gpd) on average and 13,950 gpd at peak periods). Field analysis found the proposed leach field area soils to be well drained, dune sands underlain by loamy sands to depths of 30 feet or more with rapid permeability, percolation rates of 0.3-0.8 minutes per inch, and horizontal hydraulic conductivity of 132 feet/day; a depth to groundwater during the winter ranging between 6-7 feet below ground surface at its highest level; and groundwater flow patterns from east to west spreading southwest and northwest as it flows further away from the disposal site.

Using Darcy's law, an equation that accounts for the wastewater loading rate, the permeability of the sub-surface soils, and the slope of the water table, the Addendum estimated that groundwater mounding from the leach field dispersal would result in a water table rise of 4-5 inches (up to 7-8 inches during peak activity in November) near the leach field edge which would decline downslope where at the Entrance Pond (300 feet to the west) it would rise one inch due to lateral and vertical dispersion. It was also estimated that when leach field use in Area 6 is suspended in April each year, the water table effects would dissipate quickly near the leach field edge (within 5 days) due to the strong groundwater gradient and groundwater velocity, and would dissipate slower near the Entrance Pond (within 98 days). As such, the Addendum found that additional groundwater mounding would not create soil saturation or slope instability in down slope areas, would not carryover from one year to the next, and that there would be adequate separation distance between the leaching trenches and the water table during times of operation.

- Soil moisture and vegetation effects:** Observations made regarding potential effects on soil moisture and resultant impacts to vegetation were concluded based on the groundwater mounding analysis above and recommendations contained in the Hydrologic Assessment²⁰ conducted as part of the development of the Preservation, Restoration and Enhancement Plan. The Addendum found that it is unlikely that the wastewater dispersal in Area 6 would impact nearby dune vegetation through soil surface saturation, due to the minimal increase in groundwater mounding and high infiltration and percolation rates of the deep sandy soils as further discussed above, coupled with the location of the infiltration surface below normal rooting depth (2.5 feet below grade), the temporary seasonal use during the wet season when soil moisture is naturally supplied by annual precipitation from the surface, and use of an infiltration chamber design with filter fabric, which would prevent moisture from wicking to the surface and limit roots to penetrate the infiltration surface in the area of the constructed leach fields. With respect to potential impacts to wetland vegetation, the study noted that some amount of groundwater containing the treated wastewater would join near surface groundwaters within the dune slack wetlands in Restoration Area C (part of the NRCS easement area). Since the recommendations from the Hydrologic Assessment encouraged increased inundation and soil saturation in the NRCS wetlands the Addendum postulated that this would be a beneficial impact.
- Entrance Pond hydroperiod:** Observations made regarding effects on the Entrance Pond hydroperiod were based on monitoring results of groundwater levels and flow patterns in and around the Entrance Pond, projected groundwater mounding effects discussed above, topographic surveys, historical photos, and observations of pond and drainage conditions from property owners and researchers. The Addendum noted that the Entrance Pond, located with a 330-acre watershed recharge area, is mainly fed by groundwater from a number of sources, including flows from Area 6, and that pond water levels fluctuate during the year based on rainfall and replenishment of the aquifer, typically, but not always, drying out in September/October. Topographical observations of the Entrance Pond and surrounding area noted that when water surface elevations exceed 10 feet above mean sea level, the pond

²⁰ Kamman Hydrology & Engineering, Inc in association with Demgen Aquatic Biology. September, 2016. Hydrologic Assessment: Lawson's Landing, Dillon Beach, CA.

water spills via surface drainage to the south. Therefore, regardless of the inputs to the pond hydrology, there would be no increase in peak pond water levels. Given the above, the Addendum concluded that the additional groundwater mounding, which would result in a water table rise of one inch in the Entrance Pond, would disperse by July, leaving the typical background conditions already found in the Entrance Pond during August and September.

- **Nitrogen loading:** The Addendum observed that the drinking water wells on the property, located 1,000 feet south-southeast of the dispersal area, are topographically lower but hydrologically upgradient; and since there is a strong groundwater gradient to the west, there would be no expected impact from the leach fields on the water quality of the water wells.

In addition, the Addendum estimated nitrogen loading from the leach fields to the groundwater which would flow towards the Entrance Pond and habitat areas to the south and west based on existing background nitrogen sources and water quality, proposed treatment limits (30 mg-N/L), dilution effects, and potential attenuation of nitrogen from pond and wetland filtration. Groundwater data in and around Area 6 showed background concentrations of 0.5-5.0 mg-N/L which were slightly higher than areas observed to the south (0.5-2.5 mg-N/L). The Addendum speculated that this was likely from historical grazing, storing and loading of cattle in Area 6, and from two existing residential septic systems already located in Area 6. No nitrate-nitrogen was observed in the Entrance Pond water but low levels of ammonia and organic nitrogen were observed, with observers speculating that these levels were likely attributable to inputs from aquatic life and decaying vegetation. A peak reading in June of 48.2 mg/L of total nitrogen was observed in the Entrance Pond, hypothesized to have resulted from the cattle grazing within the fenced pond area occurring in May.

Groundwater observations in piezometers around the Entrance Pond showed levels of 0.09-0.4 mg-N/L. Based on an effluent limit of 30 mg-N/L, it was predicted that the background concentration of the groundwater around the pond averaged at 1.5 mg-N/L could rise to a range of 2.8-3.8mg-N/L with only about 5-10% of the treated wastewater reaching the pond. Assuming a denitrification capacity of the wetlands and ponds to be about 20 mg-N/square meter/day and by running a few different scenarios assuming different denitrification potential, groundwater mixing depths and effluent limits, the Addendum estimated pond nitrate levels in the winter months to range from 0.007 to 0.29 mg-N/L, with a worst case 0.25-1.29 mg-N/L. If attenuation ended up being higher than expected or a lower effluent nitrogen limit of 20 mg-N/L was used, the Addendum found that there would be no or very low measurable change in nitrate concentration in the Entrance Pond water quality.

Further, it was estimated that typical use of cattle grazing in the pond in May and September-October contributes approximately 38 pounds of annual nitrogen loading per year. In comparison, the nitrogen loading per year from the estimated average daily flow of 8,100 gpd would be between 21.23 lbs. and 42.5 lbs. per year, similar to the loading from existing cattle grazing operations.

- **Salt loading:** Projected estimates in the Addendum of the cumulative effect from total dissolved salt (TDS) loading from leach field dispersal was based on groundwater sampling,

review of existing water quality data, and annual mass balance loading analysis conducted based on estimated wastewater levels. The average groundwater TDS concentration observed in the monitoring wells in and around Area 6 was 240mg/L with greater levels observed in the shallow groundwater around the Entrance Pond at 460-710 mg/L speculated to likely be due to animal wastes from cattle grazing and evaporation and evapotranspiration effects in and around the Entrance Pond. The Addendum estimated a potential increase in groundwater TDS due to the wastewater discharge of 120 mg/L (from 240 to 360 mg/L) in the groundwater in Area 6, with a net increase into the Entrance Pond of 25-50mg/L. Therefore, the study concluded that the wastewater would increase localized salt loading to the groundwater, Entrance Pond and foredunes.

To further assess potential impacts to sensitive species in light of the findings provided in the Questa Addendum, a report was prepared by the Applicant's biological consultants, *Monk and Associates, California Red-Legged Frog Impact Assessment Area 6 Redevelopment Project, December 12, 2016* (herein referred to as "Report") assessing the potential impact of the proposed Area 6 development on CRLF.²¹ The Report was prepared by Geoff Monk and Sara Lynch who have extensive experience and knowledge of CRLF. A number of their conclusions were derived from estimates from the Questa Addendum discussed above. Conclusions made in the Report are presented below.

- **Migration:** The Report brought forth conclusions from other studies suggesting that CRLF do not always migrate in a straight line. The Report asserts that Area 6, which is located between two known breeding ponds, does not likely provide an ideal migration route in its currently developed state, which includes hardscape, buildings and other physical barriers, active human residential use and kikuyu grass. The Report instead suggests that the small watercourses and seasonally inundated vegetated swales that provide cover from predators and that occur between the two breeding points in less than straight lines south of Area 6 are the more likely migration corridors used by successful, migrating frogs (see page 3 of [Exhibit 14](#)). They also suggest that mobile sand blowing, desiccation and potential predation are significant factors that influence CRLF movements at Lawson's Landing and as such, the likelihood of CRLF migrating in straight lines across Area 6 despite blowing sands and utilizing unvegetated areas with no escape cover as modeled in the Commission's 2011 report (see page 21 of [Exhibit 11](#)) is probably not accurately reflecting true migration routes for the CRLF between these ponds.
- **Water inputs, pond hydroperiod, and predators:** The Report noted that the ideal inundation period which would support CRLF breeding and metamorphosis is December through September, with perennial inundation less ideal as it could support CRLF predators such as American bullfrogs and certain fish species. Based on the findings in the Questa Addendum, since the additional water input from the leach field would disperse by July each year, leaving only the typical existing background conditions found in the Entrance Pond during August and September, the Report concluded that in normal rainfall years²² the

²¹ Federally threatened under the Endangered Species Act and designated as a species of special concern in California by the California Department of Fish and Wildlife.

²² Willy Vogler and Mike Lawson report variation in when the pond has dried, reporting that the pond was dry by June on 2015-2016 but that prior to the drought the pond remained hydrated all year long, only drying out

Entrance Pond would still be dry by September, allowing for metamorphosis of CRLF in August/September but making it hydrologically unlikely that predators (fish and bullfrogs) could survive or reproduce. During high rainfall years, the Entrance Pond may support water year-round now and in the future; however, the additional precipitation, and not additional wastewater, would be the cause of prolonged elevated water levels.

- **Nitrate inputs:** The Report noted that CRLF occur in a wide range of water quality conditions. Based on the Questa Addendum, which estimated nitrate concentrations in the Entrance Pond after leach fields are in use to range between 0.007 and 1.29mg-N/L, the Report found that these nitrate concentrations are within the ranges of nitrates observed in occupied East Bay Regional Park District CRLF ponds. The Report also hypothesized that since cattle grazing would not occur within the Entrance Pond enclosure at the same time of year as nitrate loading from the leach field wastewater dispersal, there was not an expected compounding effect from both sources. However, the Report did recommend adaptive management of grazing operations to balance nitrate introduction from both sources to minimize harmful algae blooms, as there is a threshold at which increased nitrate levels could produce algae blooms, which would degrade water quality and deplete oxygen levels that CRLF would not be able to tolerate.
- **Total dissolved solids:** The Report noted that CRLF egg masses can tolerate salinity levels of 4.5 parts per thousand (ppt) and adults and tadpoles can tolerate 7.0 ppt. Since the Questa Addendum estimated a potential increase in the TDS concentration in the groundwater that replenishes the Entrance Pond by 25 to 50 mg/L (0.025 to 0.05 ppt) and the groundwater beneath the Entrance Pond was found in the range of 460 to 710 mg/L (0.5 to 0.7ppt) (which would be lower due to dilution from rainwater and recharge from groundwater), the Report concluded that TDS inputs would result in an insignificant effect on CRLF as the increases are within the tolerable ranges for eggs, tadpoles, and adults.
- **Recommendations:** Based on the above observations and conclusions, the Report recommended that native shrub species be maintained at a sufficient density to provide cover for CRLF near the Entrance Pond, nutrient monitoring of the Entrance Pond occur during the first 5 years of the wastewater system operation, and the Applicant implement an adaptive management of leach field outputs and cattle grazing to reduce detrimental rises in nutrient loading and potentially extend the hydroperiod of the Entrance Pond during drought years. The Report also recommends monitoring CRLF breeding success at the Entrance Pond and other known breeding ponds located at Lawson's Landing to better understand normal variations in CRLF reproductive success.

In response to questions raised by the Commission's staff biologist to the above Report regarding the speculative nature of the migration findings, the Applicant submitted *California Red-Legged Frog Dynamics and Survey Report Lawson's Landing Marin County, California, March 11, 2017* (herein referred to as "Survey Report") prepared by Monk and Associates. This CRLF Survey Report presented survey methods and findings of CRLF surveys conducted at Lawson's

approximately every 4 years. American bullfrogs and fish have not been observed by Mr. Monk or Ms. Lynch at Lawson's Landing in the last 20 years.

Landing in February, March and April of 2017, and a discussion of CRLF habitat preferences and environmental factors that likely affected recent CRLF reproduction and population stability at Lawson's Landing. Conclusions made in the Survey Report are presented below.

- **CRLF:** With respect to the Entrance Pond (also referred to as Pond 1 in the Survey Report), the Survey Report found that there was no recent use of the Entrance Pond by CRLF. Based on the survey observations, it also concluded that dune slack wetlands and the Entrance Pond have a smaller role in sustaining CRLFs at Lawson's Landing than the artificial ponds located at higher elevations on the property. More specifically, the Survey Report noted that the extreme rainfall in 2017 resulted in deep pooling of the dune slacks, especially those pools where deeper waters normally persist and where CRLF have been observed breeding in past years, and submergence of adjacent upland vegetation that resulted in an increase in decomposing vegetation within these pools, affecting the visibility of the water conditions and the growth of large mosquito fern. These pools were found to support low numbers of invertebrate and amphibian populations when compared to observations from previous years, likely from oxygen depletion from the decaying upland vegetation. However, Pond 3, a much deeper pond located to the northwest of the Upper Scale House pasture area, was found with 90 % open water and CRLF larvae.
- **Entrance Pond water elevation:** Lastly, the Survey Report found that the heavy rainfall resulted in an increase in Entrance Pond surface elevations from overland flows, but the Entrance Pond surface elevations drew down to normal pond elevations over the winter. This was clearly noted in the Entrance Pond, further illustrating water elevations and spillover consistent with the projections in the Questa Addendum. Therefore, this evidence supported the conclusion that there would be no increase in peak pond water levels regardless of the inputs to the pond hydrology.

Consistency with Coastal Act Section 30240(b)

Coastal Commission Staff Environmental Scientist Mike Sandecki reviewed the Questa Addendum and found the groundwater mounding and pond hydrological evaluation model adequate, including examination of the correct indicators and data used to prepare the summary. Mr. Sandecki also concluded that the nitrogen loading evaluation appeared reasonable and the levels predicted did not appear harmful to CLRF. In addition, Mr. Sandecki noted that the Applicant would be required to monitor nitrogen levels and report to RWQCB, which would manage any high levels of nitrogen, as well as potential promotion of eutrophic conditions that may occur. Further, he found that the contribution of salt loading could be expected to be minor and would not compromise the Entrance Pond habitat, although improved management of cattle in this area would have a more direct effect on pond water quality. Lastly, Mr. Sandecki found that the system design allowed more flexibility in maintenance procedures and operations.

The Applicant submitted a Report of Waste Discharge (ROWD) to the RWQCB in September of 2016, as well as details regarding the interim wastewater facilities plan for employee housing on January 6, 2017. The Applicant is waiting for approval to enroll the wastewater system under the State Water Resources Control Board's General Waste Discharge Requirements for Small Domestic Wastewater Treatment Systems, Order 2014-0153-dwq. Staff from the RWQCB has been closely involved in the development of this proposed wastewater facility, including periodic reviews of submitted information, site visits and discussions with County staff regarding the

project. Generally, RWQCB staff has conveyed their support for the current proposed location and design of the wastewater management facilities. In their review of the system they have communicated that it “is a good proposal, a good system for this facility, and are definitely improvements for water quality protection consistent with the directions that RWQCB staff have wanted for a long time and continue to see as appropriate” (see [Exhibit 9](#)). They have specifically communicated to Commission staff that the more compact system design, with the treatment facility and wintertime leach fields located in Area 6, has noted benefits in terms of improved management and control of the discharges. As conveyed by RWQCB staff, a more compact system better facilitates oversight and management minimizing potential problems and improving the ability of the Applicant to address any issues more rapidly to ensure the system is functioning properly. Lastly, the RWQCB recognizes the reduced energy use of a system that does not involve year round uphill pumping as an added benefit as well.

Coastal Commission Staff Ecologist, Dr. Laurie Koteen, also reviewed the analysis and conclusions presented in the above reports and Dr. Koteen has made a number of observations and recommendations regarding the proposed project, which have been incorporated into the following analysis. With regard to the projected groundwater mounding analysis, while the analysis considered a depth to groundwater at a range of 6-7 feet, actual groundwater observations in and around the proposed project site indicate a shallower depth to groundwater during some months over the past few years.²³ Depth to groundwater levels were the shallowest in 2017 due to the extremely heavy rainfall (down to 2.5 feet in location MW4), which was unusually high for the region as indicated in total average rainfall data from Bodega Ocean Observing Node, UC Davis Bodega Marine Laboratory.²⁴ Therefore, this data suggests that the potential for the groundwater mounding from the leach fields to affect the upper surface soil layers containing dune and wetland roots, in addition to the natural variation in the groundwater table from rainfall, would be more likely in heavy rainfall years. However, even during heavy rainfall years, the data presented indicates that additional water from the leach field dispersal is unlikely to result in full surface saturation and overland flows, except in areas where this already occurs from the intersection of the groundwater with the land surface due to ground elevation. For example, this intersection already occurs in the dune slack wetlands, wetland areas, and in the roadway south of the project area. With respect to the observations made in the *Questa Addendum* regarding the Hydrologic Assessment and the potential benefit of increased inundation and soil saturation in wetland areas such as these, there would only be a benefit if the additional saturation was not also bringing an additional nutrient burden to the wetlands.

The impacts from groundwater mounding and its effects on the root column from soil saturation or overland flows is of concern in this area because additional nutrients, dissolved organics, and moisture, entering the system from wastewater dispersal through the groundwater could potentially affect the surrounding dune system seedling survivorship, growth and ability to out compete non-native species. In addition, areas where the groundwater connects with surface waters may speed up the transport of nutrients via the surface waters, creating a greater point

²³ For example, see monitoring results for MW1, MW2, MW4 and A4 in 2015; MW2 and MW4 in 2016; and MW1-MW4 and A1, A2, A4, and A6 in 2017 highlighted in [Exhibit 15](#).

²⁴ <http://boon.ucdavis.edu/datasets.html>.

source impact to areas where the surface waters flow. Given that the leach field dispersal is estimated to only result in a few inches of additional groundwater mounding in dry or wet years, which would dissipate over time, it is not expected to significantly alter the changes in groundwater already experienced by these areas due to natural variation. Nevertheless, while not expected, if the project were to be approved the Commission would have to require ~~recommends inclusion of the~~ recommended operation, maintenance and monitoring requirements ~~as modified by the Commission~~ (see [Exhibit 16](#)) and ~~required through modifications to~~ **Special Condition 7**, ~~which requires~~ monitoring of the groundwater levels and water quality of the monitoring wells in and around Area 6 to track potentially significant changes aside from natural variation which may affect the surrounding habitat areas. Any significant increase in nitrogen in the monitoring wells within the dune system and a resultant impact on the survival of the restoration efforts would need to be addressed consistent with [Exhibit 16](#). To identify the effects of the dispersal on particularly wet areas, [Exhibit 16](#) adds an additional monitoring well (to the area identified in [Exhibit 17](#)), which already experiences overland flows at certain times of the year. This additional monitoring well will help address whether there is a water quality concern in these wetter, overflow areas which could be passed to the areas to which they flow.

Similarly, increased water levels from groundwater mounding and increased nutrients into the groundwater are of concern for the water quality of the Entrance Pond and its potential impacts to CRLF breeding and survival. Algal blooms, which can result from increased nitrate concentrations, would degrade water quality by depleting dissolved oxygen concentrations below concentrations that support life for CRLF and other species. Moreover, increased nitrogen concentrations are associated with reduced vigor and mass accumulation, developmental abnormalities, increased mortality, and prolonged maturation during larval development of frogs in the genus rana. Since the estimates of nitrogen input in the Questa Addendum are based on a number of assumptions, controls should be implemented to better guarantee operation consistent with these assumptions to the extent feasible and tracked to ensure compliance. The Applicant has indicated that they are able to reduce the 30 mg-N/L level of the wastewater dispersed via the leach fields in Area 6 to 20 mg-N/L. Therefore, to ensure compliance with these prescribed allowable nitrogen concentrations, ~~modifications to~~ **Special Condition 7**, as further outlined in referenced [Exhibit 16](#), if the project were to be approved the Commission would have to require that the effluent being dispersed to the Area 6 leach fields meet a monthly average concentration of 20 mg-N/L to ensure that nitrogen inputs are minimized in line with the more conservative estimates from the Addendum. ~~The modifications to~~ **Special Condition 7** ~~also~~ If the project were to be approved, the Commission would also have to require water level and water quality monitoring of the Entrance Pond to ensure that water levels do not result in an increase which would potentially sustain the hydroperiod of the Entrance Pond and affect the CRLF survival, or that the Entrance Pond reaches nitrogen levels inhospitable to CRLF survival. In the event that pond levels reach an unacceptable threshold, determined to be 5mg-N/L by Dr. Koteen, the Applicant would have to ~~shall~~ consult with the California Department of Fish and Wildlife (CDFW) and the United States Fish and Wildlife Service (USFWS) regarding necessary measures to be implemented to address these impacts. Contrary to the recommendations in the Report, Dr. Koteen does not recommend increasing use of the Area 6 leach field dispersal as a means to increase the hydroperiod of the Entrance Pond during drought years, as this would only result in additional nutrient inputs to the overall system at higher concentrations of dissolved solids and nitrates which have not been adequately evaluated.

It has been consistently recognized by the Applicant's consultants and Coastal Commission technical staff that significant nutrient inputs (nitrogen and TDS) already affect Entrance Pond and Area 6 habitats due to the ongoing agricultural use of the property (grazing and cattle storage operations), as well as the two existing Area 6 residential leach fields. Even though the original 2011 CDP approval proposed a program of managed access for cattle to the Entrance Pond to allow periodic flash grazing, grazing access to the Entrance Pond ~~would not be is no longer deemed~~ appropriate, given the elevated nitrate concentrations that would enter the Entrance Pond through groundwater associated with the proposed waste water treatment facilities in Area 6. Therefore, to further reduce water quality impacts to the Entrance Pond and the dispersal area, consistent with the recommendations in the Report, ~~Special Condition 30 is added to requires~~ if the project were to be approved the Commission would have to require that cattle grazing be prohibited in the estimated leach field dispersal area and in and adjacent to the Entrance Pond to minimize the compounding effect of nutrient inputs which may be harmful to CRLF and the surrounding habitats (see [Exhibit 18](#)). ~~Special Condition 30 also~~ Similarly, if the project were to be approved the Commission would also have to requires that the two existing residential septic systems in Area 6 be abandoned within 60 days of construction of the new wastewater treatment and disposal system. The results of the Survey Report also highlight the opportunity to adaptively manage vegetation growth in CRLF breeding ponds during heavy rainfall to prevent growth and die off of vegetation, such as mosquito fern, which would lead to eutrophication and algal growth. Therefore, ~~Special Condition 30(A) requires~~ more active vegetation management in and around the Entrance Pond via weed whacking or similar hand operated device, especially after heavy periods of rainfall, ~~to~~ would reduce the potential for water quality degradation and oxygen depletion from excessive growth and die off of vegetation.

With respect to the CLRF migration patterns identified in the Report, while the patterns displayed are plausible, Dr. Koteen concludes they are also largely theoretical. If the actual migratory patterns were more in line with what was presented in the Report, then new construction and the introduction of additional development activities into Area 6 may have less of an impact on migrating frogs that would be anticipated if CRLF migrated along strictly linear pathways that connect breeding ponds. However, continued monitoring of CRLF and best management practices for CRLF avoidance within Area 6 are needed to confirm the Applicant's consultant's opinions and to provide additional CRLF protection.

Thus, the development of Area 6 should still consider and apply the protections required and identified in the original Coastal Commission CDP decision. As stated above, this original CDP decision noted that although Area 6 is significantly degraded by existing development, it is crossed by a likely migration corridor for CRLF, and as such, activities increasing vehicular access in this area would put the CRLF at some additional risk. As such, the original CDP required a 300-foot buffer around the CRLF breeding ponds, including the Entrance Pond west of Area 6, and designated 300-foot wide migration corridors between ponds, one of which crosses the majority of Area 6. It also prohibited new development in the 300-foot pond buffer and required removal of unpermitted development that was located within the migration corridors and restoration of those previously developed areas.

New development currently proposed within the CRLF migration corridors comprised of above ground buildings and paved surfaces are partially located in legally developed areas and partially located within unpermitted development areas. The new development proposed in the unpermitted development areas is inconsistent with the requirements of the original CDP, which requires removal of the unpermitted development and restoration of those areas. Thus, development being proposed in this amendment request would somewhat increase the intensity of development in the migration corridors as compared to a "no project" alternative. However, no new development is proposed by the Applicant to be placed within the 300-foot CRLF pond buffer, consistent with the original CDP. The removal and restoration of the area occupying the unpermitted boat repair tent (located in the 300-foot pond buffer and the migration corridor), as required under the original CDP approval, would also provide habitat improvements within this area. Further, all above ground development would be concentrated next to existing legal development and legal development areas located towards the northeast portion of Area 6. Development proposed to occur in unpermitted areas of Area 6 is proposed to be located in areas historically used to support quarry operations, and public access and recreational facility support services and thus, to a certain extent, some of the uses (vehicle storage and repair barn, and employee offices and meeting space) would be of similar intensity to the existing operations already occurring. The proposed leach fields would impact undeveloped ESHA within the migration corridors but the majority of these improvements would be located underground. In addition, dune habitat would be restored after leach field installation to a condition better than the existing degraded habitat situation, offering potential migration benefits for the CRLF in habitat areas that are contiguous with the larger open space habitat areas located to the south of Area 6. Lastly, the restoration proposed to occur in degraded upland areas located adjacent to the development in Area 6 would also further provide greater habitat enhancements to the CRLF migration corridor.

Since the intensity of use in the northern portion of the site would increase somewhat as compared to a no project alternative from operation of the Lawson's Landing Center, measures to address the increased intensity and potential impact to CRLF are recommended. **Special Condition 30** requires Specifically, if the project were to be approved the Commission would have to require installation of fencing and signage between the paved portions of the Center and the proposed restoration areas to prevent impacts from visitors accessing the Lawson's Landing Center or driving on the designated roadways. **Special Condition 30** The Commission would also have to require the installation of interpretive signage in Area 6 to increase visitor awareness of the CRLF and its habitat needs. Lastly, consistent with the recommendations in the Report, **Special Condition 30** the Commission should requires monitoring of the use and breeding success of CRLF at the Entrance Pond if the project were to be approved. Even though the Applicant's Survey Report concluded that the Entrance Pond was not as important as other ponds on the property for supporting CRLF breeding population at Lawson's Landing, Dr. Koteen does not see a strong basis for this conclusion as the Entrance Pond is still beneficial for CRLF to breed in some years and use as habitat during other years. As such, the Entrance Pond and the migration corridors providing access to the Entrance Pond should still be protected, monitored, and maintained consistent with **Special Conditions 29 and 30** and the requirements of **Exhibit 16** as further outlined above. To address potential construction impacts to CRLF if the project were to be approved, **Special Condition 31(F)** and the requirements of **Exhibit 21** would require the presence of USFWS and CDFW approved biological monitors during ground

disturbing activities, pre-construction surveys to be undertaken, contingency measures to be implemented in the event that CRLF gain access to the construction area, and prevention measures to be undertaken such as installation of wildlife exclusion fencing, restricting areas for construction storage and staging, and keeping holes and trenches covered at the end of each work day.

Development proposed in the Upper Scale House pasture area would be located outside of the 100-foot wetland buffer, 300-foot CRLF buffer, and 50-foot central dune scrub buffer required under the original CDP approval, but would occur within a potential migration corridor for CRLF. Since the spray facilities would not involve above ground development it would not likely have an effect on the potential migration movements of frogs in this area. However, to address potential construction impacts to CRLF, the requirements of **Exhibit 21 Special Condition 31** would need to remain in effect as further discussed above if the project were to be approved.

Development proposed throughout the remainder of the Lawson's Landing facility would occur within approved development areas consistent with the CDP (individual STEP units) or under existing roadways (effluent pipe). If the project were to be approved, construction best management practices incorporated through **Special Condition 31(F)** would ensure the impacts to adjacent ESHA or sensitive species moving throughout the area are avoided as much as possible.

As evaluated above, the project has been designed to minimize the indirect impacts to ESHA adjacent to the development area. However, further construction and operation best management practices, monitoring, and adaptive management measures ~~as implemented through modified **Special Conditions 7 and 30**~~ are would be necessary if the project were to be approved to ensure the operation of the system would be consistent with Coastal Act Section 30240(b). These ~~conditions requirements~~ would reduce existing nutrient inputs, reduce proposed nutrient wastewater effluent limits, and monitor and adaptively manage for potential impacts to water quality and groundwater levels past natural variability which could impact surrounding habitats and species. Thus, with above mentioned requirements in place the special conditions as required, the project would be consistent with Coastal Act Section 30240(b) if the project were to be approved.

Consistency with 30240(a)

The conclusions made in the Questa Addendum regarding construction impacts do not account for the fact that some of the areas used for construction of the wastewater treatment facility are unpermitted, would otherwise be required to be restored under the 2011 base CDP, and are therefore considered new impacts to ESHA. The proposed development that would occur in unpermitted areas amounts to approximately 17,821 square feet (see **Exhibit 6** for calculations). The proposed leach fields (in addition to some of the proposed parking areas) would impact approximately 19,837 square feet of undeveloped ESHA. Although the area of the leach fields would be restored after installation; vegetation removal, grading, and installation of the leach fields would significantly disrupt the dune scrub ESHA. Therefore, the project would significantly disrupt approximately 37,658 square feet of total dune scrub ESHA. As identified above, Section 30240(a) only allows resource-dependent development in ESHA, and only if it

doesn't result in significant disruption of ESHA. The proposed leach field and related development is not resource-dependent, and thus is not allowed in ESHA. As a result, this aspect of the proposed project cannot be approved consistent with these Section 30240(a) requirements. The only way that such development can be allowed would be through the conflict resolution provisions of the Coastal Act. ~~In this case, and for the reasons articulated below in the Conflict Resolution section of this report, the Commission here is approving the proposed project with conditions.~~

In such an approval, a mitigation ratio of at least 1:1, as Dr. Koteen concluded, is required for these ESHA impacts. To mitigate for these impacts, the Applicant has proposed restoration of the leach field areas after the installation of the leach fields (14,943 square feet), restoration of additional dune scrub habitat areas located adjacent to the development (14,736 square feet), and restoring and preserving additional land areas in Area 4 that would otherwise be available for recreational use development under the original CDP approval (37,800 square feet). The restoration of the leach field areas following leach field installation, while necessary to mitigate for impacts to dune ESHA and the CRLF migration corridor, and while beneficial to these habitats, cannot also be applied to the mitigation for this direct ESHA impact. However, the habitat benefits resulting from the restoration of the areas adjacent to the proposed development (i.e., 14,736 square feet) in addition to the portion of Area 4 that would be set aside and restored (i.e., 37,800 square feet), would adequately compensate for the additional habitat disturbances proposed in Area 6 (i.e., 52,536 square feet in total). Thus, the overall ratio of impacts to restoration would be closer to 2:1 (see [Exhibit 6](#)).

As discussed further in the project description, the Applicant would re-contour, restore and enhance dune habitat, to be re-installed over the constructed leach fields after installation as well as restore and enhance additional dune habitat located adjacent to Area 6 consistent with the proposed revegetation plans further outlined in [Exhibit 5](#). Dr. Koteen's review of the Applicant's proposed restoration plan found that preservation of native plants from the site was a good goal but that a few adjustments to the plan would better achieve realistic restoration goals appropriate for the site. For example, Dr. Koteen recommends that it would be better to use a pristine reference site, including a site located preferably near to the disturbance location that represents the vegetation type that likely existed on the site prior to invasion by non-native plants. This would allow the Applicant to develop an appropriate plant palette for restoration purposes. Dr. Koteen also recommended requiring that an 80% minimum non-native cover be established with the understanding that non-native grasses might be impossible to eradicate entirely. To more simply implement recommended restoration requirements consistent with the detailed restoration plans already developed and thoroughly vetted for implementation throughout the Lawson's Landing property, ~~Special Condition 29~~ the Commission would have to require that the restoration within Area 6 be conducted consistent with the specifications outlined in the Final Preservation, Restoration, and Enhancement Plan (PREP) for central dune scrub habitat in Restoration Area C if the project were to be approved. The Applicant is also proposing to set aside additional space within Area 4 for conservation and restoration and this additional space is also adjacent to the NRCS easement habitats and their buffers, again providing more continuous open space and habitat benefits in a larger, more contiguous and suitable for restoration success portion of the site. Similarly, development areas set aside for conservation in Area 4 also must be restored consistent with applicable requirements outlined in the PREP for wetland and dune habitat in Restoration Area C, as appropriate. Finally, since these

areas are directly adjacent to areas being used for recreational camping and roads, **Special Condition 30** and modified **Special Condition 2(C)(4)** recommend that fencing and interpretative signing would have to be installed around the areas to be restored to prevent impacts from human recreation to these restoration areas if the project were to be approved.

The proposed project includes detailed operation, maintenance, and reporting procedures for the proposed wastewater treatment and disposal facilities as further outlined in **Exhibit 16** that would be further refined and finalized through the RWQCB approval process. Since this RWQCB approval process is not yet final, modified **Special Condition 7** requires at a minimum, these procedures (as modified by the Commission in **Exhibit 16**) would need to be implemented in addition to whatever is required by RWQCB if the project were to be approved. Specifically, the procedures highlight additional Area 6 leach field operational controls, additional Upper Scale House pasture spray irrigation operation controls, groundwater monitoring, Entrance Pond monitoring and adaptive management, and grazing prohibitions. Finally, the project would not be able to operate unless and until the Applicant receives RWQCB formal authorization, ~~as required by modified **Special Condition 7**.~~

ESHA Conclusion

A portion of the proposed development would be located within areas designated as ESHA and this proposed development is not considered to be a resource dependent use, and it would significantly disrupt the habitat. As such, the proposed amendment is inconsistent with Coastal Act Section 30240(a) on this point, and must be denied, and as a result, no special conditions apply that would make the proposed project consistent with Section 30240 of the Coastal Act. can only be allowed through conflict resolution under the Coastal Act. If conflict resolution is utilized to allow this portion of the proposed development, mitigation measures must be implemented as recommended though modifications to existing conditions and addition of new special conditions to address both direct and indirect impacts to ESHA, consistent with Section 30240. Further, if the project were to be approved through conflict resolution, the proposed additional restoration of Area 6 and 4 is essential to implementing the necessary mitigation required for direct habitat impacts.

D. PUBLIC ACCESS AND LOWER COST RECREATION AND VISITOR FACILITIES

Applicable Policies

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development located between the nearest public road and the sea “shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3.” The proposed project is located seaward of the first through public road (Beach Street) and therefore subject to this Section 30604(c) requirements. In addition, the Lawson's Landing facility itself is a recreational visitor-serving facility, and the proposed project raises issues associated to its use and function, and thus the project's conformity with the Coastal Act public access and recreation policies is of issue. Coastal Act Sections 30210 through 30214, 30220 and 30224 specifically protect public access and recreation and especially lower cost recreation and visitor facilities. In particular:

Section 30210. In carrying out the requirement of Section 4 of Article X of the California

Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

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

Section 30212(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. ...*

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. 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.*

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

Section 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...*

Section 30220. *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Section 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.*

Section 30222 *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

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

Section 30224. *Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing*

harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

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. ... (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.*

Section 30252. *The location and amount of new development should maintain and enhance public access to the coast by ... (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation ...*

Section 30253. *New development shall do all of the following: ... (d) Minimize energy consumption and vehicle miles traveled. (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Consistency 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 suitable for recreational, visitor-serving, and water-oriented recreational uses to be developed with such uses (including Sections 30210, 30211, 30220, 30221, 30222, 30223, 30250(c), 30253(e)). It also protects and encourages the provision and protection of lower cost visitor and recreational facilities (Section 30213). In addition, the Coastal Act encourages new development to provide increased recreational boating use of coastal waters (Section 30224), to locate development to maintain and enhance public access in a way that minimizes use of coastal access roads and provides for non-automobile circulation (Section 30252), and to reduce vehicle miles traveled (Section 30253(d)). Finally, the Coastal Act Section 30210 direction to maximize access represents a different threshold than to simply provide or protect such access, and is fundamentally different from other like provisions in this respect. In other words, it is not enough to simply provide access to and along the coast, and not enough to simply protect access; rather such access must also be maximized. This terminology distinguishes the Coastal Act in certain respects, and provides fundamental direction with respect to projects along the California coast that raise public access issues, like this one.

The development of the Lawson's Landing Center to provide a central visitor center location for the overall site for operations, guest processing, and guest services has always been part of the Applicant's long-term vision for Lawson's Landing. In the original CDP approval, the precise

development plan and the location for the Center was not approved or determined. As such, the development was to be proposed through a future CDP amendment application and depended on a number of factors yet to be determined after the 2011 hearing, including determining allowable development areas in Area 6 and the feasibility assessment of use of Sand Haul Road, as previously discussed.

All of the development proposed in this amendment would serve to maintain, protect, and improve visitor-serving public recreational uses. The store, bicycle, electric vehicles, public access parking, road improvements and guest processing would all directly serve low cost recreational uses of the site and would reduce off-site trips, consistent with Sections 30252 and 30253(d). All other development would support the continued operation and functionality of the campground including the wastewater treatment and disposal facility, the barn for vehicle and boat repair and storage, and the office and emergency service building. Development of the wastewater treatment and disposal facility would allow for improvements throughout the facility to better serve the guests (provision of showers, improved restroom facilities, food services) and to improve water quality issues at the site. The emergency services center would also help meet the requirements of the CDP to provide for a tsunami evacuation center in the event of an emergency. Thus, the proposed development would provide and improve lower cost visitor-serving and recreational facilities, consistent with Coastal Act Section 30213, and would maintain, enhance and maximize coastal access consistent with the public access policies of the Coastal Act, including by reducing vehicle trips to and from Lawson's Landing.

Consideration of other locations on the property for the proposed improvements is largely limited by existing designated sensitive habitats and their required buffers, and the potential hazards associated with tsunamis, flooding, and sea level rise. Since the 2011 CDP approval, Marin County has adopted a County vulnerability assessment and adaption plan for its coastal zone. The Marin County vulnerability assessment and adaptation plan includes multiple flooding scenarios analyzed for the Lawson's Landing property. As seen in [Exhibit 22](#), the 3-foot sea level rise exposure area would expand into the majority of Areas 1 and 2, where, in 2011, the Commission thought it might be possible to locate a Lawson's Landing Center. Now that this information is available, it is important to include consideration of future hazards when siting new structural development like this. Location of the proposed development in any other allowable development area outside of a hazard area would result in further reductions in available camping areas or public day use. Any alternative location would need to consider all of the potential overall impacts to the continued provision of low cost visitor-serving recreational accommodations.

For example, the Applicant's proposal to set aside additional land initially approved for campground development to help rebalance the development to open space ratio established through the base CDP approval, was carefully considered to find a location that would provide the most habitat benefits with the least impact to lower cost visitor-serving uses. While this proposal would convert development areas proposed for recreational use (19 campsites, one group campsite, and some common use space) to open space, these areas are directly adjacent to an existing drainage and as such, are considered the most sensitive sites in Area 4. The area for these sites is limited seasonally through the base CDP which requires larger buffers outside of the Memorial Day to Labor Day season or in the event that heavy rainfall occurs. Further, since

these sites are located closest to sensitive wetlands and dune scrub, the Commission previously approved the Applicant's temporal management proposal involving a tiered reservation system requiring that the Applicant fill campsites furthest away from the wetlands and dunes scrub first. As a result, these sites are considered tier 3 sites (filled last) and are primarily used only during the busy season where the required buffers are only 10 feet, between Memorial Day and Labor Day. In addition, the Applicant has indicated that the 19 campsites could be relocated to other approved development areas within Area 4, closer to the roadway, not initially depicted on the latest draft Campground Management Plan. Thus, the proposal would offer significant habitat benefits without displacing the most recent estimate of 357 total campsites.

In 2011, the Commission found that places such as Lawson's Landing provide extremely important public access and lower cost recreational opportunities for the citizens of California, including those visitors coming from inland locations in California that do not have a regular opportunity to enjoy coastal access and recreation. Visitor support for the campground is evident from the large crowds of visitors who testified in support of the project at previous Coastal Commission hearings. In addition, the Commission found that approving the proposed development would provide additional support services needed for lower cost camping and recreation, and support for water-oriented boating, fishing and other activities, in an oceanfront location where public access and recreational use has been historically significant and where high demand for such facilities continues. These conclusions were drawn based upon supplied data reflecting historical use at the facility and expected increased future demand for services provided by facilities such as these, as well as cost of day use, tent camping, and RV camping, the amount of camping and day use provided, and the opportunities for waterfront, boating and fishing at Lawson's Landing as compared to other facilities in Marin, Sonoma, San Francisco and San Mateo counties. Further, special conditions ensured that any future development to convert approved camping spaces to higher-cost visitor-serving facilities would require an amendment to the CDP. The Commission's conclusions from 2011 in this respect continue to be applicable today, if not more so, as before.

The Commission's 2011 approval allowed for the development of up to 650 campsites, based on the constraints known at that time. However, the draft Campground Management Plan (CMP) submitted by the Applicant through condition compliance for the 2011 CDP more realistically represents the potential camping and day use facilities which could be provided at Lawson's Landing, accounting for sensitive habitats, habitat buffers and roadways for circulation. The draft CMP estimates that some 357 camp sites can be provided at Lawson's Landing taking into account all of the relevant constraints as opposed to the 650 site maximum that was thought possible in 2011. Therefore, any further reduction in potential camp sites by relocating the Lawson's Landing Center to areas proposed for camping would only result in further reductions to the provision of these much needed lower cost camping and recreation opportunities along the coast. Such a reduction would conflict with the mandates of Section 30210 to maximize access and recreational opportunities, of Section 30213 to protect lower cost visitor and recreational facilities, of Section 30221 to protect oceanfront land suitable for recreational use for that use, and of Section 30223 to reserve upland areas necessary to support coastal recreational uses.

When it conditionally approved the original 2011 CDP, the Commission found that the approved development at Lawson's Landing would protect and provide lower cost public access and lower

cost visitor-serving recreational opportunities, including RV and tent camping and coastal-dependent water-oriented activities such as boating and fishing, in an oceanfront location where public access and public recreation has been historically significant and where high demand for such facilities continues, consistent with Coastal Act Sections 30210, 30211, 30221, 30222, 30220, 30250(c), 30213 and 30224. However, the Commission also found that provision of camping, boating, and day use access has the potential to impact existing vehicular use by the public trying to reach other portions of the Marin coast on nearby roads, especially on busy weekends. The Commission found that approving camping, boating and day use at Lawson's Landing could result in bringing more people to the beach and shoreline, thereby potentially over-crowding Dillon Beach and adjacent waterways with people, vehicles, and boats. To ensure the project's consistency with relevant Coastal Act sections, the Commission conditioned its approval to limit the number of day-use permits issued and the number of vehicles per campsite, and required submission and approval of a detailed traffic management plan outlined in the original CDP's **Special Condition 12**.

Special Condition 12 required submission of a Traffic Monitoring and Adaptive Management Plan (Traffic Management Plan (TMP)) to ensure that traffic impacts to the Dillon Beach community and to the coast are reduced to the maximum extent possible and traffic safety is enhanced. The required TMP included a provision for the Applicant to conduct a feasibility assessment of the use of Sand Haul Road as an alternative access route for Lawson's Landing, through approval of the Lawson's Landing Center permit review or submission of an updated traffic management plan in conjunction with the required monitoring reports. Since the proposed development in this amendment request includes the Lawson's Landing Center, the feasibility assessment was submitted as part of this application. Further, the Applicant has worked closely with Commission staff and concerned local citizens to finalize the TMP required under **Special Condition 12**. The final plan was approved by the Executive Director on August 14, 2017 and excerpts can be found in [Exhibit 19](#).

The approved TMP outlines annual monitoring and adaptive management measures that would be implemented to ensure there is a mechanism to identify, revisit, and address any unacceptable ongoing traffic impacts in and around Dillon Beach and the coast as a result of the approved development and the proposed development of the Lawson's Landing Center. A number of the traffic management standards, management practices and adaptive management measures outlined in the TMP have already been implemented by the Applicant, including the encouragement of walking and biking on- and off-site through educational programs, establishing maximum vehicle levels for campsites, mandatory use of an online reservation system for camping (online day use reservations are also now available), erection of signage that indicates when the campground is full, the widening of Cliff Street, and emergency access improvements to Sand Haul Road.

The last traffic monitoring report submitted through condition compliance indicated that the level of service thresholds were not exceeded during the most recent 2016 monitoring period for any of the monitored roadway intersections. In addition, observations at the entry access gate indicated minimal levels of congestion due to the short processing time for campers with reservations (estimated to be less than 10 seconds to confirm a reservation with staff at the gate). It is important to note that this monitoring period occurred during a time when the campground

was not at full operational capacity as approved under the CDP. Currently, the camping occurring at Lawson's Landing is estimated to be occurring at 294 campsites. This use is expected to increase to 357 campsites as identified in the latest draft CMP.²⁵ Further, the monitoring report did indicate that vehicle queuing at the entry gate can occur when multiple guests arrive at the same time as a result of multiple vehicles traveling to the site getting stuck behind a slow moving vehicle on the narrow roads. The report also noted that back-ups at the entrance gate occur when guests are waiting to see if additional day use permits become available when day-use guests leave. The slow traveling of large vehicles on the roadways to and from Lawson's Landing has been a major concern expressed by the public trying to get to and from Dillon Beach and the coast, as has the queuing of vehicles at the entry gate, in particular when the stacking backs up and into adjacent residential neighborhoods. The public has also expressed continued concern over the traffic generated from daily ins and outs from Lawson's Landing individual campers heading to town to pick up supplies.

With respect to the reissuance of day use permits on a given day by the Applicant, the original CDP approval evaluated traffic impacts for the proposed development with the assumption that there would only be a maximum of 100 day use permits issued daily, and as such, no reissuance should be occurring once Lawson's Landing's campground is operating at its approved capacity. In the short-term, Commission staff has conveyed to the Applicant that reissuance of day use permits is only acceptable at this time because the facility is not operating at full capacity. However, Commission staff also informed the Applicant that this short-term exception could not be continued if vehicle stacking resulting from heavy day use was not resolved. To address this issue, the Applicant has required the online reservation of day use permits for peak use days, would not re-issue day use permits on these peak use days and would post signs along the road leading to the entry gate alerting visitors when all available day use permits for that day have been issued (for example, during low-tide clamming season). Traffic resolution issues such as these have been folded into the final approved TMP. As indicated in the TMP, the annual monitoring report shall document any traffic related issues raised throughout the year that may have occurred outside of an actual period of monitoring, the reasons for occurrence, and potential recommended adaptive management solutions to be implemented.

The other traffic generation issues, namely the vehicle stacking from slow travelers, the in and out traffic, and the potential increased traffic impacts that may occur when the campground is operating at full capacity, would be improved and impacts lessened through implementation of the proposed visitor processing improvements for the Lawson's Landing Center planned to occur in Area 6. For example, modifications to the entrance gate would provide additional capacity for large vehicles including some additional lane width to provide for both a bypass lane and a stacking lane. The Area 6 traffic circulation system has also been designed to accommodate the turning movements of large vehicles such that it could be used as a secondary processing area during periods of high demand. To encourage stays onsite and to reduce offsite trips, a larger and more inclusive store that would offer necessary camping, boating and fishing goods is proposed as part of the Lawson's Landing Center. Providing for additional basic needs of Lawson's Landing guests within Area 6 would reduce vehicle trip generation to and from the coast, and

²⁵ A temporary plan was approved for camping through September 3, 2012. The Applicant has been working with Commission staff to develop a final CMP, and the most recent iteration was submitted on August 30, 2017.

reduce vehicle trips through Dillon Beach that currently occur due to its proximity to Area 4, the largest area of campsites. Once the store is completed, campers in Area 4 would be able to purchase needed supplies onsite and avoid trips to Dillon Beach. The Applicant is also in the process of developing camper and visitor educational programs, and plans to establish a bicycle and electric vehicle rental service in Area 6 to discourage use of individual cars and vehicles and to encourage walking, carting and biking both on- and off-site. The additional public parking proposed within Area 6 meets the requirements of free public parking provisions required through the original permit's Special Condition 22 (see of the Special conditions of the original CDP approval Exhibit 25), and would also allow for a future shuttle staging area to bring large groups on- and off-site, and to allow for guests to park temporarily to use the proposed visitor-serving amenities.

Many interested parties, including some in the adjacent Dillon Beach community, have asserted that the majority of traffic conflicts and concerns now occurring at Lawson's Landing would be better addressed through the use of Sand Haul Road as a primary one-way or two-way access route in and out of Lawson's Landing. As part of the required TMP condition, and submittal of the application for development of the Lawson's Landing Center, the Applicant provided a feasibility assessment for use of Sand Haul Road as a primary access route consisting of a memo from its traffic consultant Fehr & Peers. The memo summarized conclusions outlined in the following documents: *Traffic Management Plan, Lawson's Landing – Sand Haul Road Feasibility Study, July 30, 2010*, prepared by Adobe Associates; *Revised Biological Resources Report Sand Haul Road Lawson's Landing, Dillon Beach, California, March 11, 2010*, Prepared by Monk and Associates; and *Cost Proposal for Biological Permitting Sand Haul Road Improvements for Public Access to Lawson's Landing Dillon Beach, California, March 24, 2017* prepared by Monk and Associates. The feasibility assessment examined the use of Sand Haul Road for emergency vehicle access only, one-way driveway access, and two-way public access.

The feasibility assessment indicates that the Tomales Fire Chief has confirmed that Sand Haul Road is in functional condition to serve as an alternative public emergency access route and a tsunami evacuation route from Lawson's Landing, without any further improvements being made by the Applicant. The assessment also concludes that the existing roadway condition can serve as construction vehicle access to minimize construction traffic through Dillon Beach. The Applicant has indicated that the road has periodically had asphalt patching repairs and re-grading and would continue to have similar repairs and maintenance as needed to maintain its functional condition for these two types of access.

The other access alternatives examined would both require significant improvements to the roadway. One-way access would require expansion and paving of the entire Sand Haul Road roadway to 12 feet in width with vehicle turnouts every 1,000 feet further widening the Road, widening of the intersection with Dillon Beach Road to provide a left-hand turn lane and widening of Dillon Beach Road to provide a 4-foot shoulder and improved sight distance for turning, an evaluation of the main roadway turns, with possible expansion to accommodate large vehicles with trailers and recreational vehicles, installation of gates at both ends of the roadway, installation of signage at the intersection with Dillon Beach Road, and operation of the one-way access scheme if proposed to be changeable (i.e., allow inbound only on Fridays and outbound

on Sundays). The costs for the one-way access improvements to Sand Haul Road are estimated at \$2.9 million with additional costs estimated at \$1-2 million for associated environmental review, permitting, and mitigation. The two-way access proposal would need to be upgraded to Marin County Department of Public Works standards to allow for two-way travel, as well as similar improvements to Dillon Beach Road discussed above for the one-way access. The costs for the two-way access improvements were estimated at \$4.04 million with additional costs from \$1-2 million for associated environmental review, permitting, and mitigation.

Cost estimates in the feasibility assessment for the proposed roadway improvements were derived from a preliminary assessment conducted in 2010, adjusted for inflation. The environmental permitting cost was estimated based on results of preliminary biological assessment conducted in 2010, which was reassessed after the 2017 rains to predict the likely regulatory agency permitting requirements. Due to the obvious wetland and stream resources on-site, the 2017 assessment predicted the preparation of an Aquatic Resources Map and permit package for the U.S. Army Corps of Engineers (ACOE), a biological assessment report for the ACOE for consultation with USFWS as the project may affect the CRLF, a 401 application to the RWQCB, preparation of a lakebed alteration agreement application with CDFW, and potential costs associated with development of any associated CEQA or EIR documents.

The Coastal Act defines feasible as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." The permitting requirement and cost conclusions above are mainly speculative as permitting requirements would depend on the exact proposed project alternative and the resultant impacts. However, it does serve to exemplify the overlapping complexity of the existing site with respect to the multiple jurisdictions of regulatory agencies due to the existing sensitive habitats and resources. As such, the assessment's conclusion that the improvements to Sand Haul Road may be cost prohibitive to the Applicant and also may result in secondary environmental impacts is reasonable at this time. Further, allowable improvements occurring within and around ESHA would also be limited by Coastal Act requirements and as such, a full biological assessment and wetland delineation would be required for consideration of either the one-way or the two-way access improvements for Coastal Act permitting purposes.

While the assessment concluded that the use of Sand Haul Road is not feasible at this time, use of Sand Haul Road is still incorporated into the TMP for future consideration, especially in the event that all other traffic management and adaptive management solutions prove ineffective at addressing traffic impacts to public access and the local community. Additional adaptive management measures also proposed for consideration include adjusting allowable vehicles, requiring staggered arrivals during certain time periods, providing traffic reduction incentives for campsite users to arrive on non-peak days, using shuttle systems, coordinating with Dillon Beach Resort to manage overall traffic levels of beach users, and exploring joint funding strategies to implement the use of Sand Haul Road with the County and the Dillon Beach community. Even if the Applicant was proposing to use Sand Haul Road as the primary access route to and from Lawson's Landing, all existing traffic problems would not be alleviated. However, with the improvements proposed by the Applicant to occur in Area 6, the Commission finds that the traffic problems ~~are~~ would likely ~~to~~ be greatly improved if the project were to be approved.

However, the project is inconsistent with the Coastal Act's ESHA policies, as described in the previous finding, and cannot be approved in this form.

Conclusion

The proposed development would support much needed lower cost camping and recreation, and water-oriented boating, fishing and other activities, in an oceanfront location where public access has been historically significant and where high demand for such facilities continues. The improvements to the entry gate, guest processing center and circulation, the provision of on-site services and provisions through the new store, and opportunities for alternative transportation means would also reduce potential traffic impacts from the campground operation as originally approved consistent with the approved TMP. The wastewater management facility would also provide for improved facilities throughout the campground to better serve the needs of guests. Therefore, the proposed project is consistent with the public access and recreation policies of the Coastal Act. However, as discussed above, a portion of the proposed development would be located within areas designated as ESHA and this proposed development is not considered to be a resource dependent use, and it would significantly disrupt the habitat. As such, the proposed amendment is inconsistent with Coastal Act Section 30240(a) and must be denied.

E. ADEQUACY OF SERVICES

Applicable Policies

Coastal Act Section 30250 states, in applicable part:

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... (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.

And Section 30231 states:

Section 30231. The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Consistency Analysis

Coastal Act Section 30250 requires new development to be located in areas with adequate services, including sewage disposal and traffic capacity; and Coastal Act Section 30231 requires

that the quality of coastal waters be maintained by, among other means, minimizing the effects of wastewater discharges.

As described above, the original CDP approval described conceptual plans for a new wastewater treatment and disposal system. The general location and proposed design for the new system was preliminarily identified at the time of CDP approval, with the specifics to be determined through a follow up amendment application to the CDP. Until the wastewater system could be developed, the Commission allowed for continued use of the interim septic systems existing on the property as long as on-going inspections were conducted and necessary corrective actions taken, but required eventual removal/abandonment of the existing 167 individual septic systems by a time certain date.

With regard to traffic capacity, the Commission noted that future development of the Lawson's Landing Center could result in a potential increase in land use intensity and vehicle traffic to the site. Accordingly, the Commission required any future CDP amendment proposal to develop the Center to include an analysis of potential project impacts, including an analysis regarding moving the primary road access for the campground from the existing access on Cliff Road to Sand Haul Road, as described above.

Wastewater Management System Capacity

Consistent with CDP requirements, all 167 residential travel trailers (other than the 6 employee trailers) were removed by the Applicant by July 2016. Similarly, all septic systems associated with the residential travel trailers have been abandoned under permits received and oversight provided by Marin County Environmental Health Services (EHS). Marin County EHS certified the completion of all septic tank abandonments, except those serving the remaining 6 employee housing trailers, on November 7, 2016. The interim continued use of the proposed septic system in Area 2 would allow for the abandonment of the septic tanks currently being relied on by the Applicant for employee housing with eventual abandonment of all septic systems once the wastewater management system is completed.

Also pursuant to the original CDP special condition requirements, the Applicant submitted designs for the new wastewater management system, which is now being reviewed under this amendment. The wastewater flows at Lawson's Landing vary year round due to fluctuations in visitation between seasons and during times of the week. The greater periods of visitation typically occur on the weekends during the summer season, although peak visitation is also observed during major holiday weekends throughout the year (e.g., Labor Day, Veteran's Day, Thanksgiving, Memorial Day, and 4th of July) as well as during the fishing, crabbing and abalone seasons (November), and clam seasons during exceptionally low tide weekend days (spring and early summer). The number of employees and their associated wastewater generation is generally consistent, with a slight increase during holidays and weekends due to the addition of more part-time staff.

Based on historical observations of fluctuations in visitation and predicted visitation which would result from the approved CDP, estimates of wastewater flows were prepared by the Applicant's consultant (Questa) with input from the owners/operators, campground planning consultants, and design team staff, as further detailed in the Questa Wastewater Facilities Report

from September 2016. The wastewater estimates account for wastewater generated from public restrooms and showers used by day visitors, campers and employees; and sanitary drains from the boathouse, offices, café, employee residences, and visitor serving RVs with drains. See [Exhibit 20](#) for the wastewater estimates. The fluctuation of wastewater flows throughout the week would be moderated by equalization provided by the surge capacity storage tanks and timed-dosing controls in the STEP units and at the centralized wastewater treatment facility. Based on the wastewater generation estimates for the different seasons and predicted usage patterns, the treatment facility has been designed to support peak day flows of up to 22,500 gpd, the leach fields in Area 6 have been designed with a hydraulic capacity of up to 17,000 gpd, with infiltration capacity of up to 13,950 gpd, and the Upper Scale House pasture spray area has been designed with a hydraulic capacity of up to 22,500 gpd peak week flow with vegetation dispersal requirements of up to 19,000 gpd. In other words, the proposed system has been designed to handle peak visitor usage at Lawson's Landing as well as normal average usage.

In review of the wastewater generation estimates submitted by Questa in their September 2016 report, Commission staff noted a concern that the estimates presented in Tables 1 and 2 and Appendix A did not accurately reflect the project as approved by the Commission. For example, the wastewater estimates included RVs with hookups and park model RV units over the 20 RVs with drains unit limitation established in the CDP. Further, staff recommended that the number of campsites better reflect a more realistic estimate of the number of RV campsites without hookups, multi-use sites, and tent camping sites, as had been presented in the draft CMP submitted on August 20, 2017. Questa revised the estimates with the guidance provided and found that the original estimated flows were slightly higher than those more closely reflecting the draft CMP providing a safety factor of about 4 to 7 %. Therefore, the sizing, design and impact analysis and findings further described above, have been based on more conservative estimates of wastewater flows than what is likely to occur at the property after development. The Commission finds that the system as designed would provide for wastewater collection, treatment, and disposal capacity consistent with the estimated demand approved under the original CDP and that the approved design would maintain the quality of coastal waters by minimizing the effects of wastewater discharges, consistent with Coastal Act Sections 30250 and 30231.

Traffic Capacity

The uses proposed within the Lawson's Landing Center are to provide further support for the public visitors coming to Lawson's Landing for approved day and overnight recreational use and to support overall operation of the facility. The traffic generation estimates from the original CDP approval ~~would~~ did not change as a result of this amendment request. In the event that the Applicant wanted to use the Lawson's Landing Center facilities for purposes that would generate additional traffic, the Applicant would need to submit another CDP amendment application, which should include submission of a traffic assessment and traffic mitigation measures as specified in ~~modified~~ **Special Condition 7**. See the public access section above for a further discussion regarding the proposed development's relationship to the approved traffic management plan.

No construction vehicle or equipment access for implementing this amendment request is planned to occur from the main entry via Marine View Drive. Instead, all construction access to

the site has been proposed to occur from Sand Haul Road with construction staging areas designated in acceptable portions of Areas 6 and 8 (see [Exhibit 4](#)). It is anticipated that any large vehicles (i.e., earth-moving equipment, etc.) would be brought to the site prior to beginning site work and removed at project completion. As such, a daily influx of construction equipment is unlikely. Parking for construction workers would be provided in developed areas of the site. Prior to construction, the Applicant would provide a more detailed construction schedule with a set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak hours, designation of construction access routes, identification of the permitted construction hours, and provisions for street sweeping to remove construction related debris on public streets. The plans would conform to the current California Manual of Uniform Traffic Control Devices and Caltrans standards. To ensure that additional construction measures are implemented to further reduce traffic impacts to residents, visitors to the coast, and visitors to Lawson's Landing, the Commission ~~would have to find it necessary to~~ require the Applicant to submit a final construction management plan for review and approval prior to construction if the project were to be approved; ~~consistent with the requirements outlined in~~ **Special Condition 31**.

Conclusion

The wastewater management facility has been designed to meet the expected capacity of the campground uses as approved under the CDP with a factor of safety. The Lawson's Landing Center as proposed would not generate additional traffic not already estimated and addressed through the original CDP conditions, and should serve to reduce traffic overall ~~at buildout under the approved CDP. Thus the~~ An amended project if as conditioned if the project were to be approved could ~~would~~ provide adequate services, including sewage disposal and traffic capacity consistent with Coastal Act Section 30250, and could ~~would~~ maintain the quality of coastal waters by minimizing the effects of wastewater discharges consistent with Coastal Act Section 30231. However, as discussed above, a portion of the proposed development would be located within areas designated as ESHA and this proposed development is not considered to be a resource dependent use, and it would significantly disrupt the habitat. As such, the proposed amendment is inconsistent with Coastal Act Section 30240(a) and must be denied.

F. VISUAL RESOURCES

Applicable Policies

When considering new development the Commission is required to protect the scenic and visual qualities of coastal areas under Coastal Act Section 30251. Coastal Act Section 30251 states in part:

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...

Consistency Analysis

As previously discussed, the proposed development is located just east of the Lawson's Landing entry gate in a rural area largely surrounded by open space containing sensitive habitats. Nearby development includes camping areas approximately 0.1 miles to south and a small residential community approximately 0.1 miles to the north, Dillon Beach.

As depicted in the renderings for the proposed amendment, the project would be designed consistent with the rural, agricultural setting in mind and compatible with the surrounding environment and existing residential structures. The Applicant has not yet submitted the final large scale plans detailing the materials and colors to be used in final construction. Therefore, to ensure compatibility with the scenic and visual quality of the surrounding area, especially the sensitive habitats, ~~Special Condition 32 requires the submission of the Applicant would have to submit revised final project plans for the Lawson's Landing Center for review and approval by the Executive Director prior to construction to ensure that the final design would limit its visibility, and reflect a rural, agricultural setting consistent with the surrounding visual and habitat resources if the project were to be approved. As required, the plans shall~~ The plans would have to clearly identify all measures and materials and finishes that would be applied to ensure such design aesthetic is achieved, and limit exterior lighting to the minimum necessary for the safe ingress, egress, and use of the structures, and minimize lighting impacts on views and sensitive resource areas within and adjacent to Area 6.

Conclusion

~~With submission of revised final plans as described above, the proposed development, as conditioned, would be designed to protect views of scenic coastal areas and would be visually compatible with the character of the surrounding area if the project were to be approved. Thus, the Commission finds the proposed amended project is consistent with Section 30251 of the Coastal Act. However, as discussed above, a portion of the proposed development would be located within areas designated as ESHA and this proposed development is not considered to be a resource dependent use, and it would significantly disrupt the habitat. As such, the proposed amendment is inconsistent with Coastal Act Section 30240(a) and must be denied.~~

G. HAZARDS

Applicable Policies

Coastal Act Section 30253 requires that new development minimize risks to life and property in areas of high geologic or flood risk, assure stability and structural integrity, and neither create nor contribute to erosion, geologic instability or destruction of the site or surrounding area as follows:

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

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

Consistency Analysis

As noted in the original 2011 CDP findings, the recreational portion of the Lawson's Landing property is subject to various coastal hazards including earthquakes, liquefaction, tsunamis, and flooding; and that any development placed in low-lying areas would be at greater risk from flooding, erosion and inundation as sea levels rise. Specifically, for the original CDP the Commission found that development in Camp Areas 1, 2, and 3 would be subject to the potential adverse effects of an earthquake along or near the San Andreas Fault or nearby fault system; all of the proposed camping and associated facilities, restrooms, day use parking, boat storage, fishing pier, and boat launching activities were located in areas with moderate to very high liquefaction potential and located in the maximum tsunami inundation area; parts of the proposed camping, and other associated facilities in Areas 1 – 5 are in designated FEMA flood zones susceptible to flooding during storm events; and sea level rise would exacerbate the frequency and intensity of wave energy received at low-lying shoreline sites, including both storm surge and tsunamis, resulting in accelerated coastal erosion and flooding in such locales. As such, while the CDP recognized that it would not possible to protect the proposed development area from hazards, it would be possible to minimize loss of life, damage to property and collateral ecological damage, consistent with Coastal Act Section 30253 through the development of a hazard response plan as required by Special Condition 15.

With respect to the development proposed as part of the CDP amendment, the original CDP hazard findings discussed the potential proposed relocation of the boat repair shop as well as future development structures associated with the Lawson's Landing Center in Area 6, recognizing that location of new development within Area 6 would be away from the earthquake fault zones, high liquefaction areas, and tsunami inundation areas found on the property. Further, the Commission found that the location of the proposed wastewater dispersal facilities if they were in the Upper Scale House pasture area outside of the tsunami run-up zone and the fault zones would assure stability and structural integrity, and neither create nor contribute significantly to erosion and geologic instability, consistent with Coastal Act Section 30253.

The majority of the currently proposed development in this amendment request associated with the development of the Lawson's Landing Center and the wastewater management system would be located within Area 6. Consistent with the original CDP findings, this area is outside of the tsunami inundation zone and FEMA flood zones, away from major earthquake faults, and in an area with a more moderate degree of liquefaction. The Applicant has submitted an updated geotechnical report with design recommendations for the facilities within Area 6 to further minimize risks to life and property.²⁶ However, because a portion of the proposed development, including the satellite wastewater management facilities, would be located in a hazardous area, and the Applicant voluntarily proposes to undertake an inherently hazardous activity, the Commission would need to impose ~~Special Condition 34, requiring requirements that the Applicant to~~ assume the risks of any injury or damage from such hazards, waive any claim of liability against the Commission for such injury or damage, and indemnify the Commission against any resulting third party claims or liability if the project were to be approved.

²⁶ Geotechnical Investigation, Lawson's Landing, Dillon Beach, California. February 10, 2017. Millar Pacific Engineering Group.

Since the original CDP approval, Marin County has completed a sea level rise vulnerability assessment, further analyzing the effects of potential sea level rise hazards on the project site under a number of scenarios. Examination of the results clearly illustrates that the low lying portions of the site (the majority of Area 1 and 2) are highly susceptible to sea level rise hazards under the lowest, most conservative sea level rise estimates (10 inches of sea level rise with an annual storm), with permanent inundation shown to existing buildings with just 3 feet of sea level rise with no storms (see [Exhibit 22](#)). Special condition 16 of the original CDP required that as structures become threatened by sea level rise or other flooding hazards, they be relocated rather than being allowed to construct hard shoreline protective devices. Allowing new permanent structures to occur in a known hazardous area would not be consistent with Section 30253 of the Act since the new development would not be minimizing risk to life and property by locating in Area 1 or 2. If allowed in Area 1 or 2, development of facilities in these areas would need to be designed at an elevation to avoid flood and sea level rise hazards and their placement within these areas would only be temporary in nature as they would have to be relocated when exposed to hazards in the future. It is therefore appropriate, in light of the new information regarding sea level rise and flooding to look at other portions of the property where such hazardous risks are not present or as present as Areas 1 and 2. Area 6 is an area with less risk. Thus, location of more permanent facilities which would support the campground operation and provide additional low cost recreational facilities to visitors over time would be better protected from hazards now and in the future if located in Area 6. However, because a portion of the proposed development, including the satellite wastewater management facilities, would be located in areas subject to sea level rise and flooding, similar to the base CDP, the Commission would need to require ~~imposes **Special Condition 33**, requiring~~ that no bluff or shoreline protective device be constructed to protect the proposed development and to remove the development if any government agency has ordered that the structures are not to be occupied or requires their removal if the project were to be approved.

Consistent with original CDP Special Condition requirements, the Applicant has submitted and the Commission has approved a Hazard Response Plan for the site for earthquakes (without a threat of tsunami) and tsunamis. The Hazard Response Plan outlines detailed implementation measures in the event of a tsunami to reduce risks to visitors, including creation of an emergency services command center for communication and response, and to eliminate or minimize floating debris and the discharge of hazardous materials into coastal waters. The Plan also includes response measures for the wastewater facilities located throughout the property to minimize wastewater dispersion and to identify issues and ensure proper operation of the facilities after an event has occurred. As indicated in the Plan, the Marin Office of Emergency Services has indicated strong support for an emergency services command center to be located in Area 6, as is currently proposed as part of the Lawson's Landing Center, due to its location outside of the tsunami hazard area, its proximity to Area 4 which is the largest camping area at Lawson's Landing, and proximity to Dillon Beach neighborhoods, thereby making it an ideal location to store medical, water, food supplies, and to use provide temporary sanitation services and shelter.

Conclusion

Lawson's Landing is already subject to various coastal hazards including earthquakes, liquefaction, tsunamis, and flooding. New development located within Area 6 would be located outside of tsunami inundation zones, FEMA flood zones, away from major earthquake faults, in

an area with a more moderate degree of liquefaction, and outside of both conservative and extreme projections for sea level rise inundation areas, avoiding potential geologic and flood hazards. Thus the location, design and approved Hazard Response Plan would minimize risks to life and property from geologic and flood hazards consistent with Section 30253 of the Coastal Act. However, as discussed above, a portion of the proposed development would be located within areas designated as ESHA and this proposed development is not considered to be a resource dependent use, and it would significantly disrupt the habitat. As such, the proposed amendment is inconsistent with Coastal Act Section 30240(a) and must be denied.

H. CONFLICT RESOLUTION

Applicable Policies

Coastal Act Section 30007.5 states:

Section 30007.5. 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.

Coastal Act Section 30200(b) states:

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.

Consistency Analysis

As noted previously, the proposed amended project is inconsistent with Section 30240(a) of the Coastal Act. However, as explained below, denying or modifying the proposed project to eliminate this inconsistency would conflict with other Coastal Act policies, namely Sections 30210, 30213, 30221, and 30231, which require the Commission to maximize public access to and from the coast; protect and encourage lower cost visitor and recreational facilities; protect and preserve oceanfront land suitable for recreational use and development; and protect coastal water quality by minimizing adverse effects of wastewater discharges. In such a situation, when a proposed project is inconsistent with a specific Chapter 3 policy and denial or modification of the project would cause inconsistency with another policy, Section 30007.5 of the Coastal Act provides for resolution of such a policy conflict. The proposed amended project would also provide additional benefits required or encouraged by the Coastal Act, such as the concentration of development contiguous with, or in close proximity to, existing developed areas (Section 30250) and the minimization of energy consumption and vehicle miles traveled (Section 30253(d)).

~~It is also important to recognize that the Commission, when conditionally approving the original project in 2011 found that development proposed throughout Areas 1-4 would be located within and/or adjacent to existing ESHA and wetlands inconsistent with Coastal Act Sections 30240 and 30233. For that CDP approval, the Commission found that since the proposal would protect and provide needed oceanfront, lower cost, overnight camping and recreation, including water-oriented boating and other coastal dependent and related recreational activities, not approving certain portions of the project would result in a failure to protect and provide lower cost visitor-serving recreation facilities needed to meet current and future foreseeable demand for such facilities, inconsistent with Coastal Act Sections 30213 and 30221. The Commission also found that not approving certain portions of the project would result in a failure to provide water-oriented recreational uses that cannot be provided at an inland location, inconsistent with Coastal Act 30220, and would not protect and encourage recreational boating of coastal waters, as required by Sections 30224 and 30234. The Commission resolved the conflict between Coastal Act Chapter 3 policies through application of conflict resolution as allowed by Section 30007.5 of the Act.~~

~~Since the time of original CDP approval in 2011, a significant amount of new information has come to light through the submission of condition compliance materials and through prior attempts by the Applicant to amend the original CDP. The current proposed amendment takes into account this new information and attempts to better refine the special condition requirements and allowable development areas associated with the Commission's original approval consistent with the Coastal Act in a manner that is on balance, most protective of coastal resources.~~

Analysis

~~Based on the Commission's history and practice, resolving conflicts through application of Section 30007.5 involves the following seven 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

For the Commission to apply Section 30007.5, a proposed project must be inconsistent with an applicable Chapter 3 policy. As discussed above, since a portion of the proposed development is located within ESHA, is not a resource dependent use allowable within that ESHA, and would significantly disrupt the habitat values of the ESHA, this portion of the proposed development is inconsistent with Coastal Act Section 30240(a). More specifically, the leach fields would be located in areas with degraded coastal dune scrub habitat that qualifies as ESHA, and portions of the visitor center would be located in areas of unpermitted development that the Commission has designated as ESHA. The areas of previous unpermitted development in Area 6 that the Applicant is proposing to develop are required to be restored under the terms of the original CDP.

Step 2

Denial or modification of the proposed development to eliminate these conflicts with Section 30240(a) would conflict with other Chapter 3 policy that affirmatively requires protection or enhancement of other resources. A true conflict between Chapter 3 policies results from a proposed project that 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.

Coastal Act Sections 30210, 30213, 30221, and 30231 affirmatively require the Commission to maximize public access to the coast; protect and encourage lower cost visitor and recreational facilities; protect and reserve oceanfront land suitable for recreational use and development; and protect coastal water quality by minimizing adverse effects of wastewater discharges.

Section 30210 supplies a crucial mandate for the Commission to maximize access to the coast and provide recreational opportunities for all people, consistent with the need to protect safety, public and private rights, and natural resource areas from overuse. The proposed project would concentrate visitor serving development and sensitive habitat restoration in a way that creates larger swaths of open space, better protecting natural resource areas from overuse. Additionally, easing of traffic would improve access to Dillon Beach. There is already a potential for traffic patterns associated with guests visiting Lawson's Landing to impact access to and from Dillon Beach when the campground is operating at full capacity, as approved under the original CDP. As such, the Commission required submission of a Traffic Management Plan (TMP) to ensure that traffic impacts to the Dillon Beach community and public access impacts to the coast are reduced and traffic safety is enhanced. The required TMP included a provision to conduct a feasibility assessment of the use of Sand Haul Road as an alternative access route for ingress and egress at Lawson's Landing.

It has been illustrated through review of the feasibility assessment as a result of condition requirements of the original CDP that primary use of Sand Haul Road for entry and exit is not a feasible option at this time due to necessary road improvement costs and sensitive habitat constraints (see previous findings above for a further discussion). The proposed improvements in this amendment request to the entry gate, guest processing center, and roadway and parking

circulation; the provision of on-site services and provisions through the new store; and opportunities for alternative transportation, would all serve to reduce the potential for traffic impacts from the campground operation as originally approved consistent with the approved TMP. Specifically, the store, electric cart and bicycle facilities would minimize on- and off-site vehicle trips, and the gate, parking area, roadway improvements, and the alternative guest processing center would reduce vehicles queuing at the entry gate that can back up into the residential neighborhoods of Dillon Beach. Location of these facilities in Area 6, adjacent to the existing entry gate and planned for campground administrative offices would provide significant circulation benefits to guests arriving on- and off-site and provide for a centralized location of services close to the homes of Lawson's Landing staff. Thus, these proposed improvements would further reduce potential traffic issues, minimizing traffic impacts to the Dillon Beach community and impacts that might inhibit the public's ability to access to the coast consistent with Coastal Act Section 30210.

Coastal Act Section 30213 requires that lower cost visitor and recreational facilities be protected and encouraged and Coastal Act Section 30221 requires that oceanfront land suitable for recreational use shall be protected for recreational use and development. All of the proposed uses, proposed on privately owned, oceanfront lands, are lower cost visitor serving recreational uses or development that supports lower cost visitor serving recreational uses already approved by the Commission through the original CDP.

The Lawson's Landing Center has always been part of the Applicant's long-term vision for the recreational facility to provide necessary onsite support services for operation of the facility and to provide amenities to enhance the visitor experience. However, the precise development plan and the location of the Center was not identified or approved in the original CDP, in part due to the uncertainty associated with the legality of the existing development found in Area 6 and sensitive habitat considerations.

The proposed visitor center provides a number of facilities that are necessary to the operation of a large campground such as this including facilities for checking in guests, office space for campground staff, facilities for storing and maintaining campground vehicles and boats, an emergency evacuation center as required under the terms of the original CDP, and a small store so that visitors do not need to drive off-site in order to obtain necessary supplies. Denial of these necessary support facilities would be inconsistent with the mandates of Sections 30213 and 30221 to protect lower cost visitor and recreational facilities and associated oceanfront land in order to meet present and foreseeable future demand. As explained in further detail below in the alternatives analysis section, locating these facilities elsewhere at Lawson's Landing would conflict with other Coastal Act requirements.

Development of a new wastewater treatment and disposal system and abandonment of the old existing septic leach fields and holding tanks was an essential component of the original CDP approval, in order to protect coastal water quality by minimizing adverse effects of wastewater discharges consistent with Section 30231 of the Coastal Act. While the general location of the wastewater treatment and disposal facility was identified in the original CDP approval, siting and design for the final system were to be approved through a future CDP amendment application to the Commission. The special condition regarding this requirement established sensitive habitat

~~buffers from the planned development including a 100-foot buffer from wetlands, a 50-foot buffer from central dune scrub ESHA, and a 300-foot buffer from CRLF breeding ponds. Importantly, the special condition required that the wastewater treatment system be of adequate capacity to process and dispose of all wastewater generated by the development.~~

~~In designing the final system, new information came to light (as described above), which resulted in the Applicant's reconsideration of the location of portions of the proposed wastewater management system. Namely, it determined that Area 6 was not primarily a wet meadow as originally categorized in the certified EIR, but rather contained deep sandy soils and would be a better location for treatment and wintertime disposal due to the permeability of the soils, depth to groundwater, proximity to Lawson's Landing staff who would be in charge of managing the system, reduced distance required to pump untreated wastewater, and reduced energy consumption associated with wastewater pumping year-round. It also came to light that the location previously identified, the Upper Scale House pasture area, would not provide adequate capacity to support the year-round projected wastewater demands for recreational use as approved under the original CDP. Denial of the now-proposed wastewater facilities, including the leach fields, would require further limitations on and reductions in the use of the campground during peak late fall and wintertime periods, inconsistent with the mandates of Sections 30213 and 30221 to protect lower cost visitor and recreational facilities and associated oceanfront land in order to meet present and foreseeable future demand.~~

~~As outlined in more detail in the findings above, the permitted and unpermitted development within Area 6 has been determined through condition compliance. This determination has resulted in fragmented allowable development areas within Area 6 (as well as fragmented habitat areas in Area 6 as well). After examination of the fragmented development area, in addition to the existing legal residential development and sensitive habitat buffer requirements of the original CDP, the Commission concludes that, under the original terms of the CDP, Area 6 contains a severely limited area available for proposed development of both the Lawson's Landing Center and wastewater treatment and wintertime disposal facilities. This limited development area would not allow the Applicant to develop the ocean front, visitor-serving facilities or the support facilities currently proposed for operation of Lawson's Landing under this amendment. As a result, the facilities currently proposed in unpermitted areas or undeveloped ESHA within Area 6 would need to be denied or the proposal significantly modified to limit the size or location of the proposed development.~~

~~There are both limitations and drawbacks associated with further reducing or relocating or the development proposed under the amendment (see the alternatives analysis section below for further discussion). Denial or modification of the proposed project would reduce the Applicant's ability to enhance and protect existing and approved oceanfront, lower cost visitor serving, recreational facilities, address traffic issues that may affect the public's ability to access the coast, and provide a robust wastewater management system to protect coastal water quality and meet the capacity demands of the approved recreational use, inconsistent with Coastal Act Sections 30213, 30211, 30221 and 30231.~~

~~Thus, this proposed amendment presents a conflict among multiple Chapter 3 policies.~~

~~In addition, the proposed amendment project would also provide additional benefits required or encouraged by the Coastal Act, such as the concentration of development contiguous with, or in close proximity to, existing developed areas (Section 30250), locating development to minimize use of coastal access roads and to provide non-automobile circulation (Section 30252), and the minimization of energy consumption and vehicle miles traveled (Section 30253(d)).~~

~~Additionally, the Applicant proposes to restore additional areas of existing sensitive habitat and to set aside additional lands for conservation that had been approved for development by the Commission under the original CDP, as discussed above. Under the terms of the existing CDP, areas of unpermitted development on Area 6 are required to be restored, but those areas are interspersed with and adjacent to permitted development. Restoration of these fragmented areas is possible, but the long-term success of restoration would be impacted by its proximity to permitted development. The proposed amendment would result in a more beneficial configuration of habitat restoration adjacent to higher quality habitat and would more likely result in successful restoration efforts.~~

~~As discussed above, Area 6 has historically been used to support sand quarrying, agricultural use of the 960-acre property, and ongoing visitor-serving recreational uses on the property, directly and indirectly impacting ESHA. The Commission recognizes that there are some legally developed areas within Area 6 that are available for redevelopment consistent with the base CDP requirements. The Commission also recognizes that existing ESHA within Area 6 is somewhat fragmented. The proposed amendment would cluster proposed new development adjacent to existing development considered to be authorized by prior permits, with the vast majority of it sited within the allowable development area of Area 6, or in areas that have been determined to be previously developed though with unpermitted uses. The amendment proposal would concentrate development in an already highly impacted area, close to the existing entry gate, an area of the site which already experiences traffic impacts from visitors entering and leaving the facility. Concentrating new commercial, recreational development close to the main road that visitors use is consistent with Coastal Act Section 30250, which requires new commercial development to be located with or near existing development as long as it does not have significant adverse effects on coastal resources.~~

~~The dual wastewater disposal system would also reduce the uphill pumping of wastewater during the winter months and allow year-round management of the treatment facility in closer proximity to where the operators live, reducing energy consumption and response time for system failures and breakdowns. The centralized location of the residences and the visitor's center would also reduce vehicle miles traveled; additionally, the easing of traffic to Dillon Beach potentially reduces vehicle emissions. Visitors would also enjoy alternative transportation options such as bicycles and electric carts. These benefits help fulfill the requirement to minimize energy consumption and vehicle miles traveled in Coastal Act Section 30253(d).~~

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 Commission concludes that the conflict resolution provisions were not intended to apply to such minor incremental improvements.

As described further above, the amended project would provide for and protect lower cost, oceanfront, visitor serving recreational facilities, facilitate the public's ability to access the coast, and develop a robust wastewater management system consistent with Coastal Act Sections 30210, 30213, 30221, and 30231. Due to the original CDP conditions, which require that the facility remain lower cost, these enhancements would significantly improve the visitor experience without passing on the improvement costs to the recreational users.

Step 4

The project, if approved, would result in tangible resource enhancement over existing conditions. In this case, existing conditions need to be interpreted as the conditions on site as fully approved through the CDP. This is the case here for several reasons:

The design of the development in Area 6, including the restoration components, would cluster development adjacent to already legally developed areas or unpermitted, previously developed and therefore impacted areas, and would restore habitat areas within Area 6 that are contiguous with larger, more expansive habitat areas to the south, and northeast. These proposed restoration areas (on top of the leach fields and adjacent to the development) would improve habitat quality within the CRLF migration corridor that might otherwise not be restored. The Applicant's proposal to restore areas of Area 6 adjacent to existing habitat areas is far more likely to result in successful restoration of the habitat areas as opposed to having the Applicant remove unpermitted development and restore fragmented portions in Area 6 immediately adjacent to areas proposed for development.

The Applicant is also proposing to set aside additional space within Area 4 for conservation and restoration and this additional space is adjacent to the NRCS easement habitats and their buffers, again providing more continuous open space and habitat benefits in a larger, more contiguous and suitable area. While this proposal would convert development areas proposed for recreational use (19 campsites, one group campsite, and some common use space) to open space, these areas are directly adjacent to an existing drainage and as such, as previously discussed, are already limited in their use by larger seasonal buffers and a tiered reservation system. In addition, the Applicant has indicated that the 19 campsites could be relocated to other approved development areas within Area 4, closer to the roadway, not initially depicted on the latest draft Campground Management Plan. Thus, this exchange area minimizes potential significant losses to camping while helping to provide an appropriate restoration balance to address the additional habitat impacts proposed in Area 6 to provide additional visitor serving uses in an area where habitat constraints already limit potential use. Lastly, the proposed special conditions also provide additional habitat enhancements to Area 6. Specifically, the conditions prohibit cattle grazing and require more active vegetation management and monitoring of the Entrance Pond, thereby removing direct impacts already occurring and improving breeding habitat for CRLFs.

The proposed amended design and location of the wastewater management system is supported by the Applicant, RWQCB, and Marin County EHS as it would provide improved wastewater treatment capacity through a more compact design, which would improve management and control of the discharges and minimize energy use from reduced uphill pumping of wastewater year-round. The permeability of the soils and depth to groundwater in Area 6 allow for the use of a leach field system versus a drip dispersal system for the winter months. The leach field system provides additional storage capacity to meet the peak wintertime demands.

The amended development would also provide for a visitor services center at a centralized location, outside of known hazard areas and would ensure that services to support the campground visitors including the offices, equipment and boat repair, are centrally located in close proximity to the entry gate so that the employees can more readily respond to and address visitor needs. Since the original CDP approval required that the facilities remain lower cost, this development would provide significant visitor enhancements without passing along additional costs to recreational users.

Therefore, if approved, the project would result in tangible resource enhancement over conditions on-site as fully approved by the CDP.

Step 5

The benefits of the project are not independently required by some other body of law. The benefits that would cause denial of the project to be inconsistent with a Chapter 3 policy cannot be those that an Applicant 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 Applicant cannot seek approval of an otherwise unapprovable project on the basis that the project would produce those benefits—that is, the Applicant does not get credit for resource enhancements that it is already being compelled to provide. The Applicant is proposing the development of private lands solely for the purpose of enhancing visitor-serving uses and to support the management, operation or functionality of these visitor-serving uses. The Applicant's proposed amendment is not required by another agency under another 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 artificially create a conflict. A project's benefits to coastal resources must be integral to the project purpose. If the 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 Applicant 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, Applicants could regularly "create conflicts" and then request that the Commission use Section 30007.5 to approve otherwise unapprovable projects. In this case, the benefits of the amended project, which are necessary to support and enhance the existing lower cost visitor-serving uses and to support the management, operation or functionality of these visitor-serving uses, result from its primary purpose.

Step 7

There are no feasible alternatives that would achieve the objectives of the project without violating any Chapter 3 policies. Possible alternatives for the proposed project include 1) a "no project" alternative, 2) alternative siting of the structures on the subject site, and 3) modifications to the design and/or size of the existing structures.

No project alternative

The base 2011 CDP approval requires a new wastewater management system. Therefore, the Applicant must implement a new wastewater management system. A no project alternative would mean that there wouldn't be a new wastewater system, or that potentially it might be sited elsewhere (such as the previously identified location for the wastewater management system within the Upper Scale House pasture area). A new wastewater system is required by the Commission's 2011 CDP approval (and the RWQCB), and thus such a no project option is infeasible. In addition, if the leach fields were to be located instead in the Upper Scale House pasture area, this would require limitations on periods of peak recreational use during the late fall and winter, inconsistent with the requirements of Sections 30213 and 30221.

In terms of the Lawson's Landing Center, the no project alternative would result the loss of facilities in Area 6 that are currently used for storage and maintenance of campground equipment and would require campground support facilities to be located in other areas of the campground. The unpermitted structures currently within Area 6 would need to be removed and their areas restored. Uses could be relocated to the approved development area of Area 6, which would still produce a fragmented ESHA area and development pattern within Area 6, limiting the probable success of habitat restoration and limiting potential benefits to the visitor experience and operational effectiveness of the Lawson's Landing camping facility overall. Provisions and supplies for guests not provided by the existing store within the boathouse in Area 2 would continue to be purchased off-site by guests, thereby continuing to create impacts on public access to the coast and to Dillon Beach, and there would be no alternative guest processing area in the event of vehicle backups. Guests would also continue to use their own vehicles as the primary mode of transportation throughout the facility and off-site, as there would not be alternative transportation options such as the proposed bikes, shuttles and electric carts. The Applicant would also need to seek out other means to adaptively manage potential future traffic issues. As described, the no project alternative would not protect and encourage lower cost visitor and recreational facilities, protect and reserve oceanfront land suitable for recreational use and development, or maximize public access to the coast inconsistent with Coastal Act Sections 30210, 30213, and 30221.

Finally, the habitat benefits proposed by the Applicant in this amendment proposal include additional habitat restoration within Area 6 after leach fields are installed, additional habitat restoration and preservation of lands located adjacent to Area 6, and expansion and restoration of additional land to increase the existing NRCS habitat buffers in Area 4. These benefits would not be realized under a no project alternative. The cattle would also continue to use the Entrance Pond seasonally for flash grazing as approved under the original CDP. This would result in more recently identified adverse impacts to water quality in the Entrance Pond used by sensitive species, inconsistent with the mandate of Sections 30231 and 30240. No additional protections to Area 6 habitat would occur such as protective fencing and interpretive signage, and ongoing

impact to this habitat would be highly likely with continued use of existing legally developed areas or further development of legally developed areas.

Alternative siting alternative

Historically, a number of alternatives for wastewater disposal facilities have been considered for Lawson's Landing. These alternatives include year-round leach fields in the dunes, irrigated pasture using subsurface drip irrigation in the dunes, wetland creation using subsurface drip irrigation in the dunes, dune restoration/stabilization in combination with leach fields in the dunes, drip and spray disposal in upper pasture lands, connection to existing public sewer treatment facilities, creation of a consolidated community system for all of Dillon Beach, and portable and vault toilets and holding tanks. Of the sand dune alternatives, the dune restoration and stabilization in combination with leach fields in the dune area was previously recommended by the Draft EIR based on its potential ability to meet water quality and sewage disposal criteria of the RWQCB and Marin County. However, this alternative included stabilization of an active portion of the sand dunes and was ultimately rejected through the EIR process due to the potential impact on the natural mobility of the dunes. Since it was also proposed in the undeveloped open space ESHAs inland of Area 2 and 4, it would have also been inconsistent with Coastal Act Section 30240(a). The public sewer alternative lacked capacity to accommodate Lawson's Landing and would have required substantial pumping to connect (up to 4 miles), thus not being able to provide for the visitor-serving recreational uses inconsistent with the mandates of Sections 30213 and 30221 to protect lower cost visitor-serving and recreational facilities and associated oceanfront land in order to meet present and foreseeable future demand. The consolidated community system is infeasible as it is beyond the Applicant's ability to develop and implement. Finally, the portable toilets and holding tanks are not considered to be a viable, permanent system by RWQCB or Marin County EHS.

In conformance with recommendations in the Lawson's Landing EIR, the Commission, in the original CDP approval, reviewed and approved conceptual wastewater facility plans comprised of STEP collection systems, secondary wastewater treatment systems with disinfection and nitrogen removal, and wintertime sub-surface drip dispersal and summertime spray dispersal in the Upper Scale House pasture area, with a design capacity of estimated wastewater flows of 10,000 to 15,000 gpd during the winter and up to 30,000 gpd during the summer. At the time of the original CDP approval, it was thought that the most environmentally preferable, feasible location for the wintertime dispersal and treatment facility was within the Upper Scale House pasture area, adjacent to where the spray irrigation would be located under the proposed amendment. In 2011, the Commission found that while 1.3 acres of agricultural land would be impacted to provide for the subsurface drip irrigation, this area could still potentially be used for beneficial agricultural uses, such as planting plants and crops that could take advantage of a drip irrigation system. In addition, in 2009, groundwater monitoring results and previous soils and percolation data supported the conclusion that this area would be a viable method for disposal of treated wastewater, and the previous feasibility analysis for this area also concluded that the proposed drip dispersal area had an estimated disposal capacity of 15,000 gpd. It was noted that this estimate was conservative to account for potential groundwater mounding effects that would reduce wastewater disposal capacity and that needed to be analyzed further through RWQCB approval. The additional benefits for the location of both the spray and leach fields in the Upper Scale House pasture area were that the fields would be south of the watershed divide for Dillon

Creek, avoiding the creation of impacts to the water supply recharge area for Dillon Beach; they would be half a mile away from the water supply wells from Lawson's Landing, and the proposed treatment and travel distance between the site and wells would provide ample protection of water quality in the wells; limiting the summer dispersal to spray in the summer months would eliminate potential for subsurface migration of wastewater on to neighboring properties; and wastewater impact to Tomales Bay and onsite wetlands would be negligible due to the long travel times and distances for groundwater migration.

The 2016 Questa report submitted by the Applicant in support of this amendment request again spoke to the capacity of the drip location in the Upper Scale House pasture area and its potential use for subsurface drip dispersal or mound systems, but not for trench systems based on soils, percolation test results or groundwater observations from 2007 and 2010. Groundwater monitoring in 2009 and 2010 wet weather seasons illustrated a perched water table between 3-5 feet below ground surface with a localized short term rise as high as 2-2.5 feet below ground surface. Based on these results and an analysis of potential groundwater mounding, the estimated capacity was refined and lowered to 10,000-12,000 gpd by Questa.

An update to the above estimates was provided by the Applicant's consultant Questa on September 12, 2017,²⁷ speaking further to the limitations on available drip dispersal capacity in the Upper Scale House pasture area based on sensitive habitat buffer constraints. The 2017 update noted that based on the revised map of the pasture area that provided the required sensitive habitat buffers consistent with the CDP approval, including a 300-foot setback to CRLF breeding ponds and a 50-foot setback to dune scrub habitat, the size of the drip field area available within the Upper Scale House pasture area was reduced to 1.2 acres. The most significant reduction resulting from the CRLF breeding pond buffer was the reduced cross-slope length of available space for the dispersal field, which was reduced from 520 to 360 feet. Based on this reduced length, groundwater monitoring results, and groundwater mounding estimates, the revised available capacity was estimated at 7,000 to 9,000 gpd. As a result, the 2017 Questa Update noted that using the drip field in the Upper Scale House pasture area as the only source for wintertime dispersal would result in a deficiency of dispersal capacity during the months of April, October and November, with the most severe deficiency occurring during in the peak Thanksgiving holiday weekend in November. As discussed in the preceding findings, the potential wastewater capacity demands during the wintertime have been estimated at 8,100-13,950 gpd. Given this, the estimated shortfall in November would be up to 6,033 gpd of wastewater. Thus, in addition to the reasons why the Applicant has argued against using the Upper Scale House pasture area as its only dispersal option, there are also capacity shortcomings associated with using this as the primary wintertime dispersal option.

Area 6 was originally perceived to have similar soils and depth to groundwater as the areas surrounding Area 6, which Questa found in previous studies to be wet conditions with perched water and bedrock. During actual geotechnical examinations, Questa discovered very deep sand conditions plus a high depth to groundwater in Area 6. Questa and the RWQCB found these conditions in Area 6 to be very favorable for waste water dispersal, as compared to other sites

²⁷ Questa, Lawson's Landing Wastewater Facilities Responses to Follow-up Questions from Coastal Commission Staff, September 12, 2017.

previously examined, including the Upper Scale House pasture area identified in the original CDP. As further discussed above, the Applicant has submitted extensive studies to illustrate that the operation of the proposed leach fields in Area 6 would not impact surrounding resources and has offered additional habitat restoration and development restrictions elsewhere on the property to address the unavoidable direct impacts to ESHA within Area 6.

Therefore, it appears that there are shortcomings and benefits to both the Area 6 leach fields and the Upper Scale House pasture area drip dispersal alternatives explored for wintertime dispersal. A comparison of the alternatives has been extensively vetted through the CDP amendment application review process and is summarized below.

Issue	Area 6 Leach Fields	Scale House Drip Dispersal
Proximity and potential impact to wetlands and CRLF habitat	Outside of the 300-foot CRLF pond buffer, but within 100-foot dune slack wetland buffer and CRLF migration corridor.	Outside of the 300-foot CRLF pond buffer, 100-foot seasonal wetland buffer, but within potential CRLF migration corridor.
Proximity to Tomales Bay	0.22 miles	0.62 miles
Proximity and potential impact to onsite well water resources	0.19 miles, no potential impact, outside of hydrologic gradient	0.48 miles, no potential impact
Proximity and potential impact to dune habitat	Located within degraded dune scrub habitat	Outside of the 50-foot central dune scrub buffer
Proximity and potential impact to agricultural resources	Outside agricultural lands	Located on agricultural pasture land
Soil conditions	6-30 feet deep dune sands	16 to 36 inches loamy sand and 24-36 inches of sandy clay loam subsoil, with weathered sandstone ranging from 3-5 feet below ground surface
Percolation test results	Rapid, 0.3-0.8 minutes per inch.	3.5 minutes per inch in sandy surface soils and 18.4 minutes per inch in loamy sub-soils
Depth to groundwater	6-7 feet during winter	3-4 feet below ground surface, with localized short-term rise of 2-2.5 feet
Size	0.38 acres	1.2 acres
Dispersal Capacity	13,950 gpd	7,000-9,000 gpd
Hydraulic Capacity	17,000 gpd	7,000-9,000 gpd
Manageability	Adjacent to staff homes	0.7 miles uphill
Distance from treatment to dispersal area	Dispersal adjacent to treatment area	0.7 miles uphill

Energy consumed to pump the wastewater uphill to the dispersal area during the winter

N/A

8,640 kWh/year

Given the updated data, the Upper Scale House pasture area alternative is no longer the environmentally superior alternative that meets project objectives, and the current proposal to place the system within Area 6 primarily is superior based on the smaller size of the proposed fields, larger capacity, proximity to staff managing the system, and minimized energy use. If the project were approved only for use in the Upper Scale House pasture area, allowable wintertime camping spaces would need to be reduced consistent with allowed wastewater treatment capacity, impacting important peak recreational periods and the continued viability of Lawson's Landing as a lower cost recreational and visitor serving facility.

The Applicant contends that there are multiple advantages to the Area 6 design including that it is more compact and manageable, safer, efficient, and environmentally sound. As stated in the Applicant's consultant report from Questa EE Facilities Report ROWD Sept 2016:

This modification to the wastewater plan was seen as offering several environmental and practical benefits, including: (a) consolidating waste treatment operation and maintenance activities in the most compact, accessible to staff and easily managed area; (b) making effective use of potentially the best soil conditions on the site for wet season wastewater disposal; (c) improving system reliability and safety by reducing the required distance and amount of pumping of primary treated septic tank effluent; (d) reducing energy demands and greenhouse gas emissions; and (e) contributing positively toward hydrological objectives for wetland water replenishment. The field investigation of Area 6 confirmed the presence of favorable soil and groundwater conditions for subsurface disposal of treated wastewater, sufficient to meet the project needs throughout the wet weather ("low") season at Lawson's Landing.

Consistent with the Applicant's claims, the new system would concentrate development in already highly impacted areas, and would be easier to maintain due to its size and proximity to employee housing. The proximity to existing staff housing would also allow for quicker management of problems if they did arise, ensuring that the public recreational access facilities are supported with adequate systems to treat wastewater and potential wastewater releases are minimized. Most importantly, the system would also provide the forecasted capacity needs consistent with the latest draft campground management plan.

The Applicant also considered relocating the existing residences in Area 6 to move the leach fields out of undeveloped ESHA. However, the southerly residence is located entirely within the 300-foot pond buffer and thus, new development in this area would not be permitted. The northern residence is underlain by sandstone bedrock at shallow depth and so it would not be feasible for leach field dispersal. The Applicant also considered relocating the leach fields beneath the paved driveway within the permitted development envelope. Placement of leaching trenches beneath paving is not permitted under Marin County septic system regulations, but potentially could be considered by the County as an exception or variance based on the sandy soil conditions and provision of secondary treatment prior to disposal. However, there would

only be enough space for 300 to 400 lineal feet of trench in the driveway and parking area, which could reduce (but not eliminate) the amount of leaching trench necessary for the proposed leach fields. Since it would be a significant departure from standard practice and would not completely eliminate the need for development in unpermitted ESHA, the Applicant determined that this was not a better, more feasible option.

With respect to the Lawson's Landing Center, relocating this visitor center facility to other portions of the property would significantly displace lower cost visitor serving accommodations (mainly campsites, tent sites or day use parking). The campsite buildout potential is already much less than what was envisioned by the Commission under the original CDP approval (357 total campsites versus 650 campsites). The proposed exchange/restoration area in Area 4 is a means of maintaining the overall development to open space balance established in the original CDP approval in manner which concentrates development in already impacted areas, restores areas adjacent to larger open space habitats, and minimizes the potential impact to the recreational uses. Relocation of the Center to other potentially developable areas would require much more significant reductions in camping that would likely be more higher priority, heavily uses camp or day use parking areas.

Relocation of the Center into the campsite portions of the property would be inconsistent with the requirements of Sections 30213, 30221, and 30223. Further, there are known hazard considerations within Camp Areas 1 and 2 including sea level rise, flooding, earthquake faults, and possible tsunamis that would limit the development potential of more permanent structures in these areas pursuant to Section 30253. Lastly, alternative locations would not result in traffic circulation improvements within the facility and could create new traffic issues within the facility, creating access issues for camping and day users as well as access issues on the roads to and from Lawson's Landing, inconsistent with the requirements of Section 30210, 30252, and 30253.

Modified design and/or size alternative

Limiting development to the approved development envelope in Area 6 could not adequately accommodate all the proposed development and meet project objectives. Even if the existing residential development was reconfigured, the 300-foot CRLF buffer in conjunction with the allowable development area presents a very limited, fragmented alternative to design options in Area 6. Reducing the size of the visitor center would not decrease impacts to ESHA, and would limit services offered to visitors. The size of the facilities themselves have been designed to support the expected visitor demand under the approved CDP. The store must be of adequate size to provide sufficient camping provisions so that guests will not have a need to go off-site. The emergency services center has been designed to function as a command center in the event of an emergency as is evident from the recent fire, which drew over 500 evacuees to Lawson's Landing. The equipment storage and repair barn needs to be sized to provide protection and coverage of machinery and boat repair facilities. Any reduction in the size of the leach fields would not provide adequate dispersal capacity for the wastewater consistent with expected demand. Therefore, some visitor serving uses, or support facilities for visitor serving uses would need to be removed from the proposal resulting in potential impacts to public access, or low cost visitor serving uses.

While alternatives exist, none of the identified alternatives to the proposed project would be both feasible and fully consistent with all relevant Chapter 3 policies.

Conclusion

Based on the above, the Commission finds that the proposed project presents a conflict between 30240(a), on the one hand, and Sections 30210, 30213, 30221, and 30231 on the other, which must be resolved through application of Section 30007.5, as described below.

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 resource enhancements over the current state and whether they are consistent with resource enhancements mandated in the Coastal Act. The tangible resources benefits of this amendment request include continued protection and further enhancement of lower cost recreational facilities, minimization of traffic congestion and related adverse impacts on coastal access, protection and enhancement of water quality, restoration of ESHA adjacent to areas of existing ESHA, the concentration of development, and the minimization of energy consumption and vehicle miles. In the end, the Commission must determine whether its decision to either deny or approve the amended project is the decision that is most protective of significant coastal resources.

In this case, the Commission finds that the impacts on coastal resources from not constructing the project, as conditioned, would be more significant than the amended project's potential adverse effects to ESHA. Denying the proposed amendment because of its inconsistency with Section 30240(a) would degrade this important lower cost visitor serving recreational facility, would perpetuate and over time worsen traffic conditions that interfere with public recreational access, and prevent provision of adequate wastewater treatment capacity consistent with peak recreational wintertime demands. In contrast, approving the development as proposed in this amendment would provide these benefits by concentrating the proposed development in an area already heavily impacted and adjacent to legally developed areas, while also offering additional habitat enhancements and land preservation elsewhere on the site adjacent to larger more contiguous habitat areas. If the amended project is not constructed, existing ESHA in Area 6 proposed for restoration that were not previously developed with unpermitted development would not be further enhanced. Areas currently occupied by unpermitted development would be restored, but that fragmented restoration would be less likely to be successful and beneficial than the proposed restoration of areas that are contiguous with existing ESHA.

The test for approval is not for the project to be "more" protective of resources; it must be on balance the "most" protective. In order for that finding to be made, the adverse coastal resource impacts caused by the project have to be avoided, minimized and mitigated to the maximum feasible extent. As discussed above, if conflict resolution is utilized to allow the proposed development in ESHA, mitigation measures must be implemented as recommended through modifications to the original existing special conditions and addition of new special conditions, to minimize direct and indirect impacts to ESHA consistent with Coastal Act Section 30240. Further, the proposed restoration of additional portions of Area 6, lands adjacent to Area 6 and land within Area 4 is essential to implementing the necessary mitigation required for direct habitat impacts. Therefore, special conditions require operation, maintenance, monitoring and

~~reporting of the system and surrounding impacts, habitat restoration, and sensitive habitat and species protections. As described throughout the other sections of this report, the proposed project, as conditioned, is consistent with all other applicable Coastal Act policies. Therefore, the Commission finds that, approving the amended project, as conditioned, is, on balance, most protective of coastal resources.~~

I. VIOLATION

Development including, but not limited to, unpermitted grading, unpermitted fill of wetlands, and the unpermitted construction or placement of trailers, a campground, mobile homes, roads, restrooms, water lines and water tanks, sewage lines and leach fields, a sewage disposal station, sheds, garages, parking lots, a boat house, a snack bar, a shop, a boat mooring facility, boat yard, boats, a laundry facility, a pier, and other items of development, ~~has~~ occurred on the subject property without benefit of a CDP. The Commission's original approval of CDP A-2-MAR-08-028-A2 resolved the unpermitted nature of most of the existing development on the property, but not all of it. This amendment request ~~proposes~~ to resolve the remaining issues associated with ongoing unpermitted development on the property. If it had been approved and implemented as conditioned, the Applicant would be in compliance with the previous enforcement actions taken by the Commission.

Although development has taken place prior to submission of a CDP application, consideration of the development through the original CDP approval and this amendment was made by the Commission solely based upon the policies of Chapter 3 of the Coastal Act. Commission review and action on the original CDP approval and this amendment to the original CDP does not constitute a waiver of any legal action with regard to the alleged violations, nor does it constitute an implied statement of the Commission's position regarding the legality of any development undertaken on the subject site without a CDP, or that all aspects of the violation have been fully resolved. ~~In fact, approval of the original CDP and this CDP amendment is possible only because of the conditions included herein, and failure to comply with these conditions would also constitute a violation of the amended CDP and of the Coastal Act.~~ Accordingly, the Applicant remains subject to enforcement action, just as it was prior to this CDP amendment ~~approval~~ denial, for engaging in unpermitted development, unless and until the conditions of approval included in the original CDP ~~and as modified by this CDP amendment~~ are fully satisfied, at which point the applicant would no longer be subject to enforcement over any violations resolved by that permit.

~~I. OTHER~~

~~Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application in the event that the Commission's action is challenged by a party other than the Applicant. Therefore, consistent with Section 30620(c), the Commission imposes a condition requiring reimbursement for any costs and attorneys' fees that the Commission incurs in connection with the defense of any action brought by a party other than the Applicant challenging the approval or issuance of this permit (**Special Condition 35**).~~

J. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13906 of the Commission's administrative regulations requires Coastal Commission approval of CDP applications to be supported by a finding showing the application, as modified by any conditions of approval, is consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are any feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

Marin County prepared a programmatic Environmental Impact Report (EIR) for the Lawson's Landing Master Plan, Coastal Permit, and Tidelands Permit applications pursuant to requirements of the CEQA (Public Resource Code, Sections 21000-21177), State CEQA Guidelines, and County CEQA procedures. After the public review period and after public hearings, the EIR was certified by the Board of Supervisors on March 13, 2008. Since the CDP approved by the Commission in 2011 made a number of modifications to the project approved under the EIR, including details to be further resolved through condition compliance and the envisioned future CDP amendments, the County plans to take any other further CEQA actions necessary associated with its local approvals following Commission action on this proposed amendment and completion of associated condition compliance.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. Although the proposed development does conflict with the requirements of Section 30240 regarding resource dependent use and the avoidance of significant disruption of ESHA, the proposed development as conditioned and mitigated avoids significant environmental impacts. The proposed amendment as conditioned would result in a habitat restoration program that is environmentally superior to what would result under the original CDP. As conditioned, the proposed amendment is on balance most protective of significant coastal resources. The findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As specifically discussed in these above findings, which are hereby incorporated by reference, mitigation measures that would minimize or avoid all significant adverse environmental impacts have been required. These include refinements to the proposed operation, maintenance and monitoring plan for the wastewater management system to include Area 6 leach field operational controls, Upper Scale House spray irrigation operation controls, groundwater monitoring, Entrance Pond monitoring and adaptive management, Entrance Pond vegetation management, grazing prohibitions, operational controls in and around Area 6, construction best management practices, Area 6 habitat restoration refinements, and Area 4 development restriction and habitat restoration requirements. As conditioned, there are no other feasible mitigation measures available which would substantially lessen any significant adverse impacts which the activity may have on the environment.

In addition, there are no other feasible alternatives which would substantially lessen any significant adverse impacts which the activity may have on the environment as further discussed in the Conflict Resolution Section above. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act to conform to CEQA.

Public Resources Code (CEQA) Section 21080(b)(5) and Sections 15270(a) and 15042 (CEQA Guidelines) of Title 14 of the California Code of Regulations (14 CCR) state in applicable part:

CEQA Guidelines (14 CCR) Section 15042. Authority to Disapprove Projects. [Relevant Portion.] A public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed.

Public Resources Code (CEQA) Section 21080(b)(5). Division Application and Nonapplication. ... (b) This division does not apply to any of the following activities: ... (5) Projects which a public agency rejects or disapproves.

CEQA Guidelines (14 CCR) Section 15270(a). Projects Which are Disapproved. (a) CEQA does not apply to projects which a public agency rejects or disapproves.

14 CCR Section 13096(a) requires that a specific finding be made in conjunction with CDP applications about the consistency of the application with any applicable requirements of CEQA. This report has discussed the relevant coastal resource issues with the proposed project. All above findings are incorporated herein in their entirety by reference. As detailed in the findings above, the proposed project would have significant adverse effects on the environment as that term is understood in a CEQA context.

Pursuant to CEQA Guidelines (14 CCR) Section 15042 “a public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed.” Section 21080(b)(5) of CEQA, as implemented by Section 15270 of the CEQA Guidelines, provides that CEQA does not apply to projects which a public agency rejects or disapproves. The Commission finds that denial, for the reasons stated in these findings, is necessary to avoid the significant effects on coastal resources that would occur if the project was approved as proposed. Accordingly, the Commission’s denial of the project represents an action to which CEQA, and all requirements contained therein that might otherwise apply to regulatory actions by the Commission, do not apply.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Adobe Associates. July 30, 2010. *Lawson's Landing – Sand Haul Road Feasibility Study.*
- Ann Baker Landscape Architecture. March 29, 2017 and revised May 22, 2017. *Area 6 Existing Vegetation & Land Use Plan.*
- Ann Baker Landscape Architecture. November 4, 2016, revised May 24, 2017 and October 26, 2017. *Area 6 DD Landscape and Restoration Plan.*
- California Coastal Commission. December 7, 2011. *Adopted Findings Consolidated Coastal Development Permit A-2-MAR-08-028.*
- CSW/ST2. August 30, 2017. *Draft Campground Management Plan.*
- EDAW. September 29, 2017. *Final Environmental Impact Report for the Lawson's Landing Master Plan.*
- Fehr and Peers. Dated June 1, 2017 and approved August 14, 2017. *Traffic Management Plan and Initial Traffic Monitoring Results, Lawson's Landing.*
- Kamman Hydrology & Engineering, Inc in association with Demgen Aquatic Biology. September, 2016. *Hydrologic Assessment: Lawson's Landing, Dillon Beach, CA.*
- Kamman Hydrology & Engineering, Inc in association with Demgen Aquatic Biology. July 15, 2017. *Final Draft Sensitive Resource Protection, Restoration, and Enhancement Plan for Lawson's Landing, Dillon Beach, Marin County.*
- Lawson's Landing, Inc. January 28, 2014. *Lawson's Landing Interim Hazard Response Plan.*
- Lawson's Landing, Inc. June 22, 2016. *Employee Housing Plan.*
- Marin County. September 2015. *Marin Ocean Coast Sea Level Rise Vulnerability Assessment.*
- Miller Pacific Engineering Group. August 8, 2014. *Geotechnical Investigation Lawson's Landing, Dillon Beach, California.*
- Monk & Associates, Inc. March 11, 2010. *Revised Biological Resources Report Sand Haul Road Lawson's Landing, Dillon Beach, California.*
- Monk & Associates, Inc. December 12, 2016. *California Red-legged Frog Impact Assessment Area 6 Redevelopment Project.*
- Monk & Associates, Inc. March 24, 2017. *Cost Proposal for Biological Permitting Sand Haul Road Improvements for Public Access to Lawson's Landing Dillon Beach, California.*
- Monk & Associates, Inc. May 11, 2017. *California Red-legged Frog Dynamics and Survey Report Lawson's Landing, Marin County, California.*
- Questa Engineering Corp. October 7, 2011. *Lawson's Landing Septic Inspection Plan.*
- Questa Engineering Corp. September 12, 2016. *Wastewater Facilities Plan for Lawson's Landing, Dillon Beach, California.*
- Questa Engineering Corp. November 16, 2016. *Addendum #1 Wastewater Facilities Plan for Lawson's Landing.*
- Questa Engineering Corp. January 6, 2017. *Lawson's Landing Employee Housing Interim Septic System Plan.*

- Questa Engineering Corp. *Supplemental information provided by in Response to CCC staff questions dated July 11, 2017 and September 12, 2017.*
- Robert W. Hayes, Architect, October 15, 2017. *Lawson's Landing Area 6 Site Plan.*
- University of California, Davis, Bodega Marine Laboratory. Annual Rainfall data.
<http://boon.ucdavis.edu/datasets.html>

APPENDIX B – STAFF CONTACT WITH AGENCIES AND GROUPS

- Applicant (Lawson's Landing, Inc.)
- Environmental Action Committee of West Marin
- San Francisco Bay Regional Water Quality Control Board
- Marin County
- California Department of Fish and Wildlife
- Preservation, Restoration and Enhancement Plan, Scientific Review Panel Members
- Concerned Citizens of Dillon Beach