

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105
PHONE: (415) 904-5260
FAX: (415) 904-5400
WEB: WWW.COASTAL.CA.GOV



F15a

A-2-DYC-21-0001 (OLYMPIC WAY GEOTECHNICAL INVESTIGATION)

MARCH 12, 2021

EXHIBITS

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2152 OLYMPIC WAY – PROJECT LOCATION MAP
City of Daly City, San Mateo County



2152 OLYMPIC WAY – SITE PHOTOS
City of Daly City, San Mateo County



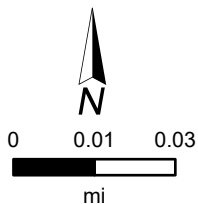
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EXPLANATION

ALL LOCATIONS ARE APPROXIMATE

- PROJECT SITE
- TRENCH EXCAVATION
- INFILTRATION TEST PIT
- SOIL BORING
- Exclusion zone



BASEMAP SOURCE: ESRI MAPPING SERVICE



PATH: WEB-GENERATED

SITE PLAN
2152 OLYMPIC WAY
DALY CITY, CALIFORNIA

PROJECT NO. : 8438.002.000

SCALE: AS SHOWN

DRAWN BY: NP CHECKED BY: JTR

FIGURE NO

2

ORIGINAL FIGURE PRINTED IN COLOR



CITY OF DALY CITY

333-90TH STREET
DALY CITY, CA 94015-1895

December 15, 2020

(VIA CERTIFIED MAIL)

Julia Koppman Norton, Coastal Planner
North Central Coast District
California Coastal Commission
455 Market Street, Suite 228
San Francisco, CA 94105

RECEIVED

DEC 23 2020

CALIFORNIA
COASTAL COMMISSION
NORTH CENTRAL COAST

RE: **NOTICE OF FINAL LOCAL ACTION**
Use Permit UPR-09-20-014692 – Coastal Development Permit
2152 Olympic Way, Daly City, CA

Enclosed herewith, via Certified Mail, is the Notice of Final Local Action prepared for the above-referenced project in Daly City. Also enclosed is the pertinent staff report with required findings, including conditions of approval.

Sincerely,

Carmelisa Morales
Associate Planner

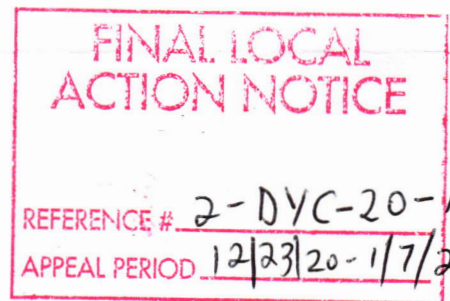
Enclosed:

Notice of Final Local Action, with attachment(s)

- Staff Report
- Conditions of Approval

Cc:

Steve Lynch, Sand Hill Property Company, 2600 El Camino Real, Suite 410, Palo Alto, CA 94304



A-2-DYC-21-0001

Exhibit 4

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NOTICE OF FINAL LOCAL ACTION

COASTAL DEVELOPMENT PERMIT

This notice will serve to confirm that on December 14, 2020, the City Council of the City of Daly City approved a Coastal Development Permit for the following project:

- PROJECT:** Use Permit UPR-09-20-014692 - Geotechnical Subsurface Investigation
- LOCATION:** 2152 Olympic Way, Daly City, CA (APNs 002-011-060, -120, -130)
- APPLICANT:** Steve Lynch, Sand Hill Property Company, 2600 El Camino Real, Suite 410, Palo Alto, CA 94304
- DESCRIPTION:** Geotechnical subsurface investigation to characterize and evaluate geotechnical hazards on an approximately 4.27 acre site.
- DECISION:** Approval by the City Council was based on the required findings contained in the pertinent staff report and is subject to conditions, both attached. All local rights of appeal have been exhausted.
- APPEAL PROCEDURES:** The appeals process involves the following:
- ☒ The project is within the Appeals Zone and the permit is appealable to the State of California Coastal Commission if the appeal is made in writing to the Coastal Commission within 10 working days from the next business day following the date of receipt of this notice by the Executive Director of the Commission. For additional information, contact the California Coastal Commission at 455 Market Street, Suite 228, San Francisco, CA 94105, (415) 904-5292; or
 - ☐ The project is not in the Appeals Zone and the permit is not appealable to the Coastal Commission.

Questions concerning the project may be directed to the City of Daly City Planning Division at 333-90th Street, Daly City, CA 94015, (650) 991-8033.



Carmelisa Morales
Associate Planner

Attachments:

- ☒ City Council Staff Report
- ☒ Conditions of Approval



City Council Meeting Agenda Report

Item # _____

Meeting Date: December 14, 2020

Subject: Use Permit UPR-09-20-014692 – Coastal Development Permit – Geotechnical Subsurface Investigation at 2152 Olympic Way

Recommended Action

Approve the Use Permit – Coastal Development Permit, subject to the Findings and Conditions as outlined herein.

Planning Commission Discussion

On November 17, 2020, the Planning Commission voted 5-0 recommending that the City Council approve Use Permit UPR-09-20-014692 - Coastal Development Permit.

The Planning Commission received public comment from the following members of the public: Susan Bergesen, Betty Bortin, John Chirico, Jane Davey, Cynthia Delcorto, Susan Dolder, Lisa Dunmeyer, Elizabeth Edmonds, Annie Ellicott, Frania F. Feldstein, Ronda Peterson Goldman, Shannon Hartman, David Ingram, TS King, Kelsey Japs, Carrie Johnen, Zach Landry, Rachel Loui, Brandon McChesney, Maria Medeiros, Meredith and Chris Newsom, Susanna Pao, Sheri Park, Ana Poe, Glynis Radelman, Carol Schlesinger, Ed Seider, Mark Taylor, Theodore and Victoria Torres, and John Wood. Most comments expressed concerns regarding the potential environmental impacts of the project due to its location next to coastal bluffs and the area's history with landslides and the horses at Mar Vista Stables located at the adjacent property to the north. The comments also included concerns about the proposed retreat center project currently under review by the City and how it could potentially block access to hiking and horse trails.

The Commissioners had questions regarding the project timeline, the horses at Mar Vista Stables, public access to the hiking and horse trails, and the applicant's vision for the property. The applicant, Steve Lynch of Sand Hill Property Company, his geotechnical consultant, Nadine Periat of ENGEO, and his biologist, Gregory Sproull of WRA Environmental Consultants, provided responses to the questions. The project was strategically located to mitigate any potential impacts to the horses and avoid blocking public access to the existing hiking and horse trails. The project would be conducted during normal business hours (Monday-Friday, 7:00am-5:00pm) and the proposed work would be doubled up when possible to shorten the project's timeline. The equipment that would be used would not create significant vibrations. The noise that would be generated from the project would be similar to that of the nearby highway. Ms. Periat also stated that ENGEO has conducted the same geotechnical work on other properties with animals nearby (e.g. cattle fields) and did not observe any significant disturbance to the animals. The horses are also acclimated to noise due to the nearby highway. Mr. Lynch's vision for the property is an interdenominational retreat center that would be used by religious and non-profit organizations as a gathering space on weekdays and for private use on weekends. Public access to the existing open space areas would continue to be maintained for this project and the proposed retreat center project.

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Exhibit 5

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In response to the feedback received during the Planning Commission meeting, the applicant has revised the project as follows:

- 1. The large trench was moved away from the bluff's edge and a trail next to the bluff edge;***
- 2. One boring pit was moved away from the main trailhead leading to the beach; and***
- 3. The public access trail from the street to the trailhead is now labeled on the site plan.***

A revised site plan that reflects the above changes is included in this report under Attachment A – Revised Project Plans.

Background

The applicant, Steve Lynch of Sand Hill Property Company, submitted an application for a General Plan Amendment (amendment to the Local Coastal Program), Use Permit (Coastal Development Permit), and Design Review, to construct a 48,650 sq. ft. two-story retreat center on a 4.27 acre site located at 2152 Olympic Way (GPA-09-19-014218, UPR-09-19-014197, DR-09-19-014196). The project site is bounded by a commercial use (horse stables) to the north, Highway 35 (Skyline Boulevard) and a single-family residential neighborhood to the east, undeveloped land and a parking lot for Thornton State Beach to the south, and Thornton State Beach to the west (see Attachment B – Location Map).

The application included two geotechnical feasibility reports prepared by ENGEO (see Attachment C – ENGEO Geotechnical Feasibility Report) and Cotton, Shires and Associates, Inc. (see Attachment D – Cotton, Shires and Associates, Inc. Geotechnical Feasibility Study). The ENGEO report recommended a subsurface exploration program be performed to further characterize and evaluate geotechnical hazards at the project site. ENGEO recommended the program include a combination of deep exploratory borings and trenches at the site, laboratory soil testing and a geotechnical slope stability analysis to define stability risks and structural setbacks. The program would also be helpful in making specific geotechnical engineering recommendations for site grading and development, remedial grading measures, foundations, and drainage for the proposed construction. The Cotton, Shires and Associates, Inc. report also recommended a detailed geologic and geotechnical investigation for the retreat center project. After review of the application and discussion with the California Coastal Commission, the City has required the preparation of the supplemental geotechnical study to include subsurface and geotechnical investigations and slope stability and bluff retreat rate analyses.

Project Description

The proposed geotechnical subsurface investigation would be conducted to characterize and evaluate geotechnical hazards at the project site and develop a comprehensive geotechnical study to determine the suitability of the site for the proposed retreat center. The applicant's geotechnical consultant, ENGEO, would conduct the proposed geotechnical investigation and prepare the subsequent geotechnical study. A Coastal Development Permit (Use Permit in the Coastal Zone) is

required due to the proposed grading and extraction of materials on the site. A Grading Permit is also required and under concurrent review by the Engineering Division.

The proposed exploratory work would include up to six vertical borings, five test pits, and one trench (see Attachment A – Revised Project Plans). Approximately 350 cubic yards of cut would be generated during excavation of the trench and test pits. The cut material would be returned to the respective cut areas upon completion of the exploratory work. No import or export of material is anticipated.

Soil Borings. Six soil borings approximately 10 to 250 feet in depth and up to 10 inches in diameter are proposed. Two soil borings would be drilled to a depth of approximately 100 and 250 feet for an evaluation of bedding planes using a tele-viewer. A grouted-in-place vibrating wire piezometer would also be installed in one of the two borings to evaluate the depth conditions over time. The borings would allow ENGEO to gather data on bedding plane orientations within the Merced and Colma Formations as well as groundwater depth fluctuation for use in a slope stability analysis. The four other soil borings would be advanced to a depth between 10 and 50 feet to characterize the subsurface conditions for foundation design purposes. All vertical soil borings would be permitted through San Mateo County and/or the City of Daly City and abandonment would be performed in accordance with permit requirements under regulatory oversight. The cuttings from the soil borings would be scattered onsite after completion of the exploratory work.

Test Pits. Five exploratory test pits approximately 5 feet wide, 5 feet long, and 5 feet deep are proposed for infiltration testing. Vegetation would be removed in the areas of proposed excavation, but no more vegetation would be removed than is necessary for the purpose of this investigation. The test pits would be backfilled with the test pit spoils.

Trench. The exploratory trench would be approximately 5 feet deep, 5 feet wide, and approximately 300 to 350 feet long extending inland from approximately 20 feet from the top of the bluff. At 20 feet from the edge of the bluff, ENGEO would be able to identify how cracking frequency, if any, changes near the bluff and inland toward the proposed development. The trench would allow ENGEO to attempt to identify tension cracks and other recent features indicative of landslide formation. An ENGEO geologist would accompany the trenching subcontractor and map observed lithology, bedding plans, slide plans, and/or cracking, as appropriate. ENGEO does not anticipate that the shallow grading operations would pose a risk to the stability of the bluff at 20 feet from the edge. Vegetation would be removed in the areas of proposed excavation and there would be minimal disturbance of vegetation to mobilize the excavator to and from the proposed site of excavation. No more vegetation would be removed than is necessary for the purpose of this investigation.

The City Council should also be aware that two trenches were initially recommended by ENGEO in their report. However, the site plan for the retreat center project has changed since the report was prepared in February 2019. After review of the updated site plan, ENGEO has determined one trench is sufficient.

Coastal Development Permit

The project site is within the Light Commercial (C-1) Zoning District / Resource Protection (RP) Combining District with a General Plan Land Use Designation of Commercial – Retail and Office (C-RO). The RP zoning overlay indicates the project site is located within the Coastal Zone. Although no structures are proposed, “development” as defined in the City’s Local Coastal Program (LCP) (Coastal Element in the General Plan) includes grading and extraction of materials on the site. Therefore, a Coastal Development Permit is required.

The project may be appealed to the California Coastal Commission under Coastal Act Section 30603(a)(2) due to the location of the project site within 300 feet of the seaward face of a coastal bluff. Compliance with all applicable LCP policies and proper noticing procedures in accordance with the LCP must be followed in review of the Coastal Development Permit. LCP policies applicable to this project include:

1. Section 30240 (Environmentally Sensitive Habitat Areas): Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values and development in areas adjacent to environmentally sensitive habitat areas, parks, and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas.
2. Section 30253 (Standards for New Development): Development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard, 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.

The application for the retreat center project included a biological resources assessment prepared by WRA Environmental Consultants (WRA) (see Attachment E – WRA Environmental Consultants Biological Resources Assessment & Memorandums). WRA determined one special-status plant species, San Francisco Bay spineflower, had a moderate potential to occur in the project site, but after conducting a focused, protocol-level rare plant survey in July 2020 (within the species’ published blooming period), no special-status plant species were observed including the San Francisco Bay spineflower. WRA concluded no special-status bird species have a moderate or high potential to occur within the project site, but there is the potential to impact common nesting birds protected by the California Fish and Game Code or Migratory Bird Treaty Act of 1918. Project activities, such as vegetation and tree removal and ground disturbance, have the potential to impact these species. WRA recommended mitigation measures to address this potential impact and they have been included as Conditions of Approval (see Conditions of Approval No. 4-6).

Additionally, no sensitive natural communities (including Environmentally Sensitive Habitat Areas), jurisdictional waters or wetlands were identified within or directly adjacent to the project site. WRA determined any nearby wetlands or waters would be protected from indirect impacts through the implementation of applicable best management practices (see pp. 170-171 of Attachment E – WRA Environmental Consultants Biological Resources Assessment & Memorandums).

As discussed in the previous sections, vegetation would be removed in the areas of proposed excavation, but no more vegetation would be removed than is necessary for the purpose of this investigation. All cut material would be returned to the respective cut areas. Further, ENGEO does not anticipate that the shallow grading operations would pose a risk to bluff stability. Lastly, the proposed grading will be reviewed and inspected by the Engineering Division, all vertical soil borings would be permitted through San Mateo County and/or the City of Daly City, and abandonment would be performed in accordance with permit requirements under regulatory oversight.

Environmental Assessment

Staff has reviewed the proposal under the requirements of the California Environmental Quality Act (CEQA) and determined that the project, as conditioned, would not result in significant adverse environmental impacts and is exempt from environmental review pursuant to CEQA Guidelines Section 15306: Information Collection. The project includes basic data collection that would not result in a serious or major disturbance to an environmental resource, as discussed in the sections above, and the information gathered would be used as part of a study leading to an action which a public agency has not yet approved.

Findings

The Planning Commission has found that the proposed Use Permit UPR-09-20-014692 – Coastal Development Permit complies with Title 17 (Zoning) of the Daly City Municipal Code. Approval of the proposed project would not be detrimental to the health, safety, morals, comfort and general welfare of persons residing in or working in the neighborhood, nor be injurious or detrimental to the property and improvements in the neighborhood or the general welfare of the city. The recommended findings are as follows:

1. In accordance with Title 17 of the Daly City Municipal Code, as well as applicable State zoning enabling legislation, the City Council conducted a public hearing on December 14, 2020; notice of said hearing was by newspaper publication on December 3, 2020, posting and first class mailing to property owners within 300 feet and occupants within 100 feet of the site.
2. The Planning Commission has reviewed the proposal under the requirements of the California Environmental Quality Act (CEQA) and has determined the project is Categorically Exempt per Section 15306: Information Collection.
3. The project site is within the Light Commercial (C-1) Zoning District / Resource Protection (RP) Combining District with a General Plan Land Use Designation of Commercial – Retail and Office (C-RO). The RP zoning overlay indicates the project site is located within the Coastal Zone. Grading and extraction of materials on the site is considered development and therefore a Coastal Development Permit is required.

4. The subject project is consistent with the Local Coastal Program (Coastal Element in General Plan) and Zoning Code and, therefore would not be detrimental to the health, safety, morals, comfort and general welfare of the neighborhood.
5. The project site is located within 300 feet of the seaward face of a coastal bluff. Thus, the project may be appealed to the Coastal Commission under Coastal Act Section 30603(a)(2).
6. Staff has received and reviewed geotechnical feasibility reports prepared by ENGEO and Cotton, Shires and Associates, Inc. and determined, after discussion with the California Coastal Commission, that the proposed geotechnical investigation is required to prepare a supplemental geotechnical study for a proposed retreat center project currently under review (GPA-09-19-014218, UPR-09-19-014197, DR-09-19-014196).
7. Staff has received and reviewed a biological resources assessment prepared by WRA Environmental Consultants concluding that environmentally sensitive habitat areas will be protected with applicable best management practices and mitigation measures;
8. The proposed project would minimize risks to life and property in areas of high geologic, flood, and fire hazard, 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.

Conditions of Approval

The Planning Commission recommends approval of Use Permit UPR-09-20-014692 – Coastal Development Permit based on the following conditions as specified by each Department and Division.

A. PLANNING DIVISION

General

1. The project shall be valid only in conjunction with the plans submitted with this project. Any modifications required, due to the Conditions of Approval, and minor changes to the plan, must be reviewed and approved by the Planning Division prior to the change. Major modifications shall be treated as an amendment and shall be subject to review by the Planning Commission and City Council.

Biological Resources

2. The applicant shall comply with all applicable Best Management Practices recommended by WRA Environmental Consultants and as outlined in the WRA Environmental Consultants Biological Resources Assessment and associated memorandums.

3. Project activities, such as vegetation removal, grading, or initial ground-disturbance, shall be conducted between September 1 and January 31 (outside of the February 1 to August 31 nesting season) to the greatest extent feasible.
4. If the project activities must be conducted during the nesting season, a pre-construction nesting bird survey shall be conducted by a qualified biologist no more than 14 days prior to vegetation removal or initial ground disturbance. The survey shall include the project site and surrounding vicinity to identify the location and status of any nests that could potentially be affected either directly or indirectly by project activities.
5. If active nests of native nesting bird species are located during the nesting bird survey, a work exclusion zone shall be established around each nest by the qualified biologist. Established exclusion zones shall remain in place until all young in the nest have fledged or the nest otherwise becomes inactive (e.g., due to predation). Appropriate exclusion zone sizes shall be determined by a qualified biologist and shall vary based on species, nest location, existing visual buffers, noise levels, and other factors. A minimum exclusion zone of 300 feet from non-raptor species and 500 feet from raptors shall be employed to assure protection of any nesting birds on or near the project site. The exact size of the exclusion zone shall be determined by a qualified biologist based on the species that are present. Exclusion zone size shall be reduced from established levels by a qualified biologist if nest monitoring findings indicate that project activities do not adversely impact the nest, and if a reduced exclusion zone would not adversely affect the nest.

Time Limit

6. The Coastal Development Permit shall be valid for a period of one year from the date of City Council approval. The approval shall terminate if a grading permit has not been obtained and work has not commenced within one year of City Council approval of the project.

B. ENGINEERING DIVISION

7. The applicant shall obtain a Grading Permit for the project from the Engineering Division.
8. Work hours shall be limited to Monday through Friday, 8:00 AM to 5:00 PM.

Recommendations

The Planning Commission recommends that the City Council take the following actions:

1. Adopt the Findings as outlined herein;
2. Affirm the Environmental Assessment;
3. Approve Use Permit UPR-09-20-014692 – Coastal Development Permit subject to the Findings and Conditions outlined herein.

Staff is available to provide any additional information desired by the Council members.

Respectfully submitted,



Carmelisa Morales
Associate Planner



Tatum Mothershead
Director of Economic and Community
Development

Attachments

Attachment A – Revised Project Plans

Attachment B – Location Map

Attachment C – ENGEO Geotechnical Feasibility Report

Attachment D – Cotton, Shires and Associates, Inc. Geotechnical Feasibility Study

Attachment E – WRA Environmental Consultants Biological Resources Assessment &
Memorandums

Attachment F – Original Project Plans from Planning Commission Meeting

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
455 MARKET ST., SUITE 228
SAN FRANCISCO, CA 94105-2420
(415) 904-5260
NORTHCENTRALCOAST@COASTAL.CA.GOV

**APPEAL FORM****Appeal of Local Government Coastal Development Permit****Filing Information (STAFF ONLY)**

District Office: North Central Coast

Appeal Number: _____

Date Filed: _____

Appellant Name(s): _____

APPELLANTS

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review [the appeal information sheet](#). The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>).

Note regarding emailed appeals. Please note that emailed appeals are accepted ONLY at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the North Central Coast district office, the email address is NorthCentralCoast@coastal.ca.gov. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>.

Appeal of local CDP decision

Page 2

1. Appellant information¹

Name: Phillip Seitzer
Mailing address: 6 Seacliff Ave, Daly City, CA
Phone number: 5132651568
Email address: phillipseitzer@gmail.com

How did you participate in the local CDP application and decision-making process?

☐ Did not participate ☒ Submitted comment ☐ Testified at hearing ☐ Other
I am a concerned citizen who learned of this permit in late 2020.

Describe: I have communicated information about this permit and the decision-making process to many other fellow San Mateo County residents.
I believe that this permit is inconsistent with local and state laws.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: _____

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: I contacted the Daly City government regarding local appeal, and they indicated that they believed an appeal would be inappropriate for this permit. No local appeals process was made available to me.

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

Appeal of local CDP decision

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2. Local CDP decision being appealed²

Local government name: Daly City

Local government approval body: Planning Commission and City Council

Local government CDP application number: UPR-09-20-014692

Local government CDP decision: ☒ CDP approval ☐ CDP denial³

Date of local government CDP decision: December 14, 2020

Please identify the location and description of the development that was approved or denied by the local government.

Describe: Geotechnical subsurface investigation to characterize and evaluate

geotechnical hazards on the property situated at 2152 Olympic Way, Daly City, CA

(a ~4.27 acre site)

² Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

³ Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the [appeal information sheet](#) for more information.

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On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., the applicant, other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

Please see attached document.

[illegible]

A-2-DYC-21-0001
Exhibit 6
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3. Identification of interested persons

Formatting example:

First_Name Last_Name <email>

Annie Ellicott <annie@leapup.com>,
Lisa Dunmeyer <lisadun@mindspring.com>,
Hannah (Mae) Blair <hannahblair@gmail.com>,
Phillip Seitzer <phillipseitzer@gmail.com>,
Marie Seitzer <galomarie@gmail.com>,
Holly Prohaska <hollypro@hotmail.com>,
David Allen Ingram <daibuilders@yahoo.com>,
Miles Brooks <miles@grassrootsecology.org>,
john wood <johnwood415@gmail.com>,
Brenda Ingram <bkingram@yahoo.com>,
Antoinette Mogannam <tm626@hotmail.com>

4. Grounds for this appeal

This permit, UPR-09-20-014692, is itself associated with a geotechnical survey, and does not itself propose new development.

However, the act of conducting the test resembles development in several important ways. This is particularly true in the context of Daly City LCP laws designed to mitigate, regulate, and manage disruption and destruction of the coast and surrounding area that may occur during construction.

The initial project proposes to create six vertical borings, five test pits, and a trench. There is expected to be approximately 350 cubic yards of cut from trench and test pits. The machinery necessary to produce these borings is expected to generate noise roughly comparable to an idling semi truck.

Daly City LCP p. 40 item 2 states

“The development and use of Mussel Rock Park, Daisaku Ikeda Canyon, and Thornton State Beach shall include measures to protect and mitigate existing plant and animal communities.”

(underlines mine)

The proposed test site is directly adjacent to Thornton State Beach. The noise, dust, and debris kicked up in the boring process may disturb local plants and animal communities. No measures have been proposed by the permit applicants addressing this statute.

Additionally, **LCP p. 42 Item 4** states

Development of remaining vacant parcels along the bluffs shall be prohibited, unless geologic and seismic constraints and public safety requirements can be mitigated (Goal 3 and Section 30253)

The act of boring the large holes proposed in this geotechnical survey may itself destabilize the cliffs, increasing the chances of landslide or otherwise cause or enhance coastal erosion. The displaced material would directly affect adjacent (and downhill) Thornton State Beach. No measures have been proposed to demonstrate that the boring and trench-digging process would not cause such an event.

In order to safely assess the geologic and seismic constraints and public safety requirements, there should be assurances that the boring of the large holes and digging of trenches will not cause undue stress or damage to the land in and around the proposed test site. At a minimum, an additional (preferably noninvasive) test should be conducted to determine if the digging and boring proposed in CDP UPR-09-20-014692 can be safely performed.

It's worth mentioning that this and surrounding areas have historically suffered a high degree of coastal erosion and landslides. Previous surveys (including one conducted as recently as 2019) of the area have found it to be unsuitable for construction. The documented history of instability, in my view, elevates the importance of proceeding cautiously, and delaying or disallowing this test to occur (if appropriate).

In fact, the Daly City legislature recognized the fragility of the area, and codified this concern in the **Daly City Resource Protection (-RP) Combining District of the Zoning Ordinance**. Pursuant of this ordinance,

"grading or filling operations except for those required as drainage and erosion control measures, and requires permanent vista corridors of at least five feet or 15 percent of the lot, whichever is greater, for any development which occurs within the district."

The testing site itself is also in violation of the **Daly City Resource Protection (-RP) Combining District of the Zoning Ordinance**:

"construction within 50 feet of the bluff top, on a slope greater than thirty percent, or where the vertical relief is ten feet or greater."

The above Daly City LCP statutes directly address concerns associated with the geotechnical survey test.

Other Statutes in the Daly City LCP associated with development on the proposed test site may be less relevant for CDP UPR-09-20-014692, however, it is worth including them here both so that (1) this permit may be understood as one of a series of permits (ultimately concluding in a permit requesting development of a large commercial property), and that (2) the ethos of the relevant Daly City LCP statutes may be communicated (a theme of caution, limited development, and community benefit and buy-in will emerge).

The current **Daly City LCP p. 20, item 30222 (Visitor-serving commercial recreational facilities)** protects use of private land for visitor-serving recreation:

"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."

Construction on coastal bluffs is specifically addressed, requires extensive assurances of safety, and community approval and buy-in:

From **Daly City LCP p. 42**:

"

1. *City review and approval of all new development shall insure that the rights and privacy allowed by law of existing residents are protected, and that existing and proposed recreational uses are protected and, where feasible, enhanced. (Goal 1 and Sections 30240(b), 30250(a), and 30253)*
 2. *Development of the vacant privately-owned and state-owned properties on the blufftop overlooking Thornton State Beach shall be reserved for recreation and visitor-serving uses. (Goal 1 and Section 30222)*
- ”

The filers of this permit asserted that they were granted an exemption under CEQA. The specific exemption was not communicated to the general public. This unconditional CEQA waiver is inappropriate under **Daly City LCP p. 42a:**

“A resource protection zone shall be established between the sea and the first public road paralleling the sea. All development within this zone shall be subject to strict environmental review. (Goal 4 and Section 30253)”

Appeal of local CDP decision

Page 5

5. Appellant certification⁵

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Phillip Seitzer

Print name _____



Signature

01/07/2021

Date of Signature _____

5. Representative authorization⁶

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

⁵ If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

⁶ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400

**DISCLOSURE OF REPRESENTATIVES**

If you intend to have anyone communicate on your behalf to the California Coastal Commission, individual Commissioners, and/or Commission staff regarding your coastal development permit (CDP) application (including if your project has been appealed to the Commission from a local government decision) or your appeal, then you are required to identify the name and contact information for all such persons prior to any such communication occurring (see Public Resources Code, Section 30319). The law provides that failure to comply with this disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment and may lead to denial of an application or rejection of an appeal.

To meet this important disclosure requirement, please list below all representatives who will communicate on your behalf or on the behalf of your business and submit the list to the appropriate Commission office. This list could include a wide variety of people such as attorneys, architects, biologists, engineers, etc. If you identify more than one such representative, please identify a lead representative for ease of coordination and communication. You must submit an updated list anytime your list of representatives changes. You must submit the disclosure list before any communication by your representative to the Commission or staff occurs.

Your Name Phillip Seitzer

CDP Application or Appeal Number _____

Lead Representative

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Your Signature _____

Date of Signature _____

Additional Representatives (as necessary)

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Your Signature _____

Date of Signature _____

APPLICABLE DALY CITY LCP POLICIES

LUP Habitat Area Policy 2

“The development and use of Mussel Rock Park, Daisaku Ikeda Canyon, and Thornton State Beach shall include measures to protect and mitigate existing plant and animal communities.”

LUP New Development Policy 4

“Development of remaining vacant parcels along the bluffs shall be prohibited, unless geologic and seismic constraints and public safety requirements can be mitigated.”

LCP IP Section 17.27.050 (C)(2)

If development is on a blufftop: “no grading or filling operations shall be permitted except for those required as drainage and erosion control.”

LCP IP Section 17.27.050 (C)(1)

“No building or structure shall be placed less than fifty feet from the edge of the bluff.”

LCP IP Section 17.27.050 (D)

“No development shall be allowed on a bluff or other such surface with a slope of thirty degrees or greater and a vertical relief of ten feet or more.”

Gregory Sproull, Project Manager
WRA, Inc.
sproull@wra-ca.com; 415-524-7530
10/23/2020

2152 Skyline Boulevard Best Management Practices

The 2152 Skyline Boulevard project (Project) would incorporate the following best management practices (BMPs) to all work that occurs on-site to minimize indirect impacts to sensitive aquatic resources and special-status plant species that may occur off-site:

- Erosion and sediment control measures, such as compost filter socks or erosion control blankets, shall be placed along the western boundary of the Project Area to prevent debris and sediment-laden water from impacting potential aquatic features that may be situated west of the Project Area. Plastic monofilament mesh covering for erosion control blankets or erosion control materials are prohibited for erosion control. Best management practices shall be used when designing and installing such devices.
- A worker environmental awareness plan shall be developed and administered to educate workers on potentially sensitive aquatic resources and special-status species that may be located off-site and which must be protected.
- The contractor shall be responsible for constant maintenance of erosion and sediment control measures at all times to the satisfaction of the engineer and City agency. Erosion and sediment control measures and their installation shall be accomplished using BMPs.
- The contractor shall be responsible for corrective action to surface waters affected from not implementing erosion and sediment control BMPs.
- During the rainy season (typically October 15 to April 15), all sediment barriers shall be inspected and repaired at the end of each working day and, in addition, after each storm event.
- Unstable areas shall be repaired as soon as possible if damaged.
- All graded or disturbed areas shall be stabilized immediately after grading is complete.
- Entrance to the Project Area shall be maintained in a condition that will prevent tracking or flowing of sediment into public right-of-way. When necessary, wheels shall be cleaned to remove sediment prior to entrance of public rights-of-way. When washing is required it shall be done in an area stabilized with crushed rock that drains into a sediment trap.
- All erosion and sediment control measures shall be removed when they have served their purpose so as not to block or impede storm flow or drainage.
- All erosion and sediment control measures shall be repaired or replaced when they are no longer functioning.
- The contractor shall have erosion and sediment control measures on site adequate to protect the entire site prior to the October 15 date such that it is immediately available in preparation of the upcoming winter season or in the event of an early rain.
- The contractor shall comply with all rules, regulations, and procedures of the national pollutant discharge elimination system for construction and activities as promulgated by the California State Water Resource Control Board or any of its Regional Water Quality Control Boards.
- All materials necessary for winterization shall be available at the site by October 12, and all winterization measures shall be installed and completed by October 15.
- Stockpiled waste material shall be contained and securely protected from wind erosion at all times when not in use.



ENVIRONMENTAL CONSULTANTS

- The contractor shall provide effective soil cover for inactive areas where construction activity has disturbed soil but are not scheduled to re-disturb soil for at least 14 days.
- The contractor will comply with applicable local, state, and federal regulations if there is a spill or suspected release.
- All necessary and appropriate erosion control measures shall be implemented to prevent the discharge of earthen material to potential offsite wetlands from disturbed areas during all periods of site grading and construction. These measures shall be implemented prior to the onset of the wet season.
- The construction area shall be delineated by orange construction fencing in order to minimize impacts to sensitive habitat beyond the work area. The construction fencing shall be shown on the construction documents and shall remain for the duration of the Project construction period.
- Personnel shall prevent the accidental release of chemicals, fuels, lubricants, and non-storm drainage water into off-site areas.
- Spill prevention kits shall always be in close proximity when using hazardous materials.
- No equipment servicing shall be done within 150 feet of western boundary of the Project Area, unless equipment stationed in these locations cannot be readily relocated (i.e., pumps, generators).
- Vehicles operated within 150 feet of the western boundary of the Project Area shall be checked and maintained daily to prevent leaks of materials.
- Potential contaminating materials must be stored in covered storage areas or secondary containment that is impervious to leaks and spills
- Herbicides shall not be used within 150 feet of the western boundary of the Project Area.
- Sediment shall be removed from sediment controls once the sediment has reached one-third of the exposed height of the control. Workers shall dispose of sediment collected in these devices at approved disposal sites. Collection devices shall be inspected at least once a day to ensure they are functioning properly. If a control measure does not function effectively, it shall be immediately repaired or replaced. Additional controls shall be installed as necessary.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- The use of the firearms is prohibited from the Project Area to avoid harassment, killing, or injuring of wildlife.
- No animals (e.g., dogs or cats) shall be brought to the Project Area to avoid harassment, killing, or injuring of wildlife.
- The Project Area shall be maintained trash-free, and food refuse shall be contained in secure bins and removed daily during construction.
- The potential for wildfires shall be reduced by parking vehicles away from vegetation to the extent feasible and by the use of shields, protective mats, and other fire prevention methods when welding, grinding, or conducting other activities that are likely to create a fire hazard. The Project Area shall have adequate sources of water, shovels, and fire extinguishers available for immediate use. All vehicles and heavy equipment used in the Project Area shall have on-board fire extinguishers. During the dry season, vehicles shall never be parked or idled so that the undercarriage is in contact with vegetation.
- To avoid the spread of new or additional non-native, invasive weed species, all equipment will be washed and inspected prior to entering the Project Area. Any plant debris, mud, or dirt will be removed from all parts of vehicles and equipment. Information about invasive species and limiting their spread will be included in the pre-project worker environmental awareness training.

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[Sent via email: julia.koppmannorton@coastal.ca.gov]

February 1, 2020

Julia Koppman Norton, Coastal Planner
California Coastal Commission
North Central Coast District
455 Market Street, Suite 300
San Francisco, CA 94105

Re: Commission Appeal No. A-2-DYC-21-001; 2152 Olympic Way Response to Appeal

Dear Ms. Norton:

On behalf of Sand Hill Property Company, we appreciate the opportunity to respond to the appeal of the Coastal Development Permit ("CDP") approval (local permit # UPR-09-20-014692). The CDP approval will allow the applicant to conduct geotechnical subsurface investigation to characterize and evaluate geotechnical hazards on an approximately 4.27-acre site at 2152 Olympic Way, Daly City, San Mateo County. The following response letter presents: (I) Background, (II) Project Description and Location, (III) Daly City CDP Approval, (IV) Appeal Contentions and Responses, and (V) the Coastal Commission's Substantial Issue Determination. In short, review of the Daly City processing demonstrates ample support for the CDP approval as consistent with the Local Coastal Plan. A review of the Daly City determination further demonstrates that the appellant's contentions do not raise any substantial issue for Coastal Commission consideration. For ease of reference, we have attached WRA's biological resources best management practices, which have been required as a Condition of Approval ([Attachment 1](#)). To further respond to appellant's concerns, we have attached a direct response from geotechnical consultant, ENGEO, to contentions in the appeal regarding the scope of geotechnical testing ([Attachment 2](#)).

I. Background

The Daly City Planning Commission approved the CDP on November 14, 2020. The City of Daly City Council ("City Council") approved the CDP, subject to the Conditions of Approval, on December 14, 2020. Phillip Seitzer ("appellant") filed an appeal to the CDP approval dated January 7, 2021.

The Staff Report for the December 14, 2020 City Council hearing ("Staff Report") summarized the relevant background reviewed by the City Council in approving the CDP as follows:

The applicant, Steve Lynch of Sand Hill Property Company, submitted an application for a General Plan Amendment (amendment to the Local Coastal Program), Use Permit (Coastal Development Permit) and Design Review, to construct a 48,650¹ sq. ft. two-story retreat center on a 4.27 acre site located at 2152 Olympic Way (GPA-09-014218, UPR-09-19-014197, DR-09-19-014196). The project site is bounded by a commercial use (horse stables) to the north, Highway 35 (Skyline Boulevard) and a single-family residential neighborhood to the east, undeveloped land and a parking lot for Thornton State Beach to the south, and Thornton State Beach to the west (see Attachment B - Location Map).

The application included two geotechnical feasibility reports prepared by ENGEO (see Attachment C- ENGEO Geotechnical Feasibility Report) and Cotton, Shires, and Associates, Inc. (see Attachment D - Cotton, Shires, and Associates, Inc. Geotechnical Feasibility Study). The ENGEO report recommended a subsurface exploration program be performed to further characterize and evaluate geotechnical hazards at the project site. ENGEO recommended the program include a combination of deep exploratory borings and trenches at the site, laboratory soil testing and a geotechnical slope stability analysis to define stability risks and structural setbacks. The program would also be helpful in making specific geotechnical engineering recommendations for site grading and development, remedial grading measures, foundations, and drainage for the proposed construction. The Cotton, Shires and Associates, Inc. report also recommended a detailed geologic and geotechnical investigation for the retreat center project. After review of the application and discussion with the California Coastal Commission, the City has required the preparation of the supplemental geotechnical study to include subsurface and geotechnical investigations and slope stability and bluff retreat rate analysis.²

II. Project Description and Location

The Staff Report summarized the proposed development as well as the proposed geotechnical subsurface investigation:

The proposed geotechnical subsurface investigation would be conducted to characterize and evaluate geotechnical hazards at the project site and develop a comprehensive geotechnical study to determine the suitability of the site for the proposed retreat center. The applicant's geotechnical consultant, ENGEO, would conduct the proposed geotechnical investigation and prepare the subsequent geotechnical study. A CDP (Use Permit in the Coastal Zone) is required due to the proposed grading and extraction of materials on the site. A Grading Permit is also required and under concurrent review by the Engineering Division.

The proposed exploratory work would include up to six vertical borings, five test pits, and one trench (see Attachment A — Revised Project Plans). Approximately 350 cubic yards

¹ Applicant notes that the correct square footage is 29,200 square feet.

² City Council Staff Report, Use Permit UPR-09-20-014692 – Coastal Development Permit, December 14, 2020, at p. 2 [hereinafter Staff Report].

of cut would be generated during excavation of the trench and test pits. The cut material would be returned to the respective cut areas upon completion of the exploratory work. No import or export of material is anticipated.

Soil Borings. Six soil borings approximately 10 to 250 feet in depth and up to 10 inches in diameter are proposed. Two soil borings would be drilled to a depth of approximately 100 and 250 feet for an evaluation of bedding planes using a tele-viewer. A grouted-in-place vibrating wire piezometer would also be installed in one of the two borings to evaluate the depth conditions over time. The borings would allow ENGEO to gather data on bedding plane orientations within the Merced and Colma Formations as well as groundwater depth fluctuation for use in a slope stability analysis. The four other soil borings would be advanced to a depth between 10 and 50 feet to characterize the subsurface conditions for foundation design purposes. All vertical soil borings would be permitted through San Mateo County and/or the City of Daly City and abandonment would be performed in accordance with permit requirements under regulatory oversight. The cuttings from the soil borings would be scattered onsite after completion of the exploratory work.

Test Pits. Five exploratory test pits approximately 5 feet wide, 5 feet long, and 5 feet deep are proposed for infiltration testing. Vegetation would be removed in the areas of proposed excavation, but no more vegetation would be removed than is necessary for the purpose of this investigation. The test pits would be backfilled with the test pit spoils.

Trench. The exploratory trench would be approximately 5 feet deep, 5 feet wide, and approximately 300 to 350 feet long extending inland from approximately 20 feet from the top of the bluff. At 20 feet from the edge of the bluff, ENGEO would be able to identify how cracking frequency, if any, changes near the bluff and inland toward the proposed development. The trench would allow ENGEO to attempt to identify tension cracks and other recent features indicative of landslide formation. An ENGEO geologist would accompany the trenching subcontractor and map observed lithology, bedding plans, slide plans, and/or cracking, as appropriate. ENGEO does not anticipate that the shallow grading operations would pose a risk to the stability of the bluff at 20 feet from the edge. Vegetation would be removed in the areas of proposed excavation and there would be minimal disturbance of vegetation to mobilize the excavator to and from the proposed site of excavation. No more vegetation would be removed than is necessary for the purpose of this investigation.

The Staff Report noted that two trenches were initially recommended by ENGEO in their report. However, the site plan for the retreat center project has changed since the report was prepared in February 2019.³ After review of the updated site plan, ENGEO determined one trench is sufficient for the proposed testing of the site and modified the proposed testing plan accordingly.

III. Daly City CDP Approval

The Staff Report identified the need for the CDP as follows:

³ Staff Report, at p. 3; *see also id.* at Attachment A – Revised Project Plans.

The project site is within the Light Commercial (C-1) Zoning District / Resource Protection (RP) Combining District with a General Plan Land Use Designation of Commercial — Retail and Office (C-RO). The RP zoning overlay indicates the project site is located within the Coastal Zone. Although no structures are proposed, “development” as defined in the City’s Local Coastal Program (LCP) (Coastal Element in the General Plan) includes grading and extraction of materials on the site. Therefore, a Coastal Development Permit is required.

The Staff Report further identified applicable LCP policies, analyzed the CDP’s consistency with the LCP policies in support of its approval.

Compliance with the LCP must be followed in review of the Coastal Development Permit. LCP policies applicable to this project include:

1. Section 30240 (Environmentally Sensitive Habitat Areas): Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values and development in areas adjacent to environmentally sensitive habitat areas, parks, and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas.
2. Section 30253 (Standards for New Development): Development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard, 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.

The application for the retreat center project included a biological resources assessment prepared by WRA Environmental Consultants (WRA) (see Attachment E — WRA Environmental Consultants Biological Resources Assessment & Memorandums). WRA determined one special-status plant species, San Francisco Bay spineflower, had a moderate potential to occur in the project site, but after conducting a focused, protocol-level rare plant survey in July 2020 (within the species’ published blooming period), no special-status plant species were observed including the San Francisco Bay spineflower. WRA concluded no special-status bird species have a moderate or high potential to occur within the project site, but there is the potential to impact common nesting birds protected by the California Fish and Game Code or Migratory Bird Treaty Act of 1918. Project activities, such as vegetation and tree removal⁴ and ground disturbance, have the potential to impact these species. WRA recommended mitigation measures to address this potential impact and they have been included as Conditions of Approval (see Conditions of Approval No. 4-6).

⁴ Applicant notes that none of the three trees are being removed.

Additionally, no sensitive natural communities (including Environmentally Sensitive Hat Areas), jurisdictional waters or wetlands were identified within or directly adjacent to the project site. WRA determined any nearby wetlands or waters would be protected from indirect impact through the implementation of applicable best management practices (see pp. 170-171 Attachment E — WRA Environmental Consultants Biological Resources Assessment Memorandums).

As discussed in the previous sections, vegetation would be removed in the areas of proposed excavation, but no more vegetation would be removed than is necessary for the purpose of this investigation. All cut material would be returned to the respective cut areas. Further, ENGEO does not anticipate that the shallow grading operations would pose a risk to bluff stability. Lastly, the proposed grading will be reviewed and inspected by the Engineering Division, all vertical soil borings would be permitted through the San Mateo County and/or the City of Daly City, and abandonment would be performed in accordance with permit requirements under regulatory oversight.⁵

The Staff Report included the following findings:

1. In accordance with Title 17 of the Daly City Municipal Code, as well as applicable State zoning enabling legislation, the City Council conducted a public hearing on December 14, 2020; notice of said hearing was by newspaper publication on December 3, 2020, posting and first class mailing to property owners within 300 feet and occupants within 100 feet of the site.
2. The Planning Commission has reviewed the proposal under the requirements of the California Environmental Quality Act (CEQA) and has determined the project is Categorically Exempt per Section 15306: Information Collection.
3. The project site is within the Light Commercial (C-1) Zoning District / Resource Protection (RP) Combining District with a General Plan Land Use Designation of Commercial – Retail and Office (C-RO). The RP zoning overlay indicates the project site is located within the Coastal Zone. Grading and extraction of materials on the site is considered development and therefore a Coastal Development Permit is required.
4. The subject project is consistent with the Local Coastal Program (Coastal Element in General Plan) and Zoning Code and, therefore would not be detrimental to the health, safety, morals, comfort and general welfare of the neighborhood
5. The project site is located within 300 feet of the seaward face of a coastal bluff. Thus, the project may be appealed to the Coastal Commission under Coastal Act Section 30603(a)(2).
6. Staff has received and reviewed geotechnical feasibility reports prepared by ENGEO and Cotton, Shires and Associates, Inc. and determined, after discussion with the California Coastal Commission, that the proposed geotechnical

⁵ Staff Report, at p. 4.

investigation is required to prepare a supplemental geotechnical study for a proposed retreat center project currently under review (GPA-09-19-014218, UPR-09-19-014197, DR-09-19-014196).

7. Staff has received and reviewed a biological resources assessment prepared by WRA Environmental Consultants concluding that environmentally sensitive habitat areas will be protected with applicable best management practices and mitigation measures.
8. The proposed project would minimize risks to life and property in areas of high geologic, flood, and fire hazard, 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.

IV. Appeal Contentions and Responses

Appellant states several reasons for appeal of the CDP approval. None constitute adequate grounds for reversal. The text of each of appellant's contentions are below in *italics*. The applicant's response to each contention follows the contention.

1. Nature of Permit

Comment: This permit, UPR-09-20-014692, is itself associated with a geotechnical survey, and does not itself propose new development.

However, the act of conducting the test resembles development in several important ways. This is particularly true in the context of Daly City LCP laws designed to mitigate, regulate, and manage disruption and destruction of the coast and surrounding area that may occur during construction.

Response: The appellant states that proposed geotechnical testing resembles a development, although it is a geotechnical survey. Daly City, in consultation with the Coastal Commission, has required a CDP for the proposed testing; a CDP requires consistency with a Local Coastal Plan.⁶ City Council granted the CDP after finding that the proposed testing is consistent with the Daly City LCP.

The Daly City Planning Commission and City Council both conducted a thorough review of the proposed geotechnical testing in the context of the CDP application. The findings in the Staff Report are supported by multiple technical studies, including Attachments C, D, and E, two independent geotechnical studies as well as a biological resource assessment.⁷ Based on the

⁶ Staff Report, at p. 2.

⁷ See Staff Report, Attachment C – ENGEO Geotechnical Feasibility Report; Attachment D - Cotton, Shires, and Associates, Inc. Geotechnical Feasibility Study; Attachment E – WRA Environmental Consultants Biological Resources Assessment & Memorandums.

thorough analysis set forth in these findings, the City Council determined that the testing is consistent with the Daly City LCP in order to approve the CDP.⁸

2. Noise

Comment: The initial project proposes to create six vertical borings, five test pits, and a trench. There is expected to 'be approximately 350 cubic yards of cut from trench and test pits. The machinery necessary to produce these borings is expected to generate noise roughly comparable to an idling semi-truck.

Response: The appellant raises concerns regarding the noise impacts of the project. The project's potential to create noise impacts was considered by the City Council, as discussed below. The City Council determined that there would be no noise impacts associated with the project. Further, the Conditions of Approval to the CDP ensure that any noise impacts are compliant with the Daly City General Plan and Municipal Code.

The minutes from the November 17, 2020 City Council hearing indicate that potential noise impacts were considered at the hearing, and determined to be insignificant. The minutes state:

The project would be conducted during normal business hours (Monday-Friday, 7:00am-5:00pm) and the proposed work would be doubled up when possible to shorten the project's timeline. The equipment that would be used would not create significant vibrations. The noise that would be generated from the project would be similar to that of the nearby highway. Ms. Periat also stated that ENGEO has conducted the same geotechnical work on other properties with animals nearby (e.g. cattle fields) and did not observe any significant disturbance to the animals. The horses are also acclimated to noise due to the nearby highway.⁹

Therefore, the City Council considered and discussed noise, whereupon they anticipated that noise would be similar to the current ambient highway noise conditions and would not create impacts.

Further, the proposed testing is consistent with noise regulations in the Daly City General Plan. Per the Noise Element of the General Plan, short-term noise impacts are subject to time limitations.¹⁰ Program NE-2, regarding impacts from construction noise, sets a goal of limiting excessive noise after 5:00 PM, Monday through Friday, and on Weekends.¹¹ Accordingly, the City sets time limitations for short-term noise impacts during the permitting process within the conditions of approval for a discretionary approval. Usually the conditions limit activity to the time period from 8:00 AM to 5:00 PM, prohibiting activity on weekends and Holidays.¹² While

⁸ Staff Report, at p. 6.

⁹ *Id.* at p. 1.

¹⁰ Daly City General Plan 2030: Noise Element, 206, available at <https://www.dalycity.org/DocumentCenter/View/903/Noise-Element-PDF>.

¹¹ *Id.* at 220.

¹² *Id.* at 206. ("Discretionary Review of Projects Title 17 Zoning of the Daly City Municipal Code provides for discretionary review of projects through the use permit and variance process. An application for development is analyzed in light of many concerns including comparing the proposed use against the noise contours and Noise Compatibility Guidelines. The Planning Division attaches conditions of project approval to reduce noise impacts to

these regulations are applicable to construction noise, rather than geotechnical subsurface testing, the testing is similarly a temporary activity. Here, the City granted the permit subject to the following condition, set by the engineering department: "[w]ork hours shall be limited to Monday through Friday, 8:00 AM to 5:00 PM."¹³ This testing will only occur for approximately two to six weeks.¹⁴ Therefore, the proposed testing is consistent with the Daly City Municipal Code and the Noise Element of the Daly City General Plan. Since the Conditions of Approval limit testing times for this temporary activity, the proposed testing is consistent with the Municipal Code and General Plan.

The City Council considered and discussed potential noise impacts, as shown by the excerpted text above. The City Council anticipated that any noise generated by the proposed testing would be similar to the current ambient highway noise conditions, and ensured compliance with the Daly City General Plan and Municipal Code by subjecting the CDP to the time limitations in Condition of Approval 8. Therefore, the City Council correctly determined that the proposed testing would not create impacts.

3. Effect on Biological Resources

Comment: *Daly City LCP p. 40 Item 2 states "The development and use of Mussel Rock Park, Daisaku Ikeda Canyon, and Thornton State Beach shall include measures to protect and mitigate existing plant and animal communities."*

(underlines mine)

The proposed test site is directly adjacent to Thornton State Beach. The noise, dust, and debris kicked up in the boring process may disturb local plants and animal communities. No measures have been proposed by the permit applicants addressing this statute.

Response: The appellant states that the proposed geotechnical testing is adjacent to the closed Thornton Beach, and that the boring process will create noise, dust, and debris that disturbs local plant and animal communities. The appellant states that no measures have been proposed by the permit applicants to address the LCP policy.

This particular LCP policy is not directly applicable to the permitted development because the development will occur on private property. This policy applies to "development and use of ... Thornton State Beach," rather than private property adjacent thereto. Further, the City Council adopted the finding that: "[t]he subject project is consistent with the Local Coastal Program."¹⁵ Even so, the permit includes several "measures to protect and mitigate [damage to] existing plant and animal communities," per the LCP policy cited.

future occupants of the proposed development as well as conditioning times construction activities may occur in order to reduce noise impacts to surrounding land uses.")

¹³ Staff Report, Condition of Approval 8, at p. 7.

¹⁴ ENGEO Letter to Steve Lynch Re: RESPONSE TO DALY CITY CDP COMMENTS, October 7, 2020. ("[T]he exploratory trench will take a maximum of two weeks to excavate, examine/document, and then backfill.

Exploratory borings will also take approximately two weeks to complete. Infiltration testing will take one to two weeks to complete.")

¹⁵ *Id.*

Section III above further details the City Council's evaluation of biological resource assessments conducted to date. To the extent that the permitted activity disturbs biological resources at the development site, the permit Conditions of Approval include several conditions to protect these biological resources. Accordingly, in approving the CDP, the City Council found that "environmentally sensitive habitat areas will be protected with applicable best management practices and mitigation measures." Council granted the permit, contingent upon satisfaction of eight Conditions of Approval, four of which regard Biological Resources.¹⁶ They include the following:¹⁷

2. The applicant shall comply with all applicable Best Management Practices recommended by WRA Environmental Consultants and as outlined in the WRA Environmental Consultants Biological Resources Assessment and associated memorandums.
3. Project activities, such as vegetation removal, grading, or initial ground-disturbance, shall be conducted between September 1 and January 31 (outside of the February 1 to August 31 nesting season) to the greatest extent feasible.
4. If the project activities must be conducted during the nesting season, a pre-construction nesting bird survey shall be conducted by a qualified biologist no more than 14 days prior to vegetation removal or initial ground disturbance. The survey shall include the project site and surrounding vicinity to identify the location and status of any nests that could potentially be affected either directly or indirectly by project activities.
5. If active nests of native nesting bird species are located during the nesting bird survey, a work exclusion zone shall be established around each nest by the qualified biologist. Established exclusion zones shall remain in place until all young in the nest have fledged or the nest otherwise becomes inactive (e.g., due to predation). Appropriate exclusion zone sizes shall be determined by a qualified biologist and shall vary based on species, nest location, existing visual buffers, noise levels, and other factors. A minimum exclusion zone of 300 feet from non-raptor species and 500 feet from raptors shall be employed to assure protection of any nesting birds on or near the project site. The exact size of the exclusion zone shall be determined by a qualified biologist based on the species that are present. Exclusion zone size shall be reduced from established levels by a qualified biologist if nest monitoring findings indicate that project activities do not adversely impact the nest, and if a reduced exclusion zone would not adversely affect the nest.

These Conditions were adopted based on the comprehensive biological resources assessment prepared by WRA, and the measures recommended there.¹⁸ As noted above, the CDP conditions of approval require compliance with the applicable best management practices recommended by WRA. Those are excerpted in Attachment 1. These practices include erosion and sediment control measures as well as other practices. It should be noted that these best management

¹⁶ Staff Report, at p. 6-7.

¹⁷ *Id.*

¹⁸ Staff Report, Attachment E – WRA Environmental Consultants Biological Resources Assessment & Memorandums.

practices have been recommended for the full development scope of work, but will be applied to the geotechnical testing to the extent applicable as well.

Further, as addressed above, noise impacts were considered at the December 14, 2020 hearing.

Therefore, the permit Conditions of Approval contain measures to mitigate impacts on biological resources.

4. Geological Hazards of Blufftop Development

Comment: *Additionally, LCP p. 42 Item 4 states*

Development of remaining vacant parcels along the blufftops shall be prohibited, unless geologic and seismic constraints and public safety requirements can be mitigated (Goal 3 and Section 30253)

The act of boring the large holes proposed in this geotechnical survey may itself destabilize the cliffs, increasing the chances of landslide or otherwise cause or enhance coastal erosion. The displaced material would directly affect adjacent (and downhill) Thornton State Beach. No measures have been proposed to demonstrate that the boring and trench-digging process would not cause such an event.

In order to safely assess the geologic and seismic constraints and public safety requirements, there should be assurances that the boring of the large holes and digging of trenches will not cause undue stress or damage to the land in and around the proposed test site. At a minimum, an additional (preferably noninvasive) test should be conducted to determine if the digging and boring proposed in CDP UPR-09-20-014692 can be safely performed.

Response: The appellant states that the geotechnical testing may destabilize the cliff. The City Council, in consultation with the California Coastal Commission, has required the geotechnical testing precisely to ensure that further development **does not** destabilize the cliffs. In short, this CDP permits testing that will prevent destabilization, and therefore ensure greater compliance with the Daly City LCP.

The consultant ENGEO recommended the proposed geotechnical testing as a precautionary measure before further development of the site.¹⁹ This is reflected in the Staff Report, Attachment C thereto, a letter from ENGEO responding to comments on the CDP, and Attachment 2 to this letter. Attachment C clarifies that the project applicant is proposing this geotechnical testing in order to "characterize and evaluate geotechnical hazards at the site, and over global stability of the property."²⁰ The letter from ENGEO further clarifies the purpose of the CDP: "The purpose of the CDP is to perform a geotechnical subsurface exploration to further characterize and evaluate geotechnical hazards at the site as requested by both Daly City and the California Coastal Commission (CCC)."²¹ In other words, the applicant is conducting the permitted activity as an effort to come into further compliance with the LCP policy cited by the

¹⁹ Staff Report, at p. 2.

²⁰ Staff Report, Attachment C – ENGEO Geotechnical Feasibility Report, at p. 2.

²¹ ENGEO Letter to Steve Lynch Re: RESPONSE TO DALY CITY CDP COMMENTS, October 7, 2020.

appellant. Consistent with this effort, the City Council adopted the finding that: "[t]he subject project is consistent with the Local Coastal Program."²²

The appellant states that the borings may directly affect the closed Thornton State Beach, and that nothing has been proposed to demonstrate that there will be no geological hazards as a result of the boring. However, the Staff Report noted that "ENGEO does not anticipate that the shallow grading operations would pose a risk to the stability of the bluff at 20 feet from the edge."²³

Further, based on the data provided in the technical studies, the City Council adopted the finding that:

The proposed project would minimize risks to life and property in areas of high geologic, flood, and fire hazard, 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.²⁴

Therefore, the City Council determined that the proposed geotechnical testing would not have the effects proposed by appellant.

The appellant states that an additional test should be conducted to confirm that the boring can be safely performed. As noted above, the proposed geotechnical testing is itself proposed to confirm that development can be safely permitted on the site.

ENGEO has since prepared an additional response to the appeal, included as Attachment 2. ENGEO explains that "subsurface exploration as planned is believed to have no impact on global stability of areas explored, and that "[t]he methods and equipment planned to be used are commonly used to gather data in order to characterize subsurface geologic and geotechnical conditions." The ENGEO letter also identifies measures planned to reduce impacts of stability at drilled holes and excavations. It also explains why the use of "non-invasive" testing is not a practical or sufficient method to characterize and define geotechnical strength parameters .

Finally, it may also be noted that the proposed testing has also been modified to reduce the number of trenches from two to one, in order to minimize disturbance to users of the property today. The trench and borings have also been relocated by the applicant to minimize physical blockage of the land.

Comment: It's worth mentioning that this and surrounding areas have historically suffered a high degree of coastal erosion and landslides. Previous surveys (including one conducted as recently as 2019) of the area have found it to be unsuitable for construction. The documented history of instability, in my view, elevates the importance of proceeding cautiously, and delaying or disallowing this test to occur (if appropriate).

²² Staff Report, at p. 6.

²³ *Id.*

²⁴ *Id.*

Response: The appellant states that there is a history of landslides and erosion in the area, and that this justifies prohibition of the proposed testing. This contention is not tied to the proposed testing's conformity with the Local Coastal Plan, and is therefore not a grounds upon which the grant of the CDP may be reversed.²⁵ However, as explained above, the proposed testing will reduce the risk of erosion and landslides that appellant references. Moreover, the history of erosion and landslides is set forth in Attachment C to the Staff Report, and therefore reviewed by the City Council in approving the CDP.²⁶ The Attachment reviews the history of catastrophic landslides. The Attachment concludes that the level area of site, the proposed testing site itself, does "not display obvious evidence of deep landslide activity," but conservatively recommends that the proposed testing permitted by the CDP precisely because of this history of landslides.²⁷ Therefore, the hazards that appellant points to are actually the rationale for testing, and further justify the grant of the CDP.

Therefore, the City considered the history of landslides in the vicinity and determined that the proposed testing is requisite to mitigate risk of geologic hazards, and to further compliance with the LCP.

5. Daly City Zoning Ordinance

Comment: *In fact, the Daly City legislature recognized the fragility of the area, and codified this concern in the **Daly City Resource Protection (-RP) Combining District of the Zoning Ordinance**. Pursuant of this ordinance,*

"grading or filling operations except for those required as drainage and erosion control measures, and requires permanent vista corridors of at least five feet or 15 percent of the lot, whichever is greater for any development which occurs within the district"

*The testing site itself is also in violation of the **Daly City Resource Protection (-RP) Combining District of the Zoning Ordinance**:*

"construction within 50 feet of the bluff top, on a slope greater than thirty percent, or where the vertical relief is ten feet or greater."

The above Daly City LCP statutes directly address concerns associated with the geotechnical survey test.

Other Statutes in the Daly City LCP associated with development on the proposed test site may be less relevant for CDP PR-09-20-014592, however, it is worth including them here both so that (1) this permit may be understood as one of a series of permits (ultimately concluding in a permit requesting development of a large commercial property), and that (2) the ethos of the relevant

²⁵ " For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions." APPEAL FORM: Appeal of Local Government Coastal Development Permit, California Coastal Commission, at p. 4.

²⁶ Staff Report, Attachment C, "History of Landsliding in Vicinity ," at p. 2.

²⁷ Staff Report, Attachment C, "Conclusions and Recommendations," at p. 8.

Daly City LCP statutes may be communicated (a theme of caution, limited development, and community benefit and buy-in will emerge).

Response: The appellant states that the project violates the Daly City Resource Protection(-RP) Combining District of the Zoning Code.

The Resource Protection Combining District imposes regulations to “ensure that the character and intensity of allowable development is compatible with, and does not create or contribute to adverse impacts on sensitive resources or geotechnically hazardous areas.”²⁸ It is not intended to chill development altogether, rather, it is intended to provide regulations to ensure safe development given existing conditions. In order to do so, it requires a “geotechnical report”²⁹ exactly as has been proposed as part of the current CDP. The above discussion describes the careful analysis that has been conducted regarding existing geotechnical conditions as well as the proposed testing to ensure that development can safely occur. Accordingly, the current CDP is consistent with the Zoning Code.

Moreover, the appellant cites Zoning Code § 17.27.050, which does not apply.. This section of the Zoning Code applies to all new construction within an -RP district, rather than geological testing. The Ordinance regulates the -RP district as follows: "If the *development* is on a blufftop... [n]o *building or structure* shall be placed closer than fifty feet from the edge of the bluff, the setback line to be determined by the city ..."³⁰ The future development proposal will be evaluated in relation to these Code provisions, as well as the grading and filling provisions and all other provisions related to development itself.

The foregoing supports the City Council’s finding that: "[t]he subject project is consistent with the...Zoning Code."³¹

6. Visitor Recreation

Comment: *The current **Daly City LCP p.20, item 30222 (Visitor-serving commercial recreational facilities)** protects use of private land for visitor-serving recreation:*

“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.”

Construction on coastal bluffs is specifically addressed, requires extensive assurances of safety, and community approval and buy-in:

²⁸ Daly City Municipal Code § 17.27.010.

²⁹ *Id.* at § 17.27.040(B)

³⁰ *Id.* at § 17.27.050 - Development regulations.

³¹ Staff Report, at p. 6.

*From **Daly City LCP p. 42:***

City review and approval of all new development shall insure that the rights and privacy allowed by law of existing residents are protected, and that existing and proposed recreational uses are protected and, where feasible, enhanced. (Goal 1 and Sections 30240(b), 30250(a), and 30253)

Development of the vacant privately-owned and state-owned properties on the blufftop overlooking Thornton State Beach shall be reserved for recreation and visitor-serving uses. (Goal 1 and Section 30222)

Response: The appellant cites LCP policies related to protecting visitor serving recreation. The extent to which the ultimate development project will preserve visitor serving recreation will be considered as part of the forthcoming CDP to consider the development project. The CDP for the geologic testing is only a preliminary action and does not risk any harm to visitor-serving recreation. Finally, while it is not relevant now to the consideration of the CDP for geotechnical testing, it is noted the current development plans anticipate formalizing and improving coastal access, where today the land is private property with only limited access for certain groups.

7. CEQA Exemption

Comment: *The filers of this permit asserted that they were granted an exemption under CEQA. The specific exemption was not communicated to the general public. This unconditional CEQA waiver is inappropriate under **Daly City LCP p. 42a:***

“A resource protection zone shall be established between the sea and the first public road paralleling the sea. All development within this zone shall be subjected to strict environmental review. (Goal 4 and Section 30253)”

Response: The appellant states that: (1) the exemption was not communicated to the general public, (2) the CEQA exemption is inappropriate.

First, the exemption was communicated to the general public through the notice and comment period required for the grant of a CDP, as set forth in the findings requisite to the grant of the CDP. First, the City Council hearing was appropriately notice. The findings state:

In accordance with Title 17 of the Daly City Municipal Code, as well as applicable State zoning enabling legislation, the City Council conducted a public hearing on December 14, 2020; notice of said hearing was by newspaper publication on December 3, 2020, posting and first class mailing to property owners within 300 feet and occupants within 100 feet of the site.³²

³² Staff Report, at p. 5.

The Staff Report identified (in two separate statements) that the project falls under the exemption from environmental review “pursuant to CEQA Guidelines Section 15306: Information Collection.”³³

Second, the CEQA exemption is appropriate. The Staff Report identified that the project falls under the exemption from environmental review under CEQA “pursuant to CEQA Guidelines Section 15306: Information Collection.”³⁴ The Council found that: “[t]he project includes basic data collection that would not result in a serious or major disturbance to an environmental resource, as discussed in the sections above, and the information gathered would be used as part of a study leading to an action which a public agency has not yet approved.”³⁵ Therefore, since the project is consistent with CEQA Guidelines section 15306, the exemption is appropriate.

Finally, it is noted that geotechnical analysis is being conducted to collect information for the purposes of CEQA review for future proposed development.

V. Substantial Issue Determination

The appellant does not raise a significant issue, per Cal. Code Regs. § 13115(c), because: the Staff Report provides that the City Council relied on strong legal and factual support; the scope of this development is temporally limited to a maximum of a few weeks, as are any effects of coastal resources; the City of Daly City needs precedential certainty with respect to its ability to permit geological testing that will protect its unstable bluffs; and the City of Daly City requires certainty with respect to its ability to interpret its own LCP.

The Coastal Commission’s regulations indicate that the Commission will hear an appeal unless it “finds that the appeal raises no significant question.”³⁶ Section 13115(c) of the Commission’s regulations provides, along with past Commission practice, that the Commission may consider the following five factors when determining if a local action raises a significant issue: 1) the degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the certified LCP; 2) the extent and scope of the development as approved or denied by the local government; 3) the significance of the coastal resources affected by the decision; 4) the precedential value of the local government’s decision for future interpretations of its LCP; and 5) whether the appeal raises only local issues, or those of regional or statewide significance.³⁷

1. The Record Shows That the City’s Decision to Grant the LCP is Supported by Strong Legal and Factual Support,

The decision is supported by strong factual support, as demonstrated by the thorough review of multiple technological studies. The findings in the Staff Report are supported by the facts from

³⁴ *Id.*; see also 14 Cal. Code Regs. § 15306. (allowing an exemption for “Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded.”)

³⁵ Staff Report, at p. 5.

³⁶ 14 Cal. Code Regs. § 13115(b).

³⁷ *Id.* at § 13115(c).

multiple technical reports, including the two geotechnical surveys and the biological assessment. Attachments C, D, and E to the Staff Report demonstrate a thorough review of evidence from multiple consultants, as explained in the responses above.

The decision is supported by strong legal support. The Staff report shows a reliance on the Daly City LCP by citing both Section 30240 (Environmentally Sensitive Habitat Areas) Section 30253 (Standards for New Development), and establishing compliance with both policies. The decision is therefore supported by strong legal and factual support.

2. The Scope of the Approved Development is Extremely Narrow

The scope of the development is narrow because it only concerns *temporary* geotechnical feasibility testing for *future* development. No structures will be erected, and there will be no permanent change to the lot site. This is a threshold, preliminary investigation to identify the *potential* for development at the site.

3. The City's Decision Will Actually Assist in Preserving Coastal Resources

As stated above, the proposed testing will aid in preserving coastal resources by serving as a precautionary measure.

4. Precedent is Requisite to Create Certainty Where Daly City Needs to Permit Further Geotechnical Testing

Daly City may need to permit further testing in the future. To set a precedent for permitting this type of activity as compliant with the LCP will enable preservation of coastal resources in Daly City.

5. The Appeal Raises Issues of Local Importance because it Concerns Interpretation of the Daly City Local Coastal Plan

As the Coastal Commission originally, delegated authority to grant or deny the CDP to the City, The grant of this CDP is contingent upon compliance with the Daly City LCP. The City should therefore receive deference in determining that the terms of its own LCP have been met and its decision has been support with ample evidence.

We thank you for your time and consideration. Please do not hesitate to reach out with any further questions.

Sincerely,



Chelsea Maclean

Cc: Steve Lynch (SLynch@shpco.com)

Attachment 1

Biological Resources Best Management Practices



Gregory Sproull, Project Manager
WRA, Inc.
sproull@wra-ca.com; 415-524-7530
10/23/2020

2152 Skyline Boulevard Best Management Practices

The 2152 Skyline Boulevard project (Project) would incorporate the following best management practices (BMPs) to all work that occurs on-site to minimize indirect impacts to sensitive aquatic resources and special-status plant species that may occur off-site:

- Erosion and sediment control measures, such as compost filter socks or erosion control blankets, shall be placed along the western boundary of the Project Area to prevent debris and sediment-laden water from impacting potential aquatic features that may be situated west of the Project Area. Plastic monofilament mesh covering for erosion control blankets or erosion control materials are prohibited for erosion control. Best management practices shall be used when designing and installing such devices.
- A worker environmental awareness plan shall be developed and administered to educate workers on potentially sensitive aquatic resources and special-status species that may be located off-site and which must be protected.
- The contractor shall be responsible for constant maintenance of erosion and sediment control measures at all times to the satisfaction of the engineer and City agency. Erosion and sediment control measures and their installation shall be accomplished using BMPs.
- The contractor shall be responsible for corrective action to surface waters affected from not implementing erosion and sediment control BMPs.
- During the rainy season (typically October 15 to April 15), all sediment barriers shall be inspected and repaired at the end of each working day and, in addition, after each storm event.
- Unstable areas shall be repaired as soon as possible if damaged.
- All graded or disturbed areas shall be stabilized immediately after grading is complete.
- Entrance to the Project Area shall be maintained in a condition that will prevent tracking or flowing of sediment into public right-of-way. When necessary, wheels shall be cleaned to remove sediment prior to entrance of public rights-of-way. When washing is required it shall be done in an area stabilized with crushed rock that drains into a sediment trap.
- All erosion and sediment control measures shall be removed when they have served their purpose so as not to block or impede storm flow or drainage.
- All erosion and sediment control measures shall be repaired or replaced when they are no longer functioning.
- The contractor shall have erosion and sediment control measures on site adequate to protect the entire site prior to the October 15 date such that it is immediately available in preparation of the upcoming winter season or in the event of an early rain.
- The contractor shall comply with all rules, regulations, and procedures of the national pollutant discharge elimination system for construction and activities as promulgated by the California State Water Resource Control Board or any of its Regional Water Quality Control Boards.
- All materials necessary for winterization shall be available at the site by October 12, and all winterization measures shall be installed and completed by October 15.
- Stockpiled waste material shall be contained and securely protected from wind erosion at all times when not in use.

- The contractor shall provide effective soil cover for inactive areas where construction activity has disturbed soil but are not scheduled to re-disturb soil for at least 14 days.
- The contractor will comply with applicable local, state, and federal regulations if there is a spill or suspected release.
- All necessary and appropriate erosion control measures shall be implemented to prevent the discharge of earthen material to potential offsite wetlands from disturbed areas during all periods of site grading and construction. These measures shall be implemented prior to the onset of the wet season.
- The construction area shall be delineated by orange construction fencing in order to minimize impacts to sensitive habitat beyond the work area. The construction fencing shall be shown on the construction documents and shall remain for the duration of the Project construction period.
- Personnel shall prevent the accidental release of chemicals, fuels, lubricants, and non-storm drainage water into off-site areas.
- Spill prevention kits shall always be in close proximity when using hazardous materials.
- No equipment servicing shall be done within 150 feet of western boundary of the Project Area, unless equipment stationed in these locations cannot be readily relocated (i.e., pumps, generators).
- Vehicles operated within 150 feet of the western boundary of the Project Area shall be checked and maintained daily to prevent leaks of materials.
- Potential contaminating materials must be stored in covered storage areas or secondary containment that is impervious to leaks and spills
- Herbicides shall not be used within 150 feet of the western boundary of the Project Area.
- Sediment shall be removed from sediment controls once the sediment has reached one-third of the exposed height of the control. Workers shall dispose of sediment collected in these devices at approved disposal sites. Collection devices shall be inspected at least once a day to ensure they are functioning properly. If a control measure does not function effectively, it shall be immediately repaired or replaced. Additional controls shall be installed as necessary.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- The use of the firearms is prohibited from the Project Area to avoid harassment, killing, or injuring of wildlife.
- No animals (e.g., dogs or cats) shall be brought to the Project Area to avoid harassment, killing, or injuring of wildlife.
- The Project Area shall be maintained trash-free, and food refuse shall be contained in secure bins and removed daily during construction.
- The potential for wildfires shall be reduced by parking vehicles away from vegetation to the extent feasible and by the use of shields, protective mats, and other fire prevention methods when welding, grinding, or conducting other activities that are likely to create a fire hazard. The Project Area shall have adequate sources of water, shovels, and fire extinguishers available for immediate use. All vehicles and heavy equipment used in the Project Area shall have on-board fire extinguishers. During the dry season, vehicles shall never be parked or idled so that the undercarriage is in contact with vegetation.
- To avoid the spread of new or additional non-native, invasive weed species, all equipment will be washed and inspected prior to entering the Project Area. Any plant debris, mud, or dirt will be removed from all parts of vehicles and equipment. Information about invasive species and limiting their spread will be included in the pre-project worker environmental awareness training.

Attachment 2

ENGEO Response to Appeal



GEOTECHNICAL
ENVIRONMENTAL
WATER RESOURCES
CONSTRUCTION SERVICES

Project No.
8438.002.000

January 29, 2021

Mr. Steve Lynch
Sand Hill Property Company
965 Page Mill Road
Palo Alto, CA 94304

Subject: Olympic Way Retreat Center
Daly City, California

RESPONSE TO CCC APPEAL

- References:
1. ENGEO; Geotechnical Feasibility Report (DRAFT), Skyline Bluffs, Daly City, California; March 11, 2019; Project No. 8438.001.000.
 2. Appeal of Local CDP Application to California Coastal Commission; January 7, 2020.

Dear Mr. Lynch:

As requested, we prepared this letter to respond to and address comments made in an appeal filed to the California Coastal Commission (CCC) in response to the Coastal Development Permit (CDP) for the planned geotechnical subsurface investigation at the subject site, dated January 7, 2021. The comment made in the appeal (Reference 2) is provided below in italics followed by our response:

***Appeal Comment:** The act of boring the large holes proposed in this geotechnical survey may itself destabilize the cliffs, increasing the chances of landslide or otherwise cause or enhance coastal erosion. The displaced material would directly affect adjacent (and downhill) Thornton State Beach. No measures have been proposed to demonstrate that the boring and trench-digging process would not cause such an event.*

In order to safely assess the geologic and seismic constraints and public safety requirements, there should be assurances that the boring of the large holes and digging of trenches will not cause undue stress or damage to the land in and around the proposed test site. At a minimum, an additional (preferably noninvasive) test should be conducted to determine if the digging and boring proposed in CDP UPR-09-20-014692 can be safely performed.

It's worth mentioning that this and surrounding areas have historically suffered a high degree of coastal erosion and landslides. Previous surveys (including one conducted as recently as 2019) of the area have found it to be unsuitable for construction. The documented history of instability, in my view, elevates the importance of proceeding cautiously, and delaying or disallowing this test to occur (if appropriate).

ENGEO Response: The purpose of the CDP is to perform a geotechnical subsurface exploration to further characterize and evaluate geotechnical hazards at the site, as requested by both Daly City and CCC. The geotechnical subsurface study is planned to include limited exploration locations: six (6) exploration soil borings, one (1) exploratory trench, and five (5) exploratory test pits. The explorations are setback greater than 20 feet from the bluff edge. The drilled borings will consist of small diameter drilled holes, and test pits and the trench will be backfilled and surface groomed upon completion. The planned field exploration at the site is expected to be completed within about 2 weeks.

For clarification, subsurface exploration as planned is believed to have no impact on global stability of areas explored. The methods and equipment planned to be used are commonly used to gather data in order to characterize subsurface geologic and geotechnical conditions. The equipment and methods are commonly used in the San Francisco Bay Area and abroad. Also, measures will be used as part of the field exploration to restore areas and reduce impacts to areas. Even when exploration points lie within known geologic hazard areas, such as landslides, the field exploration site work does not increase risk of instability to large land masses. The following measures are planned to reduce impacts of stability at drilled holes and excavations.

- Backfilling of all borings with cement grout under permit and direct oversight of Daly City;
- Backfilling of trench areas immediately upon completion of testing and logging. No voids, open holes or pits will be left open following the investigation.
- Containerization and offsite disposal of all excess soils generated during drilling (i.e. no excess soil will be left onsite from borings)
- All drilling and trenching activities will be directed and overseen by licensed Engineering Geologists, Geotechnical Engineers and experienced, licensed drillers/ excavation contractors.

In our experience, the use of "non-invasive" testing is not practical or sufficient method to characterize and define geotechnical strength parameters and index properties to model and determine stability factors of safety to properly analyze seismic stability loading and long-term static stability conditions. It is our experience that detailed field boring, test pits and trench logging will characterize subsurface conditions.

The bluff edge, while proximal to notable bluff failures such as Mussel Rock and Lyndale Court, is different from those sites since it is buttressed by the Thornton Beach Landslide mass. Wave action on exposed cliffs is the leading cause of instability and ongoing landslides in the region, and this is occurring on the large landslide mass buttressing the site, not the bluff edge. This landslide mass provides added stability to the bluff edge, which has remained relatively stable despite being highly trafficked by pedestrians, dogs and horses. Events which are more likely to affect the bluff stability would be heavy rain events and/or large earthquakes. Measuring the susceptibility of the bluff edge to these larger forces such as historic rain events, earthquakes and episodic deep seated rotational landslides is the goal of this investigation.

Considering the scale and short term impacts of subsurface field work planned, the set back from the bluff edge, and our experience performing similar explorations in similar geologic conditions, we do not anticipate the subsurface investigation to lead to destabilization of the bluff.

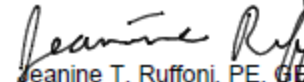
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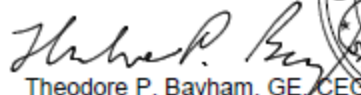
We strived to perform our professional services according to generally accepted principles and practices currently employed in the area; no warranty, express or implied, is provided. If you have any questions or comments regarding this letter, please call and we will be glad to discuss them with you.

Sincerely,

ENGEO Incorporated


Jeanine T. Ruffoni, PE, GE
Associate




Theodore P. Bayham, GE, CEG
Principal




Nadine Periat, PG
Associate

jtr/np/tpb/cjn