

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT  
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VOICE AND TDD (415) 904-5260  
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May 12, 2006

Daniel Grimm  
The Peebles Corporation  
550 Biltmore Way, Suite 970  
Coral Gables, FL 33134

Andres Duany  
Duany, Plater, Zyberk & Company  
1023 SW 25<sup>th</sup> Avenue  
Miami, FL 33135

**SUBJECT: Pacifica Quarry Development**

Dear Messrs. Grimm and Duany:

Thank you for the invitation to participate in the charrette scheduled for next week (May 15-May 21) concerning development of the Pacifica Quarry site. Based on the documents you have provided, we understand the purpose of next week's charrette to be to "give all of the participants enough information to make good decisions during the planning process." The staff of the Coastal Commission supports this goal and we are pleased that you have taken the initiative to seek input from the community and public agencies concerning your plans to develop the quarry site. Unfortunately, due to prior commitments, Commission staff will not be able to attend the charrette. We are available, though, to meet with you to discuss preliminary project concepts and the various coastal policies and resource issues that must be addressed by any development proposal at the Pacifica Quarry site. In the meantime, we would like to submit the following comments for your consideration, and request that you make these comments available to members of the public and other participants of the charrette so that they may better understand the required coastal development planning and permitting requirements.

As you know, the identification of significant site constraints that would limit the kinds, locations, density, and intensity of development on a project site is the first critical step for making good planning decisions for any development project. Such a "constraints analysis" should consider (1) physical constraints such as the size of the site, sensitive biological resources, aesthetic concerns, cultural resources, geological and other hazards, and the availability of necessary infrastructure, such as water, sewer, and transportation capacity; (2) legal constraints such as prior permit conditions, easements, deed restrictions, and adjudications; and (3) regulatory constraints such as local zoning and general plan designations and other land use regulations and state and federal environmental protection laws.

As summarized below and further detailed in the attached correspondence, significant regulatory constraints exist under the Coastal Act that severely limit the feasibility of any development of the quarry site. As such, we strongly recommend that you undertake a thorough constraints

analysis in coordination with all affected local, state, and federal agencies as an initial step in shaping your development plans. Such analysis will be required for any coastal development permit application for development of the quarry site.

### **Coastal Development Permit Requirements**

In accordance with Section 30600 of the California Coastal Act, any development undertaken in the state's coastal zone requires a coastal development permit (CDP). The Pacifica Quarry site is located in the coastal zone in an area of deferred certification in the City of Pacifica's Local Coastal Program (LCP). As such, the Coastal Commission retains permit jurisdiction over the site and a CDP must be obtained from the Commission for any development. To grant a CDP for development of the site the Coastal Commission must determine that the proposed development is consistent with the public access and recreation and coastal resource protection policies contained in Chapter 3 of the California Coastal Act. The following summarizes some of the key issues affecting development of the quarry site under the Coastal Act. Please see the attached correspondence concerning the quarry site development proposed in 2002 by Trammel Crow and other related developments for a detailed discussion of these issues.

### **Environmentally Sensitive Habitat Areas**

Section 30107.5 of the Coastal Act defines "environmentally sensitive area" as follows:

[A]ny area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Section 30240 of the Coastal Act provides:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30240 of the Coastal Act requires that environmentally sensitive habitat areas (ESHAs) be protected from significant disruption of habitat values and allows only uses that are dependent on those resources within ESHAs. Section 30240 further requires that development located adjacent to ESHAs be compatible with and be sited and designed to prevent impacts that would significantly degrade those areas. To meet the requirements of Section 30240, the CDP application must: (1) define the geographical extent of all ESHAs on the site, (2) evaluate the biological functions and values of any ESHA, including ecological services and interrelationships to surrounding biological resources; (3) demonstrate that only uses dependent on the habitat would be located in these areas (e.g., habitat restoration), and (4) show how the proposed development would avoid significant disruption of all ESHAs.

Based on information in our files, it appears that a significant portion of the quarry site is ESHA supporting numerous sensitive species, including the California red-legged frog, San Francisco garter snake, Western pond turtle, Loggerhead shrike, Saltmarsh common yellowthroat, Harbor seal, and numerous special status plant species. Coastal Act Section 30240 prohibits any development that would significantly disrupt habitat supporting any of these sensitive species. The California red-legged frog, San Francisco garter snake, Western pond turtle, Loggerhead shrike, and Saltmarsh common yellowthroat are known to occur at the site. Any CDP application for development of the quarry site must identify all ESHAs on and adjacent to the site and evaluate the potential impacts of the proposed development to such areas. Again, section 30240 prohibits non-resource dependent development, such as residential or commercial buildings, in an ESHA. Offsite mitigation, such as habitat restoration, may not be used to allow development in an area that is identified as ESHA.

### **Wetlands**

“Wetland” is defined in Section 30121 of the Coastal Act as “land which may be covered periodically or permanently with shallow water, including saltwater marshes, freshwater marshes, streams, creeks, open or closed brackish water marshes, swamps, mudflats or fens.” Section 13577(a)(1) of the Commission regulations further defines “wetland” as follows:

Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats. For purposes of this section, the upland limit of a wetland shall be defined as:

- (A) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;
- (B) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or
- (C) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.

Coastal Act Section 30233 prohibits development in wetlands except for the following eight specifically enumerated uses:

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

Similar to the ESHA requirements, all other development is prohibited in wetlands and may not be permitted even where mitigation is provided. In addition, the Coastal Commission typically requires a minimum buffer of 100 feet between wetlands and developed areas to prevent adverse impacts to wetland habitat. Greater buffers are often required for wetlands that provide habitat for sensitive species such as the California red-legged frog.

Based on information in our files, it appears that the quarry site contains significant wetland habitat. Any CDP application for development of the quarry site must contain a delineation of all wetlands on the site employing the Coastal Act definition. The proper wetland definition for Coastal Act purposes is not the definition used by the Army Corps of Engineers under the Clean Water Act, but that contained in the Coastal Act and 14 CCR Section 13577. The wetland definition contained in 14 CCR Section 13577 is more inclusive than the wetland definition applicable to determining the presence of Corps jurisdictional wetlands. Under the Section 13577 wetland definition, the observation of any one of three wetland parameters – (1) wetland hydrology, (2) hydric soils, or (3) hydrophytic vegetation – is presumed to qualify an area as wetlands. In contrast, the federal definition of “waters of the United States,” including “wetlands,” contained in 33 CFR 328.3(a)(1-8) and 33 CFR 328.3(b-c), requires that all three parameters simultaneously be present for an area to qualify as wetlands.

### **Public Access**

Section 30211 of the Coastal Act provides:

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

Section 30221 of the Coastal Act provides:

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

The quarry site is located between the first public road (Highway 1) and the sea and is adjacent to lands of the Golden Gate National Recreation Area. It appears that the site presently supports significant coastal access and public recreational uses. As such, the public may have acquired the right to access the shoreline through the site through implied dedication (use). Any CDP application for development of the quarry site must evaluate both historical access on the site and impacts to public access and recreation from the proposed development. Any development of the site should not interfere with any public access rights that exist and should provide for continued public recreational use of the site. Impacts to existing public access should be fully mitigated.

### **Archaeological Resources**

Section 30244 of the Coastal Act provides:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Two, documented, prehistoric archaeological sites exist on the project property. In addition, unknown prehistoric, cultural deposits may be reasonably expected to occur elsewhere on the project site. Any CDP application for development of the quarry site must include a comprehensive evaluation of archaeological resources performed in consultation with the State Office of Historic Preservation, Native American Heritage Commission, San Mateo County Historical Association, and Pacifica Historical Society. To the extent that the proposed development would affect archaeological resources on the site, the CDP application should identify specific measures for the excavation or appropriate in situ treatment of these resources.

### **Geologic and Flood Hazards**

Section 30253 of the Coastal Act provides, in relevant part:

New development shall:

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

Portions of the quarry site are located within the Federal Emergency Management Agency (FEMA) 100-year flood plain. Any CDP application for development of the site must show that

all proposed development minimizes risks to life and property in areas of flood hazard. The proposed development must accordingly avoid the 100-year flood plain.

The quarry site contains potentially unstable slopes and sea cliffs. Any CDP application for development of the site must include an assessment of slope and sea cliff stability, including analysis of factors of safety where relevant. Any development proposed for the site must conform to Section 30253(1) and minimize risks to life and property in areas of high geologic hazard. At the same time, any proposed development must comply with Section 30253(2) and is prohibited from "in any way requir[ing] the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." The CDP application must thoroughly evaluate any potential impacts due to geologic instability and should avoid mitigation measures that involve significant landform alterations.

### **Traffic**

Coastal Act Section 30252 provides:

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

Any CDP application for development of the quarry site must evaluate the individual and cumulative impacts to public access related to traffic and circulation on Highway 1. Based on information in our files, it appears that development of the quarry site would likely result in significant adverse impacts to traffic and circulation on Highway 1 that could only be mitigated by adding lanes to the highway to increase roadway capacity. It also appears that widening Highway 1 to add lanes in this area cannot be accomplished without filling wetlands and damaging ESHA. However, Coastal Act Sections 30233 and 30240 prohibit roadway capacity expansion projects that would fill wetlands or significantly disrupt ESHAs.<sup>1</sup>

### **Conclusion**

As summarized above, development of the Pacifica Quarry site presents a number of significant challenges under the Coastal Act. As such, we appreciate this opportunity to provide guidance early in your planning process and we hope that you will consider the information that we have provided carefully as you develop your plans for the site. We regret that we are unable to participate in your charrette next week, but we would be happy to meet with you in the future to provide further assistance with the coastal development permitting process. Please contact me at (415) 904-5260 if you have any questions concerning the foregoing or to schedule a meeting with Commission staff.

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<sup>1</sup>See also *Bolsa Chica Land Trust v. Superior Court* (1999) 83 Cal.Rptr. 850.

Letter to Daniel Grimm and Andres Duany

May 12, 2006

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Sincerely,



Chris Kern

Coastal Program Manager

North Central Coast District

cc: Donahue Peebles, The Peebles Corporation  
Pacifica City Council  
Michael Crabtree, City of Pacifica Planning Department  
U.S. Fish and Wildlife Service  
California Department of Fish and Game

enclosures

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October 4, 2004

The Honorable Mayor James M. Vreeland, Jr.  
City Hall  
170 Santa Maria Avenue  
Pacifica, CA 94044-2506

**SUBJECT: Calera Parkway Project**

Dear Mayor Vreeland:

During our recent visit to the Pacifica Quarry site, you requested a letter clarifying the position of the Coastal Commission staff concerning the proposed Highway 1 expansion at the quarry known as the Calera Parkway project. As we discussed during our site visit and as stated in previous correspondence including our July 13, 2004 letter on the Thalapaneni mixed-use development project and our letters of May 15, 2002 and July 11, 2002 on the Pacifica Village Center project, roadway expansion projects resulting in wetland fill or that would impact environmentally sensitive habitat areas (ESHA) are not permitted under the California Coastal Act. Based on our current knowledge of the wetlands and ESHA present on the quarry site, it appears that expansion of the highway in this area would likely result in both wetland fill and significant adverse impacts to ESHA in conflict with Coastal Act Sections 30233 and 30240. If this is the case, the Calera Parkway project could not be permitted under the Coastal Act.

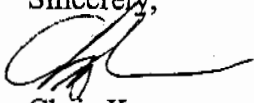
However, as we also discussed during our site visit, if the Calera Parkway project could be designed to avoid both wetland fill and significant adverse impacts to ESHA, expansion of the highway in this area would potentially be allowable under the Coastal Act. Commission staff would consider favorably a coastal development permit application for any feasible project alternative that conforms to the resource protection and coastal access policies of the Coastal Act.

Finally, we also discussed that given the sensitivity of the habitat at this site it is important to coordinate the review of this project with both the California Department of Fish and Game and the U.S. Fish and Wildlife Service. Due to the potential that any project alternative would result in "take" of threatened and endangered species, it is likely that the project will require either a biological opinion or a habitat conservation plan under the Federal Endangered Species Act.

In summary, the Commission staff does not oppose the Calera Parkway project in concept as long as the project can be undertaken in a manner that meets the requirements of the California Coastal Act. I hope this adequately clarifies our position concerning this project. Please contact me at (415) 904-5260 if you wish to discuss this matter further.

Calera Parkway Project  
October 4, 2004  
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Sincerely,



Chris Kern  
Coastal Program Manager  
North Central Coast District

cc: Scott Holmes, City of Pacifica Public Works Director  
Michael Crabtree, City of Pacifica Planning Director  
Mary Hammer, U.S. Fish and Wildlife Service  
Dave Johnston, California Department of Fish and Game

## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
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May 15, 2002

Ms. Allison Knapp Wollam  
City of Pacifica  
1800 Francisco Boulevard  
Pacifica, CA 94044

**RE: Draft Environmental Impact Report  
Pacifica Village Center, Pacifica Quarry Site**

Dear Ms. Wollam:

This letter provides Coastal Commission staff's comments on the Draft Environmental Impact Report (DEIR) for the proposed Pacifica Village Center Development in the City of Pacifica, dated April 2002. This letter addresses a number of issues and potential impacts presented by the proposed project under the City of Pacifica's Local Coastal Program (LCP) and the Coastal Act that should be evaluated by the DEIR.

**A. Proposed Project**

As described in the DEIR, the proposed project is a large, mixed-use development on an 87.5 acre site<sup>1</sup> in the Pacifica Quarry, including all of the following components:

- (1) A 250-room hotel and 25,000 square foot conference center, together with 15,000 square feet of restaurant space;
- (2) A "town center," including a "main street" and town square, with 165,000 square feet of retail space, 40,000 square feet of civic space, 15,000 square feet of restaurant space, 10,000 square feet of child care facilities; and 850 parking spaces;
- (3) 165 detached single-family residences and townhomes;
- (4) 150 apartment units over retail and restaurants along the traditional "mainstreet";
- (5) Expansion of Highway 1, including additional north- and southbound lanes;<sup>2</sup>
- (6) Widening of San Marlo Lane from 20 to 60 feet;

<sup>1</sup> The major commercial, residential and civic components of the proposed project would cover 45.27 acres, or 52 percent of the project site.

<sup>2</sup> The DEIR notes that the expansion of Highway 1 would displace existing retail and commercial uses along Highway 1.

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- (7) 40.63 acres of dedicated open space and 1.6 acres of wetlands, including creation of new wetland habitat created to replace wetlands impacted by the proposed project;
- (8) Demolition of an old, 16-foot long, quarry bunker on the quarry site;
- (9) Incorporation of the existing public trail along Calera Creek;
- (10) Various proposed mitigation measures, including "enhancement" of CRLF habitat along Calera Creek.

As described in the DEIR, the proposed project would involve first obtaining a land use and zoning change to a "P-D" designation (Planned Development District, Pacifica Zoning Code Sections 9-4.2201 et seq.), together with an LCP amendment for the project site. The project site is currently zoned C-3x (Service Commercial District)/HPD (Hillside Preservation District) and is an area of deferred LCP certification over which the Coastal Commission retains coastal permit jurisdiction. Pending final certification of the LCP, the Land Use Plan (LUP) "Special Area," "Open Space" and "Greenbelt" designations of the project site have advisory status only.<sup>3</sup>

The proposed project is located in the Pacifica Quarry site near Rockaway Beach, and is bounded on the east by Highway 1, on the north by Mori Point, on the south by San Marlo Way and on the West by the Pacific Ocean. The presently undeveloped project site is about 87.5 acres and is bisected by Calera Creek. An existing public trail runs along Calera Creek.

Primary access to the completed project would be from Highway 1 at the midpoint of the project site. Secondary access would be from San Marlo Way via Rockaway Beach Avenue.

**B. Coastal Act and LCP Jurisdiction and Permit Requirements**

The proposed project is located in the Pacifica Quarry site, which is an area of deferred certification in the City of Pacifica's LCP, for which no Implementation Plan (IP) was ever certified by the Coastal Commission. The DEIR states that the applicant will seek an amendment of the City's LCP for the project site as part of the approval process. Following certification of an LCP amendment for the area including the project site, the portion of the proposed project within the City's certified LCP jurisdiction will require a coastal development permit from the City. Until the area becomes certified as part of the City's LCP, the Coastal Commission retains coastal development permit jurisdiction over the proposed project and a coastal development permit must be obtained from the Commission for any components of the project within the Commission's permit jurisdiction.

**C. Local Coastal Program and Coastal Act Issues**

Our analysis of the proposed project as described in the DEIR has preliminarily identified the following potential issues under the City of Pacifica's LCP and the Coastal Act. The proposed project as described in the DEIR is fundamentally inconsistent with several key Coastal Act and LCP policies in a number of important respects. In order to provide adequate information for Coastal Development Permit review of the project, the DEIR must include thorough discussion and analysis of potential impacts implicating these Coastal Act issues.

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<sup>3</sup> The Pacifica LCP defines the "Special Use Area" land use designation, which comprises the bulk of the Quarry site, as "an area, as described in the text [of the LCP], within which special physical or economic problems exist and for which more than one use would be acceptable, based on the land use designation in the Plan description and the findings of the Environmental Impact Report, site plan and other required evaluation."

## 1. Biological Resources

Section 30240 of the Coastal Act provides:

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

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

Pacifica LUP Policy 18 follows the language of Section 30240 verbatim.

Section 30107.5 of the Coastal Act defines "environmentally sensitive area" as follows:

*[A]ny area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Section 30233 of the Coastal Act permits the filling or dredging of wetlands only for limited, specifically enumerated purposes "where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects." Pacifica LUP Policy Number 14 mirrors the language of Section 30233. Pacifica Zoning Code Section 9-4.4403(e) prohibits development within wetland habitat areas.

"Wetland" is defined in Section 30121 of the Coastal Act and Section 9-4.4302(aw) of the Pacifica Zoning Code as "land which may be covered periodically or permanently with shallow water, including saltwater marshes, freshwater marshes, streams, creeks, open or closed brackish water marshes, swamps, mudflats or fens." Section 13577(a)(1) of the Commission regulations further defines "wetland" as follows:

*Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats. For purposes of this section, the upland limit of a wetland shall be defined as:*

- (A) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;*
- (B) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or*

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*(C) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.*

In its present condition, the project site contains a riparian corridor, wetlands, a freshwater marsh and sensitive habitats. The project site provides important, environmentally sensitive habitat for multiple special status animal and plant species, including the California Red Legged Frog (CLRF), the San Francisco Garter Snake (SFGS), the Western pond turtle, the Loggerhead Shrike, and Saltmarsh Common Yellowthroat, as well as haul-out areas for Harbor Seals and other protected marine mammals. The proposed project involves potential impacts to both wetlands and ESHAs.

**a. ESHAs**

Section 30240 of the Coastal Act requires that ESHAs be protected from significant disruption of habitat values and allows only uses dependent on resources within sensitive habitat areas. Section 30240 further requires that development located adjacent to ESHAs be compatible with and be sited and designed to prevent impacts which would significantly degrade those areas. The proposed development project as described in the DEIR is inconsistent with Section 30240 in that it does not avoid ESHAs. The analysis and proposed mitigation measures contained in the DEIR do not satisfactorily address impacts to biological resources from the proposed development consistent with Section 30240. The cumulative impacts section of the DEIR states, "The project would have significant unavoidable impact on the [SFGS] due to the potential for the [CLRF] population on the site to become extinct leading to the extinction of the [SFGS] population." [Emphasis added.] These cumulative impacts present a clear conflict with Section 30240. It cannot be emphasized strongly enough that Coastal Act Section 30240 requires that proposed development must protect sensitive habitat to allow for the continued existence of special status species. To be consistent with Section 30240, the DEIR must (1) define the geographical extent of all ESHAs on the site, (2) demonstrate that only uses dependent on the habitat would be located in these areas (e.g., habitat restoration), and (3) propose development which avoids significant disruption of sensitive habitat.

**(1) CLRF**

The DEIR states that the CLRF is present on the site and that numerous specimens have been observed both at points along Calera Creek and in the drainage along Highway 1. The DEIR notes that the drainage along Highway 1 may provide CLRF breeding habitat. Given the marked prevalence of the CLRF on this site, the DEIR must contain additional and more thorough evaluation of impacts to this species and its habitat, beginning with a clear delineation of CLRF habitat. In view of the numerous observations of the animal both in the Highway 1 drainage and along Calera Creek on the project site, it is likely that the entire area between Calera Creek and Highway 1 at the southern end of the site is used as CLRF habitat. In delimiting CLRF habitat, the U.S. Fish and Wildlife Service (USFWS) federal rule respecting dispersal habitat and suitable habitat buffer for the CLRF is relevant (66 CFR 14626-14758, March 31, 2001). This rule states that development within 300 feet of CLRF habitat may adversely impact the frog and creates a commensurate buffer requirement. The Coastal Act and LCP ESHA policies require

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the project to avoid any significant disruption of CLRF habitat. Thus the proposed project must be reconfigured to observe an adequate buffer and avoid any such habitat disturbance.

Impacts 3.6.1 through 3.6.9 acknowledge numerous potential impacts to the CLRF and SFGS, including the loss of breeding, foraging and dispersal habitat, as a result of the proposed project. In addition, as noted above, cumulative impacts discussed in the DEIR include as a significant unavoidable impact the potential for the CLRF population on the site to become extinct as a result of the proposed project. The proposed approach to mitigation of impacts to CLRF habitat is not in consonance and not adequate to comply with Coastal Act and LCP requirements. Coastal Act Section 30240 mandates that proposed development not result in significant disruption of existing ESHAs. The creation of alternative habitat or the enhancement of existing habitat elsewhere on the project site is inadequate to satisfy basic Coastal Act and LCP requirements. To comply with Coastal Act requirements, the DEIR must define sensitive habitat, show that only resource-dependent uses are proposed for these areas and demonstrate that the proposed development avoids significant disruption of such habitat. In evaluating potential impacts to the CLRF, the DEIR should take into account and proposed development should observe the USFWS federal rule 300-foot buffer requirement, noted above.<sup>4</sup>

**(2) SFGS**

The DEIR states that the SFGS has been observed on the site and that the site provides SFGS habitat, especially along the Calera Creek corridor. The DEIR states that the snake also forages and aestivates in upland habitats and that “[o]n the project site[,] [the SFGS] will forage and disperse over the flats, the former quarry and into open space areas.” Impact 3.6.1 recognizes the loss of foraging/ dispersing habitat for the SFGS, and Impacts 3.6.2 through 3.6.7 recognize multiple other impacts to the SFGS and its habitat as a result of the proposed project. In addition, as noted above, cumulative impacts discussed in the DEIR include as a significant unavoidable impact the potential extinction the SFGS population as a result of the proposed project. At present, based on the impacts described in the DEIR, the proposed project does not comport with Coastal Act Section 30240 or the corresponding LCP policy. The DEIR must specifically delimit SFGS habitat, including foraging and dispersing habitat, on the project site and demonstrate that the proposed project avoids significant disturbance of such habitat.

**(3) Western pond turtle**

According to the DEIR, the site provides habitat for the Western pond turtle in the ponds and in slow-moving water in Calera Creek. While the DEIR states that “[t]he extent to which this species utilizes the upland around the creek is uncertain, but may involve foraging, dispersing, overwintering and nesting,” the DEIR nevertheless summarily concludes that the proposed project would result in less than significant impacts to the Western pond turtle. The DEIR should include the results of field studies adequate to evaluate the extent of Western pond turtle

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<sup>4</sup> In addition to other potential impacts, the DEIR should evaluate any potential impacts to ESHAs or buffer areas as a result of Mitigation Measure 3.7.2, which proposes to create a series of interconnected stormwater containment ponds “throughout the buffer zone between development areas and Calera Creek” (p. 3.7-12). To the extent that these proposed ponds impact sensitive habitat, they may conflict with ESHA protection requirements.

on the project site. As with the CRLF and SFGS, the DEIR must delimit habitat for this species on the site and demonstrate that the project avoids significant disturbance of such habitat.

**(4) Loggerhead Shrike and Saltmarsh Common Yellowthroat**

Suitable nesting habitat for both the Loggerhead Shrike and Saltmarsh Common Yellowthroat are present on the project site, according to the DEIR, and the L.C. Lee and Associates 2002 field survey observed Common Yellowthroat in the Calera Creek corridor. The DEIR concludes that the proposed project and construction activities could have significant impacts to the habitat of both of these species (Impacts 3.6.10 and 3.6.11). The description contained in the DEIR of the actual use of the site by these two species is inadequate to evaluate potential impacts of the proposed project to their habitat. The proposed mitigation measures are similarly vague. Additional fieldwork should be conducted during breeding season to determine the true extent of these species' habitats on the project site. After adequate, additional fieldwork, the DEIR should delimit nesting, foraging and overwintering habitat for these two species and then demonstrate that the proposed project avoids significant disturbance of such habitat.

**(5) Marine Mammal Haul-Outs**

"The beach at the base of the ruderal bluffs is suitable for marine mammal haul-out." This sentence is the extent of the evaluation and analysis contained in the DEIR of use of the beach at the western boundary of the site by marine mammals. No discussion of actual use by particular marine mammal species or the results of fieldwork are included in the draft document. Similarly, the DEIR includes no detailed discussion of impacts and no concrete mitigation measures. If portions of the project site are suitable as marine mammal haul-out habitat, then more thorough discussion of actual and potential use of the site, and the potential impacts to particular species, including harbor seals (*Phoca vitulina*), is warranted and necessary. Adequate research and fieldwork should be performed to document habitat and evaluate potential impacts.

**(6) Special Status Plant Species**

The DEIR notes that 26 special status plant species could potentially occur within the project area, but that actual surveys were not conducted or warranted "[s]ince these species are expected to occur only in the open space and riparian areas." Section 30107.5 of the Coastal Act defines "environmentally sensitive area" to include rare or especially valuable plant habitat. Because of the potential for special status plant species to occur on the site, actual surveys of the site during the appropriate seasons are necessary to determine whether such species in fact occur on the site, their proximity relative to proposed development on the site and the potential impacts to such species from development. The DEIR should accordingly incorporate the results of actual field surveys for special status plant species and delimit habitat.

**b. Wetlands**

The DEIR indicates that the project, as currently proposed, will involve the fill of 0.45 acres of Army Corps of Engineers (ACOE) jurisdictional wetlands and 0.38 acres of tributary waters (Impact 3.6.13). The determination of the existence of wetlands in the

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DEIR is based in part on a delineation of ACOE jurisdictional waters by L.C. Lee & Associates. Wetland areas to be filled include the Highway 1 drainage along the eastern boundary of the project site, which is known CRLF and probable SFGS habitat.

The DEIR should contain a complete and through delineation of all wetlands on the project site employing the Coastal Act definition, not the more narrow ACOE definition. The proper wetland definition for Coastal Act purposes is not the ACOE definition, but that contained in 14 CCR Section 13577. The wetland definition contained in 14 CCR Section 13577 does not coincide with the wetland definition applicable to determining the presence of ACOE jurisdictional wetlands. Under the Section 13577 wetland definition, the observation of any one of three wetlands parameters causes an area to qualify as wetlands: (1) wetlands hydrology, (2) hydric soils, or (3) hydrophytic vegetation. By contrast, the federal definition of "waters of the United States," including "wetlands," contained in 33 CFR 328.3(a)(1-8) and 33 CFR 328.3(b-c), requires that all three parameters simultaneously be present for an area to qualify as wetlands. While the wetland boundary may be the same under both the federal and state definitions in certain instances, this is not necessarily true.

Wetland fill is only permissible under the Coastal Act for one of the limited purposes specifically enumerated in Section 30233 and "where least environmentally damaging feasible alternative . . ." It is not adequate for purposes of Coastal Act consistency to "mitigate" the loss of wetlands by creating artificial wetlands elsewhere. In addition, Pacifica Zoning Code Section 9-4.4403(e) flatly prohibits development in wetland areas. Thus proposed wetland fill and Mitigation Measure 3.6.13 fail to comply with explicit Coastal Act and LCP requirements. The DEIR should completely evaluate potential impacts of the proposed project to wetlands on the site. The DEIR should delineate wetlands using the Coastal Act definition, and the proposed project should avoid wetlands so delineated. If wetland fill is proposed, the DEIR must make clear for what statutorily defined purpose such wetland fill is proposed, and must contain a thorough alternatives analysis to show that no less environmentally damaging alternative exists.

## **2. Public Access**

Section 30210 of the Coastal Act and Pacifica LUP Policy Number 1 provide:

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

Section 30211 of the Coastal Act and Pacifica LUP Policy Number 2 provide:

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

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Section 30212(a) of the Coastal Act and Pacifica LUP Policy Number 3 provide:

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

Section 30213 of the Coastal Act and Pacifica LUP Policy Number 5 provide, in pertinent part:

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

The proposed project is located between the first public road (Highway 1) and the sea. The proposed project neither provides required public access to the shoreline nor contains provisions designed to maximize public access. The DEIR does not evaluate impacts to public access from the project and in particular fails to evaluate historic public access over the site. DEIR notes that many people currently leave the existing trail and walk dogs onto the quarry property (p. 3.1-2), but does not contain any further evaluation of historic use of the site by the public. The DEIR considers access by pedestrians to residential areas to be an impact and seeks to limit public access through residential areas (Impact 3.1.2). The proposed project includes the construction of six-foot high, solid walls along the perimeter of the detached residential development component (Mitigation Measure 3.1.4), which would create artificial, internal barriers to circulation within the project and further inhibit public access. Stark, physical separation of components within the proposed project would be inconsistent with the public access policies and planning principles of the Coastal Act and LCP.

The DEIR should thoroughly evaluate both historical access on the site and impacts to public access from the proposed project. The project should be redesigned to maximize public access by providing dedicated access to and along the shoreline, eliminating artificial barriers to circulation within the project and including adequate, visitor-serving parking and clear, public access signage at appropriate locations within the proposed project.

Impact 3.1.3 states that the proposed Highway 1 widening would result in the displacement of small, commercial/retail uses along Highway 1. Thus the project involves potential loss of existing, visitor-serving commercial/retail uses. The DEIR should discuss provision for lower-cost visitor and recreational facilities as part of the project in conformity with Coastal Act Section 30213 and Pacifica LUP Policy Number 5.

### **3. Water Quality**

Section 30231 of the Coastal Act and Pacifica LUP Policy Number 12 provide:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of*

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*waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

The DEIR notes that the proposed development of 45.27 acres of the project site would result in a net increase of impervious surface area and increased non-point source (NPS) pollutant discharge (Impact 3.7.2). As mitigation, the DEIR includes the creation of settling basins, a monitoring program, and stormwater pollution prevention plan (SWPPP) (Mitigation Measure 3.7.2a-c). The SWPPP includes two proposed best management practices (BMPs): (1) proper maintenance and regular sweeping of parking lots and (2) preparation of informational literature on NPS pollution for commercial and residential users of the project site.

The DEIR's evaluation of water quality impacts, as well as the measures and BMPs it proposes, fall short of the evaluation and standard mitigation measures required for compliance with Section 30231 water quality requirements in a coastal setting. The DEIR should evaluate and quantify any changes to peak runoff volumes and rates that would result from the proposed development. The DEIR should provide sufficient engineering analysis to demonstrate that the measures provided by the SWPPP would be adequate to retain on site at minimum the peak runoff volume generated by the 1-hour and 24 hour 85<sup>th</sup> percentile storm event. In addition to the mitigation measures proposed, the project should incorporate design features to decrease runoff to begin with and maximize infiltration onsite. The project should minimize impervious surface area by use of permeable paving materials and design measures such as rooftop gardens which absorb rather than dissipate rainwater. The proposed development includes large, asphalt parking surfaces. Where feasible, the project should incorporate porous concrete pavers or other, suitable permeable material in lieu of asphalt. The project should also incorporate runoff control measures on site such as catch basins, sand filters, vegetated swales and underground stormwater filtration systems which capture, treat and gradually dissipate runoff into groundwater.

#### **4. Visual Resources**

Section 30251 of the Coastal Act and Pacifica LUP Policy Number 24 provide:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas . . . shall be subordinate to the character of its setting.*

Section 9-4.4408(b) of the Pacifica Zoning Code provides that, with respect to new development within coastal view corridors:

- (1) Structures shall be sited in order to minimize alteration of natural topography and landforms, tree removal, and grading only to the extent necessary to construct buildings and access roads;*

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- (2) *Structures shall be sited on the least visible area of the property and screened from public view using native vegetation, as feasible;*
- (3) *Structures shall incorporate natural materials and otherwise shall blend into the natural setting;*
- (4) *New development shall be consolidated or clustered within the slopes of the natural topography, as feasible;*
- (5) *Landscape screening and restoration shall be required to minimize the visual impact of new development . . .*

The DEIR indicates that public views of the ocean from Highway 1 would be affected by the proposed development and that “[p]roject development would be highly visible in views along Highway 1 and . . . San Marlo Way.” Figure 3.4-2 show that the intensive development proposed for the site would obscure ocean views from Highway 1. The proposed development would also remove an existing stand of Monterey cypress which frames the ocean view and masks existing Rockaway Beach development. The DEIR should consider project alternatives in conformity with Coastal Act Section 30251, LUP Policy 24 and Section 9-4.4408(b) of the Pacifica Zoning Code, including cluster development and alternative building siting and design which would have less impact on views and preserve a view corridor to the ocean. Development should be configured on site to manage open space and preserve views of the coast from Highway 1. The DEIR also contains inadequate information respecting proposed landscaping, building design and choice of building materials and colors to evaluate impacts to views. The DEIR does not contain conceptual designs for the hotel and residential components of the project and detailed information is not given for any project component with respect to proposed building design, materials, colors or landscaping. The mitigation measures proposed by the DEIR appear inadequate to fully address impacts to views.

The present project design incorporates several unsightly elements, including large expanses of asphalt parking area which dominate the site and are visible from Highway 1, giving the project the overall aspect of a suburban shopping mall. The height and massing of the hotel/conference center and “big box” components of the proposed retail component also present special issues of consistency with visual resource policies. The DEIR notes that the proposed residential/retail mixed use portions of the site would require a variance from the maximum allowable building height of 35 feet. The DEIR should evaluate project site design alternatives which soften and reconfigure large, monotonous parking areas and the large retail and hotel/conference center components to be less visually obtrusive. The proposed project also includes six-foot walls separating residential areas from other portions of the project. Mitigation Measure 3.4.4(3) states, without further explanation, that “[t]he walls shall blend in with the overall landscape and not become a dominant visual element.” It is difficult to discern from the DEIR how the proposed project will accomplish the objective of making such six-foot walls visually unobtrusive. The DEIR should accordingly consider project alternatives which do not include high walls separating project components. Finally, Mitigation Measure 3.8.2(2) proposes slope stability mitigation which may include “[p]ossible slope stabilization measures include[ing] the construction of 2:1 final slopes with intermediate benches, and/or retaining walls.” Any proposed landform or slope alteration must also be evaluated for visual impacts.

## **5. Archaeological Resources**

Section 30244 of the Coastal Act and Pacifica LUP Policy Number 22 provide:

*Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

Two, documented, prehistoric archaeological sites exist on the project property. In addition, the DEIR notes that additional, unknown prehistoric, cultural deposits are reasonably to be expected elsewhere on the project site. The first known prehistoric site, labeled SMA-162, is a shell midden probably displaced from an original offsite location during road construction. This site is located, according to the DEIR, on top of the fill berm on the west side of Highway 1 south of Reina Del Mar Avenue in an area which would be affected by the Highway 1 widening proposed as part of the project. The precise and full extent of the second prehistoric site, SMA-268, is not known, but it is generally located north of Calera Creek and west of Highway 1. This second site is also shell midden and probable site of prehistoric settlement. Obsidian tools, various artifacts and human remains, including, according to one report quoted in the DEIR, "at least six and as many as 50 bodies," are buried in an area 100 feet in diameter west of Highway 1. Research investigating this site in 1994, cited in the DEIR, concluded that the significance of the site would need to be assessed for eligibility for the National Register of Historic Places (NRHP) and strongly recommended that the site be designated as an archaeological preservation zone (Orlins and Schwaderer 1994).

Grading and expansion of Highway 1 proposed as part of the project would impact both archaeological sites. The DEIR discussion is limited to a summary of research on record and does not include evaluation of the spatial extent of either site by field survey by qualified archaeologists. The mitigation measures proposed as part of the project proposes fieldwork either before or during construction. At minimum, to comply with the requirements of Section 30244, comprehensive evaluation of archaeological resources in the field should be performed during CEQA review in consultation with the State Office of Historic Preservation, Native American Heritage Commission, San Mateo County Historical Association and Pacifica Historical Society and results presented in the DEIR. To the extent that fieldwork delimiting the extent of archaeological resources determines that the proposed project would affect archaeological deposits on the site, the DEIR should propose concrete measures for the excavation or appropriate *in situ* treatment of these resources. With respect to SMA-268, the recommendations made by Orlins and Schwaderer respecting evaluation of NRHP eligibility and creation of an archaeological preservation zone should be evaluated. These researchers should be contacted and, if possible, retained in connection with the handling of this prehistoric site.

## **6. Geology and Flood Hazard**

Section 30253 of the Coastal Act and Pacifica LUP Policy Number 26 provide, in relevant part:

*New development shall: (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard; (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction*

*of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

**a. Flood Hazard**

Portions of the proposed project are located within the Federal Emergency Management Agency (FEMA) 100-year flood plain, as it is presently mapped (Impact 3.7.3). According to the DEIR, the reconfiguration of the Calera Creek streambed as part of the Calera Creek restoration project in 2000 has made FEMA flood insurance rate maps (FIRMs) inaccurate. The DEIR determines based on calculations of 100-year flow estimates, however, that the maximum flow capacity of Calera Creek "is fully capable of handling 100-year flood events in the vicinity of the project site." The DEIR observes that the Calera Creek Water Recycling Plant built in 2000 increases stream flows by 3.0 mgd or 4.6 cfs and would have a negligible effect during 100-year storm events. The DEIR states that prior to final project approval, the developer will request a revision of the FEMA FIRM for Calera Creek and /or attain a Letter of Map Revision. (Mitigation Measure 3.7.3).

To demonstrate compliance with Section 30253 of the Coastal Act, the DEIR must show that all proposed development minimizes risks to life and property in areas of flood hazard. The proposed development must accordingly avoid the 100-year flood plain. In the event that the developer is unable to obtain a FEMA flood map revision, the proposed development must be redesigned to avoid the 100-year flood plain.

**b. Geology**

Impact 3.8.2 recognizes potential impacts from slope instability along the slopes on the quarry and sea cliff walls inasmuch as the proposed hotel and conference facilities are sited at the foot of these potentially unstable slopes and on the crest of the sea cliffs. Mitigation Measure 3.8.2 proposes a slope stability report which would assess the slope and sea cliff stability and provide stabilization recommendations. "Possible slope stabilization measures include the construction of 2:1 final slopes with intermediate benches, and/or retaining walls."

The DEIR should itself include an assessment of slope and sea cliff stability rather than deferring this assessment to a later document. Any development proposed for the project site must conform to Section 30253(1) and minimize risks to life and property in areas of high geologic hazard. At the same time, any proposed development must comply with Section 30253(2) and is prohibited from "in any way requir[ing] the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." The proposed mitigation measure appears to contemplate landform alterations which would run contrary to Section 30253(2). The DEIR should thoroughly evaluate any potential impacts due to geologic instability and should avoid mitigation measures which involve significant landform alteration.

**7. Traffic**

Coastal Act Section 30252 and Pacifica LUP Policy Number 25 provide:

*The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads,*

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*(3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.*

In consonance with this policy, the DEIR should evaluate the impacts of the proposed potential cumulative impacts of the project to traffic and circulation. The DEIR does not discuss non-automobile circulation within the development or onsite recreational facilities. Site design in the project as presently proposed blocks pedestrian passage within project and creates stark, artificial boundaries between components of the project. For example, the DEIR proposes six-foot high walls separating residential areas as Mitigation Measures 3.1.4 and 3.1.5. The DEIR should discuss and provide for internal, pedestrian and bicycle pathways within the development consistent with Coastal Act Section 30252(3) and Pacifica LUP Policy Number 2.

Please feel free to call me at 415-904-5268 if you have any questions concerning the issues discussed in this letter.

Sincerely,



Peter T. Imhof  
Coastal Planner  
North Central Coast District

cc: Joe Deaser, Trammel Crow Co.