



The Environmental Action Committee *of* West Marin

May 8, 2008

Ben Berto
Marin County Community Development Agency (CDA)
Civic Center, Room 308
3501 Civic Center Drive
San Rafael, CA 94903

Re: Lawson's Landing Master Plan, Coastal Permit and Tideland Permit

Dear Ben,

As we stated in our May 1 “completeness” letter, we are pleased that the applicants are moving toward a more environmentally sustainable proposal and we are hopeful that a project can be designed that protects the environment, complies with the law, and continues the use of Lawson's Landing as a coastal recreational site that can be enjoyed now and by generations to come.

This Reconfigured Master Plan (RMP) is an improvement on the 1998 plan, due largely to the moving of the RV camping out of wetlands and the relocation of much of the infrastructure previously sited near the coast to an upland area near the entrance. It is impossible to comment in detail on its merits at this time because the plan lacks detail and clarity on many points. However, we offer the following initial comments.

Special Pleading:

Before identifying specific problems with the RMP, we want to address the suggestion running through it that, rather than being required to comply with existing laws and regulations, Lawson's Landing should be granted special exemptions from those regulations. At least five arguments are used to advance this proposition. None of them have merit.

Argument 1. The Lawsons are entitled to continue long-standing uses.

A number of uses at Lawson's Landing, including the trailer park, boat yard, pier, water lines, some roads, and numerous buildings, are of long-standing and pre-date the Coastal Act. These uses require Coastal Development Permits and are illegal unless the applicant can prove they had all required permits at the time the Coastal Act was adopted. However, many if not all of these uses never did have the required permits. Thus there are no vested rights and no “grandfathering” for these uses. On numerous occasions, as the County Chronology shows, State and County agencies informed the owners that permits were required. In 1962, for example, when there were only 15 trailers at Lawson's Landing, the State informed the owners that the trailers lacked the required permits and constituted an illegal activity. And in 1966, the County notified the Lawsons that the trailer park, restrooms, water supply system, boat house, store, snack bar, docking facilities and various buildings and sheds were all illegal. The fact that a use has been long-standing is irrelevant to whether it should be continued.

Argument 2. Camping is not development:

The RMP incorrectly asserts (p.21) that “seasonal RV and recreational camping [is] not technically development.” Development is defined in § 30106 of the Coastal Act and § 22.56.0301.C of the Marin County Zoning Code. (Marin’s code uses the word “project” rather than “development”, but the definition is the same.) The findings in the Coastal Commission’s Consent Cease & Desist Order for Lawson's Landing (p.21) identify the unpermitted development on the property as including but not being limited to “unpermitted grading, unpermitted fill of wetlands, and the unpermitted construction or placement of development items,” as well as “the presence, on the property, of the following: 233 trailers, a campground with a 1,000-vehicle capacity, mobile homes, roads, restrooms, water lines and water tanks, sewage lines and leach fields, a sewage disposal station, sheds, garages, parking lots, a boat house, a snack bar, a shop, a 35-buoy boat mooring facility, a 18-slip boat yard, twelve boats, a laundry facility, and a 221-foot long pier” (emphasis added).

Argument 3. Local plans identify Lawson's Landing as a valuable recreational site:

Lawson's Landing is identified in various local plans, including the LCP and the Dillon Beach Community Plan, as a prime recreational site. However, none of these plans advocates giving Lawson's Landing an exemption from compliance with State or local regulations.

Argument 4. The competing interests of natural resource protection and public access must be balanced:

On page 20, the RMP explains the absence of the required wetland buffer as a necessary consequence of the need “to balance coastal recreational use and natural resource protection.” This reference to the so-called balancing or conflict resolution section of the Coastal Act (§ 30007.5) is misleading because in this case there is no conflict between these two values. For a conflict to exist, it would have to be infeasible to accommodate any reasonable coastal access/recreational use on the site while complying with the wetland and ESHA policies. There is no conflict if the recreational use simply fails to satisfy a particular business plan or goal. Moreover, when conflicts between one or more policies do exist, the Coastal Act (§ 30007.5) requires that they should “be resolved in a manner which on balance is the most protective of significant coastal resources.” And, finally, the LCP reaffirms that “maximizing public recreational opportunities in the coastal zone is to be done in a manner consistent with resource protection.” (LCP Unit II, p.41)

Argument 5. Complying with regulations would be burdensome for the applicants.

This is not a valid reason for failure to comply with the law. Nor is the burden on the regulatory authorities to ensure that a particular business plan is economically feasible, especially where the applicants put arbitrary restrictions on their willingness to consider alternatives, such as relocation of certain uses to other parts of the property.

Wetland Buffers:

The RMP does not propose wetland buffers, but the LCP requires “a buffer strip 100 feet in width, minimum” to “be established along the periphery of all wetlands” (LCP Unit II,p.74) as does the Marin County Code,using the identical wording (§22.56.130I.G.5.d). The law is so clear on this matter that it is not necessary to justify the need for wetland buffers, but, as we have explained to the applicants, wetland buffers are not empty legalistic requirements,. Rather, they are essential to the long-term health of wetlands and wetland-dependant wildlife. Buffers, depending on how they are designed, can have a number of important functions, including:

- Increasing biodiversity by providing protection from visual and aural disturbance by humans, vehicles, and dogs for songbirds, rails, egrets, herons, bitterns and other wading birds;
- Increasing biodiversity by increasing structural diversity, which would provide foraging habitat for migratory songbirds, as well as shade and aestivation habitat for red-legged frogs;
- Protecting wetland water quality and substrate from damage due to intrusion by people and cattle;
- Protecting against weed dispersal in wetlands by vehicles and the boats they tow; and
- Offering flexibility for the size, shape and location of the wetland as annual weather patterns change, allowing it room to expand in wet years and shrink in dry. And to move as storm events alter the topography.

Number & location of campsites:

The plan proposes 813 campsites, which would still make Lawson's Landing the largest single RV campground on the coast of California. However, all recreational activities, including camping, must be sited to prevent impacts which would significantly degrade environmentally sensitive habitats areas, (Coastal Act § 30240). We are concerned not only with the impacts of camping directly adjacent to the fresh water wetlands in the main meadow area, but also with the proposed increase in camping near Brazil Beach and the adjacent salt marsh, both environmentally sensitive areas. If, as appears certain, the South Ranch cannot support the level of camping the Lawsons would like, we suggest that they evaluate the other 80% of the property for suitable camping sites. The C-APZ zoning on that part of the property allows “recreational activities, such as hunting, fishing or camping” (§ 22.57.033.15).

Natural Resource Management Plan:

As we noted in our “completeness letter,” these plans are key to the overall Master Plan. Protecting and managing the environmentally sensitive habitats on the property and ridding the property of invasive alien plants will be a never-ending commitment, challenging and expensive. Before approval of a Master Plan, there has to be some mechanism by which the public can be assured that this long-term task will not be forgotten once the necessary approvals have been obtained. It will not be enough simply to make adoption of Natural Resource Management Plans a condition of Master Plan approval, because the County does not have the funds, the manpower or the expertise to oversee the execution of such plans. The involvement of a independent agency, public or private, with natural resource management expertise might be one way of providing assurance that the management plans will in fact be implemented, not just for the next decade, but into the future.

It is impossible to offer detailed comments on the Natural Resource Management Plan because the RMP offers no specifics. But the plan should provide the following:

- An invasive plant removal plan:
The County Code requires removal of exotic invasive plants. “Where the officer or body reviewing a coastal project applications determines that a project site contains a significant number or type of non-indigenous, invasive plant species which would threaten the preservation or reestablishment of native plant species, either on or off the site, the project’s approval shall be conditioned upon the removal of such nonindigenous plant material.” (§ 22.56.130I.J) The exotic invasives present at the site, include European Beachgrass and several species of iceplant.

- A species reintroduction plan:
In 1998, the U.S. Fish and Wildlife Service recommended that the Myrtle's silverspot butterfly be re-introduced to the Tomales dunes, along with Tidestrom's lupine, which disappeared from the site in the early 1990s, and several other associated plants. A list of other rare and endangered species that may already exist here, or are good candidates for introduction or re-introduction is attached.
- Protection for special species that occur on site:
The Master Plan names 6 special-status species found at Lawson's Landing, but omits several that are on the California Department of Fish and Game's Special Animal and Special Plant lists, which supplant the USFWS "Federal Species of Concern" list. Species on these lists known from Tomales Dunes include the Pacific sand bear scarab beetle or bumblebee beetle, the Globose dune beetle and *Trigonoscuta (Panormus) tessellata raphani*, a dune weevil so rare it has no common name and is known only from Dillon Beach. The San Francisco forktail damselfly has been tentatively identified at Tomales Dunes.
Regionally rare plants found in Tomales dunes include the southern form of dune tansy and the only known Marin County population of striate arrow-grass.
- A thorough biological inventory:
The Tomales Dunes area has not been thoroughly inventoried. Nonetheless, in recent years, scientists have made several important discoveries in the dunes, including that of a still-unnamed hybrid of the scarce Pacific ryegrass, an undetermined horsetail, and an unidentified species of stonewort that is seasonally abundant in deeper dune ponds of Tomales Dunes, though stonewort is generally not reported from dune ponds in California. Extensive stands of Western *Lilaeopsis* occur in the dune slacks, though this species is normally only occasionally, in small colonies on coastlines and coastal lagoons. The dune wetlands also have the only reported populations of *Triglochin striata* (a diminutive species of sea-arrowgrass normally found only in fresh-brackish estuaries and river mouths) in Marin County. Two native pondweeds that are uncommon in California, *Potamogeton foliosus*, and *P. nodosus*, are abundant in Tomales Dunes ponds. A Biogeographical Assessment of Tomales Dunes by Drs. Peter Baye and David Wright (2004) identifies other special-status species that may occur at Tomales Dunes and should be inventoried. A partial list of these and other species that should be considered in a Natural Resource Management Plan for Lawson's Landing is attached.

Given the incompleteness of the application, these can only be initial comments. We look forward to responding more fully when the application is complete.

Thank you for the opportunity to comment.

Sincerely,



Catherine Caufield

ATTACHMENT A

This is a partial list of species that should be considered in a Natural Resource Management Plan for Lawson's Landing.

Rare and endangered species that may already exist at Tomales Dunes or are good candidates for introduction or re-introduction:

California black rail, *Laterallus Jamaicensis coturniculus*
 Myrtle's silverspot butterfly, *Speyeria zerene myrtleae*
 Beach layia, *Layia carnosa*
 Coast marsh milkvetch, *Astragalus pycnostachyus* var. *pycnostachyus*
 Dune gilia, *Gilia capitata* ssp. *Chamissonis*
 Northern beach glehnia, *Glehnia littoralis* ssp. *Leiocarpa*
 Sonoma spineflower, *Chorizanthe valida*
 Showy indian-clover, *Trifolium amoenum*
 Marin bent grass, *Agrostis blasdalei* var. *marinensis*
 Tidestrom's lupine, *Lupinus tidestromii*
 Marin horkelia, *Horkelia marinensis* ,

Special species known from Tomales Dunes and named in the Master Plan:

Western snowy plover, *Charadrius alexandrinus nivosus*
 California red-legged frog, *Rana aurora draytonni* ,
 Point Reyes Bird Beak, *Cordylanthus maritimus palustris*
 Woolly-headed spineflower, *Chorizanthe cuspidate villosa*
 San Francisco Bay spineflower, *Chorizanthe cuspidata cuspidate*
 Tidestrom's lupine, *Lupinus tidestromii* – presumed extirpated from Lawson's Landing

Special species known from Tomales Dunes, not named in the Master Plan:

Pacific sand bear scarab beetle or bumblebee beetle, *Lichnanthe ursina*
 Globose dune beetle (*Coelus globosus*
 Dune weevil *Trigonoscuta*, *Panormus tessellata raphani* ,
 San Francisco forktail damselfly, *Ischnura gemina*

Regionally rare species or unknown species found at Tomales Dunes:

Dune tansy, southern form, *Tanacetum camphoratum*
 Striate arrow-grass, *Triglochin striata*,
 Unnamed hybrid of *Leymus pacificus*
 Undetermined horsetail, *Equisetum*
 Unidentified species of *Chara*
 Western Lilaeopsis, *Lilaeopsis occidentalis*
 Sea arrowgrass *Triglochin striata*
 Pondweed, *Potamogeton foliosus*, *P. nodosus*

Special-Status species named in Bioeographic Assessment of Tomales Dunes which should be inventoried at Tomales Dunes:

Marin elfin butterfly, *Incisalia*, *Callophrys mossii marinensis*
 Sandy beach tiger beetle, *Cicindela hirticollis gravida*