

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Catherine Caufield, Environmental Action Committee

Mailing Address: P.O.Box 884

City: Inverness

Zip Code: 94937

Phone: 415-669-1570

SECTION II. Decision Being Appealed

1. Name of local/port government:

Marin County

2. Brief description of development being appealed:

Lawson's Landing Coastal Permit

3. Development's location (street address, assessor's parcel no., cross street, etc.):

137 Marine View Drive, Dillon Beach, CA
APN 100-100-48, 100-100-49, and others)

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

<u>TO BE COMPLETED BY COMMISSION:</u>	
APPEAL NO:	_____
DATE FILED:	_____
DISTRICT:	_____

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5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: 11/18/08

7. Local government's file number (if any): CP-91-068

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Lawson's Landing, Inc.
P.O.Box 67
Dillon Beach, CA 94929

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) See ATTACHMENT A

(2)

(3)

(4)

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SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

1. LCP POLICIES-PUBLIC SERVICES 3.(a).4: “Alternative systems: The County recommends that provisions be included in the County code to allow alternative sewage disposal systems to be utilized. Until such provisions are incorporated into the code and approved by the Regional Water Quality Control Board however, alternative systems shall only be permitted where a public entity has formally assumed responsibility for inspecting, monitoring, and enforcing the maintenance of the systems in accordance with criteria adopted by the Regional Board.”

The project does not identify any public entity that has formally assumed responsibility for inspecting, monitoring, and enforcing the maintenance of the waste disposal system.

2. LCP POLICIES--NATURAL RESOURCES 4.c: "No grazing or other agricultural uses shall be permitted in wetlands except in those reclaimed areas presently used for such activities.”

The project does not ban grazing in wetlands. The wetlands cannot be said to be reclaimed for agricultural use because (1) they are on land zoned C-RCR, where agriculture is not a permitted use, and (2) Condition 27.A. calls for restoration of wetlands on the property.

3. LCP POLICIES-NATURAL RESOURCES 4.d: “A buffer strip 100 feet in width, minimum, as measured landward from the edge of the wetland, shall be established along the periphery of all wetlands.

The project allows camping and parking in the wetland buffers, on a permanent basis in Area 2 (part of which is within the Coastal Commission’s direct jurisdiction and part in Marin County’s). It also allows camping in the wetland buffers for a five year period in Areas 3, 4, & 5.

4. LCP POLICIES-NATURAL RESOURCES 4.e: “As part of the application for a coastal development permit on any parcel adjacent to Tomales Bay, except where there is no evidence of wetlands pursuant to the Coastal Commission's guidelines, the applicant shall be required to submit supplemental biological information prepared by a qualified ecologist at a scale sufficient to identify the extent of existing wetlands based on Section 30121 of the Coastal Act and the area of the proposed buffer areas.”

The application/project does not identify the area of the proposed buffer areas.

5. LCP POLICIES-NATURAL RESOURCES 5.b: "Public access to sensitive habitat areas, including the timing, intensity, and location of such access, shall be controlled to minimize disturbance to wildlife. Fences, roads, and structures which significantly inhibit wildlife movement, especially access to water, shall be avoided."

The project includes a system of roads that run through wetlands, wetland buffers and other sensitive habitats, including coastal dunes and dune scrub.

6. LCP RECREATION AND VISITOR-SERVING USES POLICIES 1. "The County of Marin supports and encourages the enhancement of public recreational opportunities and the development of visitor-serving facilities in its coastal zone....Generally, recreational uses shall be low-intensity, such as hiking, camping, and fishing...New visitor-serving commercial development shall be...sited and designed to minimize impacts on the environment and on other uses in the area."

a. The project includes 193 lots that are quasi-residential in nature. The lots are occupied by permanently parked RVs, known as travel trailers, that are owned by private individuals. Condition 7.D.3 calls for development of a short-term occupancy plan for these travel trailers, but it does not specify what standards such a plan should meet. It is possible that a plan will be proposed and approved that leaves the rental responsibilities in the hands of the travel trailer owners, which gives no assurance that the trailers will actually be available to the public.

b. The LCP expands on this Policy, explaining that "Low-intensity uses should be encouraged over more intensive recreational developments such as RV campgrounds or marina complexes which often require extensive site modification, attract large numbers of people, and may result in significant habitat disruption." (p.41) In contravention of this policy, the project is completely oriented toward RV camping with no areas required to be set aside for lower-intensity uses, such as tent-camping.

c. Condition 29 calls for all new utilities to be undergrounded; Condition 30 call for any future exterior lighting shall be minimized with respect to number, height, and light output, and to be shielded from offsite views, including from any public access easement. But these Conditions specifically leave out existing utilities and exterior lighting, although because they are not permitted, they should be considered new development and this policy should apply to them.

7. LCP RECREATION AND VISITOR-SERVING USES POLICIES 3.G.2: "Lawson's Landing. Lawson's Landing is an appropriate site for limited expansion of boating facilities and overnight accommodations. Any such expansion shall be based on thorough planning studies which identify the environmental resources and constraints of the site, including wildlife, vegetation, and archeological resources, geologic and wave hazards, and public service constraints. Measures to protect the site's resources, particularly sand dunes and dune tansy vegetation, shall be included in any development plan."

The project was not "based on thorough planning studies which identify the environmental resources and constraints of the site, including wildlife, vegetation, and archeological resources, geologic and wave hazards, and public service constraints" because the EIR took existing uses (which were essentially the same as the proposed project) as its baseline.

In addition, the project does not include “measures to protect the site's resources.” Lawson's Landing has been operating for more than 40 years without the required County or Coastal permits. Unpermitted development has had a negative impact on the site’s sensitive resources. In recognition of this fact, and of the fact that the EIR used existing uses as a baseline and thus did not identify mitigations for many of the negative impacts, the project includes a requirement for an Adaptive Management Plan intended to address the impacts of existing unpermitted uses (most of which were proposed to be continued) that were not dealt with in the EIR. The project’s AMP, however, has several serious shortcomings:

- It is to be submitted at a later date, so there is no certainty now that it will adequately address damage caused by existing unpermitted and new permitted uses.
- It will cover less than 5% of the property (29 acres out of 640 acres).
- It will not cover key sensitive habitats, including coastal dunes, dune scrub, beach wrack, beach (snowy plover nesting habitat), marsh, wetlands, and wetland buffers.
- Condition 27. A “recommends” that the AMP’s restoration goals include ‘restoration of wetlands and their buffers to full ecological functioning,” but the AMP does not cover all wetlands or their buffers.
- Condition 27. A “recommends” that the AMP’s restoration goals include “management of non-native vegetation by native vegetation, including removal of non-indigenous plant materials”, but does not cover the coastal dunes that have been severely affected by the spread of non-indigenous European beach grass.
- The project’s outline for an AMP does not require restoration of negative impacts of past uses. For example: it does not require immediate cessation of artificial drainage of wetlands: it does not require even the evaluation of how foredunes might be managed to allow offshore sand blow to replenish inland dunes depleted by decades of sand mining and by the spread of European beach grass; it does not mandate establishment of wetland buffers that can provide cover, nesting sites, shelter, and foraging for birds and small mammals, protect water quality, be a shield against the intrusion of people and cattle, and accommodate natural fluctuations in water level.
- The project’s outline for an AMP does not address the possibility of management to encourage the colonization or re-colonization of special status species, such as Myrtle’s Silverspot butterfly. (The USFWS has identified Tomales Dunes as having “major restoration and reintroduction potential” for the MSB. [Recovery Plan for Severn Coastal Plants and the Myrtle’s Silverspot Butterfly, USFWS, 1998, p. 2]).
- The project’s outline for an AMP the impact of boating, clamming, and other uses on marine mammals and the marine environment.
- The project defers protection of snowy plover habitat to the future and to another agency (USFWS).
- The project sets an arbitrary, inadequate, and unnecessary limit on the applicant’s responsibility to provide funding. Condition 27.C. requires the applicant to contribute \$40,000 a year, a number that was based not on the likely cost, nor even of the applicant’s ability to pay (since a \$1/night user fee is likely to produce double that amount annually), but on what the applicant was willing to agree to.

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SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: Dec. 10 2008

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize

_____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: December 10, 2008