

September 14, 2005

Mr. Tim Haddad  
Environmental Planning Coordinator  
Marin County Community Development Agency  
3501 Civic Center Drive, Room 308  
San Rafael, California 94903-4157

SUBJECT: Draft Environmental Impact Report for the Lawson's Landing  
Master Plan  
SCH #2000092067

Dear Mr. Haddad:

This letter provides Coastal Commission staff's preliminary comments on the Draft Environmental Impact Report ("DEIR") for the Lawson's Landing Master Plan. The Commission is responsible for implementing the Coastal Act, and ensuring that development permitted within the Coastal Zone is consistent with the requirements of the Coastal Act and Marin County's certified Local Coastal Program (LCP). Due to staffing limitations, we are not able to provide a complete evaluation of the project at this time. However, we would like to offer these preliminary comments at this time to assist the County in ensuring that the Final EIR provides sufficient information and analysis to allow the Coastal Commission to review the proposed development for conformity with the Coastal Act and LCP. To fulfill the requirements of the Coastal Act, the DEIR should provide the basis for review of any coastal development permit (CDP) application or LCP amendment for the proposed development.

#### Standard of Review

As you know, the Coastal Act promotes the development of public recreational and low cost visitor serving facilities such as the proposed project. However, in order to meet the requirements of the Coastal Act and the County's certified local coastal program (LCP) such development must also protect wetlands and other environmentally sensitive habitat areas, coastal water quality, and agricultural lands, and conform to all other applicable requirements of the Coastal Act and the LCP. As discussed below, Commission staff is concerned that the DEIR does not provide sufficient information or analysis to support a determination that the project meets the permitting or coastal resource protection requirements of the Coastal Act or the LCP.

#### Project Description

As we have discussed, Commission staff has significant concerns about the project description contained in the DEIR. For purposes of any CDP review, any existing unpermitted development on the site may constitute a violation of the permitting requirements of the California Coastal Act. Based on a preliminary review of available information, it appears that a substantial portion of the existing development may not be legally authorized in accordance with the State's coastal development permitting requirements. In order for the DEIR to provide the information and analysis needed to support review of the project for conformity with the requirements of the Coastal Act and the LCP, the project description should be revised to include any existing development on the site for which a CDP is required but has not been obtained (hereinafter "unpermitted development"), and the environmental impact analysis should identify and evaluate the impacts of the project in accordance with this revised project description. Without these revisions, the DEIR would not be adequate for Coastal Act purposes.

#### Environmentally Sensitive Habitat Areas

Pursuant to Coastal Act section 30240, "Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed in those areas." The DEIR indicates that the proposed project in combination with the continued baseline recreational uses of the dunes and camping would result in cumulatively significant and unavoidable impacts to ESHA. Based on this assessment and other information contained in the DEIR, it appears that the portions of the project would conflict with the ESHA protection policies of the Coastal Act and LCP. As such, the DEIR should evaluate whether feasible alternatives exist that would avoid impacts to ESHA.

#### Wetlands

Coastal Act section 30233 prohibits development in wetlands except for eight specific enumerated types of development, none of which include the proposed project. The LCP incorporates the Coastal Act prohibition of development impacting wetlands and adds a foot buffer policy prohibiting development within 100 feet of any Coastal Act/LCP wetland. As discussed below, the DEIR does not provide sufficient information for review of the project's conformity with these policies. As noted throughout the DEIR, a delineation of wetlands as defined by the Coastal Act/LCP has not been conducted. Without a wetland delineation that identifies and maps all Coastal Act/LCP wetlands on the project site, it is impossible to evaluate the project for conformity with Coastal Act and LCP wetland protection policies. Therefore, the DEIR should be revised to identify and map all Coastal Act/LCP wetlands on the project site. Once the Coastal Act/LCP wetlands have been identified, the proposed development including any existing unpermitted development should be evaluated for consistency with the

wetland protection policies of the Coastal Act and the LCP. To meet the requirements of the Coastal Act and LCP, all existing unpermitted development and any newly proposed development should be located a minimum of 100 feet from all Coastal Act/LCP wetlands.

The DEIR indicates that the fill of wetlands associated with the construction of conveyance pipelines for water and sewer services in wetland areas would be allowable under the Coastal Act and LCP because this fill would be for *incidental public service purposes*, which is one of the specifically enumerated uses allowed in wetlands under Coastal Act section 30233.

The Commission staff disagrees with this position for the following reasons:

First, the Coastal Act defines "Public Works" as:

(a) All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities. [Emphasis added.]

The entire project site, including the wastewater and water supply systems are privately owned and operated and the applicants/property owners are not a public agency or utility subject to the jurisdiction of the Public Utilities Commission. As such, the proposed wastewater and water supply systems cannot reasonably be construed to be "public services".

Second, even if the proposed wastewater and water supply pipelines were public services, they would only be allowed to be placed in Coastal Act/LCP wetlands based on a determination that there is no feasible less environmentally damaging alternative. However, the DEIR does not consider alternatives that would avoid wetland impacts, such as routing the pipelines around the wetlands or installing the pipelines under the wetlands by directional drilling. Therefore, even if the proposed wastewater and water supply systems actually were required for incidental public service purposes, the information contained in the DEIR is insufficient to support the determination that the proposed development would be allowable under the wetland protection policies of the Coastal Act and LCP.

Finally, in cases (unlike here), where a development is one of the eight enumerated types of development allowable in Coastal Act/LCP wetlands and there is no less environmentally damaging feasible alternative that would avoid the wetland impacts, the development may only be permitted where feasible mitigation measures are provided to minimize adverse environmental effects. However, the DEIR does not provide sufficient information or analysis to allow an evaluation of whether the proposed mitigation measures for wetland impacts

would meet the requirements of the Coastal Act or the LCP. To support a determination that wetland impacts would be adequately mitigated in accordance with the requirements of the Coastal Act and the LCP, the following additional information and analysis should be provided:

- specific quantitative analysis of the wetland areas impacted
- characterization of the ecological functions and values of the wetlands impacted
- mitigation goals, objectives, and performance standards
- identification and evaluation of specific mitigation site(s)
- monitoring program
- remedial action plan

#### Water Supply Tanks

The DEIR also does not provide sufficient information to determine whether the proposed locations for the installation of the two new 100,000-gallon water supply tanks are consistent with the resource protection policies of the LCP. It is unclear whether the existing water wells and supply tanks are legally authorized in accordance with the State's coastal development permitting requirements, or whether the locations are within coastal dune or other sensitive habitat areas. In accordance with the resource protection policies of the LCP, the proposed new water tanks could not be installed in areas that are determined to be coastal dunes or other sensitive habitat areas. The DEIR must be revised to provide the required information to determine whether these tanks can be permitted consistent with the resource protection policies of the LCP.

#### Wastewater Treatment and Disposal

The proposed project includes the construction of a new wastewater treatment and disposal system. As proposed, the new system would include a sand filter system and leachfield located in coastal dune ESHA in conflict with the ESHA protection policies of the Coastal Act and the LCP. Pursuant to mitigation measure 4.6-1, these facilities would be required to be relocated outside of the dunes area to an area of the site zoned for agricultural uses (C-APZ). Zoning Code Section 22.56.030 enumerates the types of principally permitted uses and conditional uses allowed within the C-APZ zoning district. The proposed leachfields are not an allowable use under the C-APZ zoning. The DEIR does not establish how the proposed wastewater treatment system could be permitted consistent with the County Zoning Code. In addition, no information has been provided about the location and alignment of the proposed pump station and force main and other piping associated with use of these alternative locations, or whether sensitive coastal resources exist in the areas associated with the new alignment of this piping.

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As such, the DEIR should be revised to provide more complete information about the proposed wastewater treatment and disposal system and identify and evaluate project alternatives that would locate all related facilities to areas allowable under all applicable policies of the Coastal Act and the LCP, including the policies concerning protection of ESHA, wetlands, and agricultural lands.

If you have any questions regarding these comments, please contact me at (415) 904-5265.

Sincerely,

Alfred Wanger  
Deputy Director  
Energy, Ocean Resources and Water Quality Division  
California Coastal Commission

cc: State Clearinghouse