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Agenda Item F13b

Environmental Action Committee of West Marin

February 5, 2021

California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA 94105
Via Electronic Delivery: NorthCentralCoast@coastal.ca.gov

Re: Agenda Item F13b (Dillon Beach Resort, LLC CDP Application)

Dear Commissioners,

The Environmental Action Committee of West Marin (EAC) is based in Point Reyes Station and has been working to protect the unique lands, waters, and biodiversity of West Marin since 1971. Our work focuses on the environmental issues impacting the unincorporated coastal communities of West Marin from Dillon to Muir Beaches.

We are in generally support of the California Coastal Commission (Commission) staff's recommendation related to Coastal Development Permit (CDP) application number 2-20-0018, as conditioned. However, we do raise several concerns and present some suggested revisions to the CDP.

After-the-Fact Permitting Sets a Bad Precedent

Our primary concern is related to the applicant's failure to obtain the necessary permits in advance of conducting work at the Dillon Beach Resort (or resort). Additional concerns are also discussed below. We are generally against after-the-fact (ATF) permits, as they set a bad precedent for compliance. We also note that the CDP does not include a requirement to pay any fines related to the unpermitted sand management activities, which include the relocation of significant quantities of sand, dumping sand in the creek, and potentially transporting sand off site for sale according to verbal accounts by members of the community.¹ This activity took place in a rare sensitive coastal dune habitat.

¹ See California Coastal Commission, Staff Report, CDP Application 2-20-0018, pages 43-44; California Coastal Commission, CDP Application 2-20-0018, Exhibit 8

The Greater Farallones National Marine Sanctuary is also offshore from the resort, and sensitive species, such as the California red-legged frog and western snowy plover, occur in this area and are federally endangered. Sand was also placed back on the beach, likely smothering native vegetation species.²

We view these actions as egregious, especially considering they continued to take place following enforcement notices by the Commission. This type of behavior is unacceptable. We also understand that there were some permitting issues that took place at the county level, such as the applicant failing to obtain the appropriate permits. There are also unpermitted wells on the property. While we understand a balancing has taken place with on-site mitigation measures and the provision of lower cost units, we are concerned this CDP may set a negative precedent for allowing ATF permitting in the future.

Impacts Related to Improper Septic Placement

In particular, we are concerned about the applicant's placement of a leach field connected to the septic system in a sensitive vegetated dune area without seeking a CDP.³ This dune area constitutes an environmentally sensitive habitat area (ESHA), the protection of which is a very high priority issue for EAC and is consistent with our past advocacy in the area of Dillon Beach and elsewhere. The staff report indicates that, "[E]xisting dune habitat areas on the subject property, regardless of their condition, including the foredunes adjacent to and seaward of the beach parking lot and central dune scrub inland of Cliff Street, are considered ESHA under the Coastal Act" and that the Marin County Local Coastal Program (LCP) and Dillon Beach Community Plan also "[prohibit] development within dunes to preserve dune formations, vegetation, and wildlife habitats..."⁴ We believe that the Commission should hold the applicant accountable for jeopardizing this sensitive habitat area.

We appreciate the hard work of the Commission staff and the applicant to come to a mutually agreeable resolution, including the inclusion of mitigation measures on the property. While we note the mitigation measures, lower cost visitor accommodations, and changes to parking fees and access listed as special conditions to the CDP are to serve in lieu of fines, we recommend that some type of fine is included, due to the egregious nature of previous activities.

Alternatively, we recommend additional mitigation measures, such as restoration of the Cypress Grove to the north of the parking lot, which we understand has been degraded recently by overuse⁵, be included in the special conditions of the CDP. From local accounts, we understand that visitors have been cutting through this grove of trees to access the beach, as well as using it as a restroom. This additional mitigation measure, including replenishment of sand in the area, could be added to the Habitat Restoration Plan outlined in Special Condition 4.⁶

Support for Staff Recommendation

While we are concerned with the applicant's history of noncompliance, we hope that the applicant is able to comply with the CDP requirements going forward, as well as any additional conditions. We support the structure of the permit with required special conditions and monitoring.

² California Coastal Commission, Staff Report, CDP Application 2-20-0018, pages 52-53

³ California Coastal Commission, Staff Report, CDP Application 2-20-0018, pages 2, 21, 25; California Coastal Commission, CDP Application 2-20-0018; Exhibit 3; and Exhibit 7, page 1

⁴ California Coastal Commission, Staff Report, CDP Application 2-20-0018, page 52

⁵ See Photos in the Public Comments submitted by Coastwalk, February 5, 2021

⁶ California Coastal Commission, Staff Report, CDP Application 2-20-0018, pages 10-13

We support several aspects of the CDP. In particular, we support the decision to require the removal of the cottage septic system and restoration of the native habitat area as described in Special Condition 1(d) and Special Condition 4.⁷ We appreciate that the majority of the future development, including the proposed leach field locations, will take place in an already developed area to avoid further harm to sensitive habitat.⁸

We strongly support Special Conditions 3 and 4 (the Sand Management Plan and the Habitat Restoration Plan, respectively), as well as the related requirements for annual monitoring. In addition, we support the requirement that construction best management practices are implemented as described in Special Condition 6(d).⁹

We also support the numerous public access improvements as outlined in Special Condition 1(e) and (g), including the installation of a new bike rack, an additional dog mitt station, an electric vehicle charging station, and an improved pedestrian accessway between Cliff Street and the beach entrance, as well as improvements to the sidewalk on Cliff Street.¹⁰

Safe and equitable public access to this well-loved beach is critical. We support efforts to provide equitable accommodations for visitors, including perpetual lower cost visitor-serving lodging as described in Special Condition 8(d), and alterations to the beach parking lot fee schedule in Special Condition 2, specifically free parking for visitors with ADA placards/plates, the inclusion of ADA parking spaces, and free parking for visitors with valid state or county parks passes.¹¹ In recognition of the need to lower greenhouse gas emissions, we also applaud the permit condition providing free access to the beach parking lot and facilities to visitors who arrive on foot or by bicycle.

Related to the traffic management measures outlined in Special Condition 7, we support this requirement, as idling cars contribute to greenhouse gas emissions and negatively impact the town's safety and character.¹² We support broad community input related to the Traffic Management Plan, including the additional involvement of the Dillon Beach Neighborhood Group, which is not currently listed under Special Condition 7(b) 2.¹³ Due to the relatively small nature of the community, we would also recommend that notices related to the Traffic Management Plan be sent to all local residents in the Dillon Beach Village, Portola Beach, and Oceana areas via U.S. mail. We understand that Dillon Beach Resort also maintains an email list, which could potentially be utilized for outreach purposes. We defer to the local community related to the specifics related to this process. We also suggest that additional signage should be required at all main access points, including at the intersection of Dillon Beach Road and Valley Ford/Franklin School Road.

Additional Suggested Revisions & Concerns

Our main concerns and recommendations include:

- 1) Ensuring this CDP does not set a bad precedent for ATF permitting without fines, as discussed above;
- 2) Recommending a phased approach to the approval of additional units;
- 3) Ensuring maximum public access is afforded under the Marin County LCP and Sections 30213 and 30252 of the California Coastal Act;

⁷ California Coastal Commission, Staff Report, CDP Application 2-20-0018, pages 7, 10-13

⁸ California Coastal Commission, CDP Application 2-20-0018, Exhibit 3

⁹ California Coastal Commission, Staff Report, CDP Application 2-20-0018, pages 9-16

¹⁰ California Coastal Commission, Staff Report, CDP Application 2-20-0018, pages 7-8

¹¹ California Coastal Commission, Staff Report, CDP Application 2-20-0018, pages 8-9, 18

¹² California Coastal Commission, Staff Report, CDP Application 2-20-0018, pages 16-17

¹³ Id.

- 4) Ensuring the proposed mitigation measures are adequate to protect sensitive habitat in the area, as also mentioned above; and
- 5) Additional concerns and suggestions related to parking, marine mammal assistance, litter, and visual impacts.

A Proposed Phased Approach May Help to Ensure Compliance.

One potential recommendation is a phased approach to the planned development including placement of the additional lodging units. Instead of the CDP authorizing all 31 total units in this permit, the ATF units could be authorized as well as a portion of the additional units. The placement of the final units would be subject to the Executive Director's approval once additional permit requirements are completed. By that time, additional information will be available related to traffic, environmental impacts, water usage, septic functionality, and other key factors.

Broader Public Access

While we appreciate the staff's recommendation to reduce parking fees and offer free parking during designated hours, we are concerned that these measures may be inadequate to promote maximum public access. More than ever, people are flocking to California beaches for respite during the pandemic, and many are also facing economic hardship as a result of COVID-19. Consistent with the Coastal Act, it is vital that beach access is offered with little to no cost. We recommend that the parking fee schedule be adjusted to offer additional hours of free parking.¹⁴

This beach is used widely by locals, as well as individuals from greater Sonoma and Marin counties and beyond. Two of our current interns regularly frequent this beach, and they have noted the steep increases in parking fees. Before the applicant took over this resort, the price per day for parking was only \$8 and an annual pass was approximately \$125. The increases to \$10 and \$15, as well as \$160 for an annual pass are significant, and they may present a barrier to equitable public access. If the adjustments to the parking fee schedule noted in the previous paragraph are not feasible, we suggest that parking fees be lowered to historic rates to promote equitable access.

Also related to public access and spillover impacts, we have received several accounts of poor restroom maintenance by the applicant.¹⁵ While we do not normally comment on these types of concerns, we have noticed numerous environmental impacts related to inadequate restrooms in West Marin in general. The restroom near the parking lot must be properly maintained (and upgraded if necessary) to ensure that visitors do not resort to relieving themselves in sensitive habitat areas. Further, to maximize equitable access, the bathrooms should also be ADA-compliant.

We also want to ensure that a safe path is available to access the beach. The CDP is unclear as to where the improved pedestrian accessway outlined in Special Condition 1 will be provided, as well as whether any path improvements will avoid sensitive habitat areas and native plants in accordance with the Marin County LCP Policies on Natural Resources and the Coastal Act Sections 30240 and 30250, as noted in the Staff Report.¹⁶

¹⁴ California Coastal Commission, Staff Report, CDP Application 2-20-0018, page 45

¹⁵ See Photos in the Public Comments submitted by Coastwalk, February 5, 2021

¹⁶ California Coastal Commission, Staff Report, CDP Application 2-20-0018, pages 7, 49-50

Other Concerns and Recommendations

We also note that the CDP is unclear as to how the applicant will meet all of the parking requirements for the 31 proposed units. The areas described in the report appear inadequate for sufficient parking, plus there is the likelihood of spillover impacts if guests bring additional vehicles. We suggest that the applicant submit a more detailed parking plan with proposed measured and marked spaces.

Additionally, the permit could be revised to include that where possible the applicant is to cooperate with The Marine Mammal Center¹⁷ for use of the applicant's ATV to transport injured marine mammals when necessary. Regarding trash clean ups, which the applicants obtained a CDP waiver for, it would be helpful if the applicant provided documentation of their efforts. We have received local accounts of excess litter at the beach. Also, where possible and appropriate, additional waste receptacles above the mean high tide line could be placed to ensure beach visitors have ample opportunities to dispose of their trash.

Lastly, we also acknowledge that there are some visual impacts of the new units, some of which are taller than prior units. We defer to the local community for input on this matter.

We thank you for the consideration of our comments and for your continued dedication to the protection of coastal resources and public access.

Sincerely,



Morgan Patton
Executive Director



Ashley Eagle-Gibbs, Esq.
Conservation Director

cc: Dan Carl, District Director, North Central Coast and Central Coast
Jeannine Manna, District Manager
Stephanie Rexing, District Supervisor

¹⁷ The Marine Mammal Center, <https://www.marinemammalcenter.org>