

John F. Tormey
1211 Benbow Place
P.O. Box 724
Pebble Beach, CA 93953

To: Mr. Thomas A. McCue, AICP
Monterey County
Planning and Building Inspection Department
Coastal Office
2620 First Avenue
Marina, CA 93933

From: John F. Tormey
County Citizen and Pebble Beach Resident
1211 Benbow Place (P.O. Box 724)
Pebble Beach, CA 93953

Subject: Pebble Beach Company's Del Monte Forest
Preservation and Development Plan (DEIR), dated
February 2004 – Comments on.

March 4, 2004

RECEIVED

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MONTEREY COUNTY
PLANNING & BUILDING
INSPECTION DEPT.

#14

Sir:

Since I have read your two excellent volumes of the DEIR (word for word, and Vol. I almost twice), attended your introductory meeting of 2/11, and your field trip of 2/18, plus having been a full-time resident of Pebble Beach for 20 years, and something of a political activist during that period, I sit down to write these few DEIR comments with a pretty good background of the area.

Before I get too specific, let me say to you and your some 50 associates including, of course, Mr. Rick Walter, that you did an excellent job, totally comprehensive, amazingly inclusive, staggeringly data-backed, beautifully organized. Easily the best EIR I have read.

Another introductory comment. I realize that the volumes deal exclusively with the environmental impacts on the project area caused by the project's details. And I accept that. But as I read and thought about the project from a higher perspective, I sorely missed, if only with a few lines, an acknowledgment that cash/benefit analysis and the private property rights of the applicant must eventually enter into the decision process. This multimillion dollar project cannot possibly hinge on the rights of a red-legged f^og and her progeny, just for stretched example.

Now for details:

Pg. ES-2 and 1.0-1

Additional background here would fit in and be informative. Consider:

- a) Del Monte Forest Land Use Plan (1987).
- b) Zoning Regulation Title 20 (1988).

These two 16- and 17-year venerable old documents were the first to legally spell out for the Pebble Beach Company (and for the residents), that their property could be now legally developed, and that, on 731 acres of it, could be located 1067 dwellings! All subsequent Pebble Beach Company planning, and heated political activity, originated in these volumes (which were signed off by some ten agencies, including the Coastal Commission).

Table ES-1 and Table 1.0-2 (Pg. 1-0-4)

I suggest you add one more vertical column, titled "LUP," with details therefrom.

Pg. E-7

"Dedication" may well be the proper conventional word, planning-wise, but it doesn't convey, to me at least, the incredible fact that the applicant is "giving up," or one might say, "giving away" his constitutionally guaranteed private property rights to 524 acres (possible market value in the hundreds of millions) as a gift to the public. "Donation"? "Gifting"? Isn't there a better word?

3

ES-8

I applaud your clear focus on the explicit Federal and State classification when writing about protected species (piperia, and the RLF), but I fail to respect the very special attention you assign here and in other parts of the DEIR to the Monterey Pine, which enjoys no such State and Federal legal protection. You write, "DFG recognizes Monterey Pine Forest as a sensitive natural community"; that the CNPS "considers the pine rare, threatened, and endangered" (all three?); and that "local residents are concerned." Recognition, consideration, and concern are all well and good feelings but that does not constitute government protection for the tree, under the law. Shouldn't you have stated this?

4

Pg. 1.0-5

Suggest you add, after line three, "wholly on private property," for emphasis that private property rights are the big issue in this project.

5

Pg. 3.1-27

You handle the sticky relationship between the LUP/LCP and Measure A well (the latter intends to amend the former). However, you might add here that should (and they may) the Coastal Commission disapprove Measure A with its many explicit amendments to the LUP/LCP, then the LUP's 145 policies and residential zoning provisions will remain in place, as written back in 1987. A clear slate. Back to square one as they say. This would mean, would it not, that, among other things, the "jewel in the crown," area PQR, would continue to hold its private property residential zoning?

6

Pg. 3.5-6 and 3.5-7

Far from the good, convincing job you've done on other Sections of the DEIR, this Section on Public Services is thin. It merits a more detailed, objective treatment. Since, as you say, the County does not at present meet its own

7

Guidelines of 1 per 1000 (23 officers below at present) why is the negative police coverage in the proposed forest an environmental impact that needs immediate litigation? Also, if that guideline were imposed, the Forest would need 3+ officers on duty not 1. At the 24/7 service level, that comes out to 15 officers in the force in the Forest. That suggests to me that probably the 1/1000 guideline doesn't really fit the Forest demographic makeup. In addition your last sentence could well be deleted, because I don't believe it is in the role of a DEIR to suggest specific public taxation, or the method to acquire it (TOT).

7 (cont)

Chapter 3.8 Air Quality.

This is the least well done and least convincing of the DEIR segments. It needs editing by a good editor more than a redo of the technical points, which appear to me to be sound. For example: 3.8-1, second paragraph, third sentence. It talks of "an intersection having the greatest impact...." What intersection? And the authors rattle off ROG, VOC, NOx, PM, etc. here and throughout the section but it is not until 3.8-11, pages later, that the reader is told what chemicals or species they represent.

8

Chapter 3.9

Excellent.

Pg. 4.4-3

Last paragraph should be enlarged to give the actual numbers and one or two examples to make the point crystal clear. For example, on page 3.1-5, Area PQR, it states that an eighth parcel "would be preserved through a conservation easement (233 acres)." That is according to the Plan and Measure A. But according to the LUP those acres are planned for residential housing. Reader needs help here, not condensed confusion.

9

Pg. 4.4-17 Mitigation Measure B10-B1-2 (c)

It states, "The applicant shall dedicate additional areas (minimum of 244 acres) . . . to offset substantial cumulative loss of the Monterey Pine Forest." The DEIR specifies those acres will be Areas F-1, J, and the Old Capital site (in its entirety) and the balance from a portion of the Aguajito site. I may have my number wrong but if I add these 244 acres to the 524 (see pg. E-7) previously specified as dedication may I conclude that the applicant will, among other things, have to give up 768 acres of his private property, free of charge, for approval to proceed with this proposed plan? I recall a famous land-use case before the Supreme Court, *Dolan v. City of Tigard*, 93-518, decided 6/24/94, that held "the City's dedication requirements constitute an uncompensated taking of property," a 5 to 4 decision. Does this bode well or bode ill for this project? If the applicant (PB Co.) is denied his private property rights, *Dolan v. Tigard* could well be "prior law," and I'm no lawyer.

10

Pg. 3.3-17

... is a sensitive natural community.” Who says so? Where? Does it constitute law or is it an opinion for political purposes? Since all that follows in the DEIR on the Monterey pine appears to hang on this one statement for legitimacy, I suggest that you expand on this a bit.

11

Pg. 3.3-31

... 10,751 plants! I read your count procedure in Appendix C, which states the “count” was made; a) outside the growing season, and b) only 20 randomly allocated lots were sampled. I’m no plant biologist but can yours really sustain a plant count number to five significant figures? I don’t think so. It diminishes his credibility. How about “in the order of 11,000”?

12

Pg. 3.3-37

“... and retain Bristol of Curve.” Subsequent to this statement the reader was told that Bristol Curve would be abandoned (pg. 3.7-4). Is this point still up in the air? Confusing.

13

Pg. 3.3-62 – Tree Removal

mid page. “very small natural range”“very large international commercial importance”“substantial concern”

14

These three underlined words suggest to me the author is not solid on these points, and has chosen to add some “spin” with adjectives. Edit them out, not only for better writing, but because all of the three items are debatable, even in professional circles.

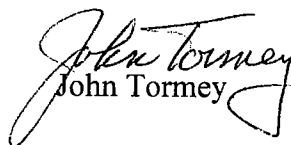
Table 5.0-1

Under No Project, add one more feature:

15

“Existing residential zoning as designated in the 1987 LUP and 1988 Title 20 Zoning remain in place and operative (e.g., PQR, Residential).”

In closing, may I say that any collection of authors (or in this case, Lafer, Schwartz and Walters) that calmly uses the word “surficial, pg. 3.2-12 last line, has to be approached carefully.


John Tormey