

CALIFORNIA COASTAL COMMISSION

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Comment # P-41

November 17, 2004

Thom McCue
Monterey County Planning and Building Inspection Department, Coastal Office
2620 First Avenue
Marina, CA 93933

Subject: Monterey County Public Hearings on "Pebble Beach Company's Del Monte Forest Preservation and Development Plan" Project (PLN 010254, PLN 010341, and PLN 040160)

Dear Mr. McCue:

Thank you for forwarding the County Subdivision Committee hearing notice to our office last week regarding the above-referenced project, as well as forwarding the County's staff report for that hearing to our office this week. According to these materials, the County Subdivision Committee intends to have a hearing on the Pebble Beach Company project on November 18, 2004, to be followed by Planning Commission and Board of Supervisor hearings starting in January 2005. The Subdivision Committee is being asked to recommend (to the Planning Commission and Board of Supervisors) that the project, including required changes to the County's Spanish Bay permit, be approved.

We continue to strongly advise that the project not be heard until after there have been final Coastal Commission decisions on the LCP (Measure A) and coastal permit (Spanish Bay) amendments that would be required for the project to proceed.

We note that the draft CEQA documents acknowledge these Coastal Commission review requirements, and we further note that the County's staff report also acknowledges these requirements. However, the current staff recommendation then proceeds to identify a portion of the project that could proceed absent any further Commission action on Measure A and Spanish Bay, and a portion of the project that cannot. This is implemented by suggested conditions of approval that are structured to require evidence of Commission certification of Measure A and approval of the Spanish Bay coastal permit amendment (prior to issuance of grading and building permits) for only a segment of the project. Presumably the intent is to allow the rest of the project to proceed without such Commission action. In both cases, such approval appears structured to precede submittal of Measure A.

Such an approach is problematic and we strongly recommend that project approval not precede required Commission approvals, and not be segmented in this manner.

It is inappropriate for project approval to be conditioned on future Coastal Commission approvals, and it is inappropriate for an interrelated project of this magnitude to be segmented into a portion that requires Measure A certification and a portion that purportedly does not. We disagree with the analysis that a portion of the project is consistent with the existing LCP. Furthermore, conditioning the project approval in whole or in part in this manner presupposes

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that the Commission will certify the Measure A LCP amendment as submitted, and will modify the Spanish Bay coastal permit as proposed. As you are aware from our previous comments, we continue to have serious reservations about the project and the LCP amendment, and it is unwise to presume that LCP and permit amendments would be approved as submitted. In short, the outcomes of a Measure A amendment to the LCP and an associated amendment to the Spanish Bay coastal permit are uncertain, and the specifics of these outcomes will necessarily affect the manner in which all aspects of the project (both those deemed consistent and those not in the staff report's segmentation of the project) can be found consistent with the LCP and past permits. County decision makers at each level need to have the benefit of this information prior to making final decisions on the project. Without it, their understanding of this large and contentious project, and their discussions on the merits of it in relation to the LCP, will be significantly hampered. Because of this, a final County action on the project prior to final Commission action is not appropriate.

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Given the inextricable link between the LCP amendment and the proposed project, we understand why the County would want to use the ongoing CEQA review process to help develop information both for the permit review and to support an LCP amendment submittal. To a point, such a combination makes sense as a way to pool scarce County resources on common questions. However, it is now time that these review processes be separated. To do otherwise seems to us to be poor use of time and resources because any series of County hearings on the project now will be without the benefit of knowing what the Coastal Commission will do later. In other words, if the County holds a series of hearings leading to an action now (as is the intended approach according to the notice and staff report that we received), these hearings will not have the benefit of critical information for making coastal permit decisions. Any "final" decisions made after this series of hearings will need to be revisited at additional hearings following Coastal Commission actions, and are thus premature.

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Moreover, even the existing "known" body of information is in question, and this also indicates that decisions on the project now would not be prudent. Specifically, the aforementioned CEQA documentation, and the current County staff report analysis that incorporates and relies upon it, is incomplete and has been compromised by an incorrect evaluation foundation. This is particularly the case in terms of the DEIR's identification of environmentally sensitive habitat area (ESHA) and its ESHA impact evaluation methodology (please see our March 22, 2004 letter on the original DEIR and our November 10, 2004 letter on the PRDEIR for specific reasons for this). We continue to highlight that the DEIR's evaluation has not been sufficiently inclusive of Del Monte Forest ESHA, and has not been clearly premised on Coastal Act and LCP requirements that impacts to ESHA be avoided. Likewise, and related to County staff report references to legal lots and certificates of compliance (whether conditional or unconditional), we have not seen supporting documentation for determining the number of legal lots of record that are a part of this application (most recently requested in our DEIR comments), and thus there remains significant uncertainty in this regard. Remember, too, that conditional certificates of compliance require coastal development permits. Any decisions on whether a certificate is conditional or unconditional is also a question of whether a coastal permit is required and subject to Coastal Commission concurrence in this regard. In sum, as we have advised since March of this year, and most recently reiterated in our November 10, 2004 PRDEIR comments, we

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continue to recommend that the DEIR be revised and recirculated for public review and comment.

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We strongly recommend that hearings (if there are any at all) at this time at the County level be limited to perfecting supporting information for the LCP amendment (including perfecting project CEQA information), and that any such hearings explicitly not include any decisions on the project in advance of final Commission actions on both the Measure A LCP amendment and the Spanish Bay coastal permit amendment.

We continue to believe that good planning and public policy require that the review process for the LCP amendment and the Spanish Bay coastal permit amendment conclude and precede any coastal permit decisions on the project itself. To do otherwise appears to us a poor use of scarce staff and decision-maker time and resources, would diminish the value of the project deliberations at each decision-making level leading to a final Board decision, and would only serve to unnecessarily complicate and delay an ultimate decision on the project itself. That said, if the County decides to proceed with the project review schedule and recommendations noted in the hearing notice and staff report despite our recommendation, please note that any ultimate Board approval of the project should be considered tentative and cannot be forwarded to the Commission as a final action. At a minimum, the Board would have to hold at least one additional coastal permit hearing (preceded by at least one hearing on the LCP in the case Measure A is not approved by the Commission as submitted) after Coastal Commission action to take final action on the coastal permits and then send them to the Coastal Commission to start the ten-day appeal period. This needs to be made explicit in any staff report and/or approval documents, and any approval conditions requiring future Coastal Commission actions should be omitted. In the case that the County proceeds with hearings, please provide this letter, and our DEIR and PRDEIR letters, to the Subdivision Committee members, Planning Commissioners, and Supervisors for those hearings.

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We hope that this letter has again helped to frame the LCP and coastal permit context for this project. We, like the County and the Pebble Beach Company, are anxious to come to final resolution on the project and on the LCP. As we have said before, the proposed project is one of the largest to be proposed in the Central Coast in recent years, it involves significant impacts to important coastal resources, and it remains the subject of considerable public debate. It would be unfortunate if the final outcome was unnecessarily hindered and complicated by a flawed process. We are optimistic that this can be avoided.

As always, feel free to contact me if you would like to discuss this matter further.

Sincerely,



Dan Carl
Coastal Planner

cc: Pebble Beach Company