CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

TH8b

Prepared February 24, 2006 (for March 9, 2006 hearing)

A report addendum & its exhibits were posted on March 8. You may find them following page 81 of this report.

To: Commissioners and Interested Persons

From: Charles Lester, Deputy Director
Rick Hyman, Central Coast Chief Planner
Dan Carl, Coastal Planner

Subject: Monterey County Local Coastal Program Major Amendment Number 1-05 (Measure A)
Proposed major amendment to the Monterey County certified Local Coastal Program to be presented for public hearing at the California Coastal Commission's March 2006 meeting to take place at the Hyatt Regency at 1 Old Golf Course Road in Monterey.

Staff Note

This report presents a preliminary review of proposed Monterey County Local Coastal Program (LCP) Major Amendment Number 1-05 (Measure A). **No recommendation for Commission action is being made at this time.** Staff has not completed its review of the proposed amendment, which includes both land use plan and implementation amendments directly affecting over 600 acres of land in some two dozen distinct locations within the Del Monte Forest area. The administrative record submitted by the County in support of the amendment is large and complex. Further resource evaluation and policy analysis is required before a complete recommendation to the Commission can be prepared. However, given the significance of the LCP amendment for the Del Monte Forest, the major Coastal Act issues raised by the proposed changes, and in order to maximize opportunities for public participation, it is important to take advantage of the Commission's hearing scheduled in Monterey near to the Del Monte Forest, including conducting a field trip to the areas affected by the proposed amendment. This report provides a description of the Measure A amendment for various areas with the Del Monte Forest, and discusses biological resources and related planning issues important to understand for the various affected areas. However, the Measure A LCP amendment will affect a significant and widespread geographic area of Del Monte Forest. Given its scope and complexity, staff has not been able complete its required review of Measure A before the March 2006 hearing in Monterey and additional evaluation is needed to complete this analysis for the entire area affected by Measure A. At this time, Staff anticipates completing its review of the proposed amendment in the next several months and bringing the matter to the Commission for action.

Measure A Preliminary Staff Report: Summary

Introduction

Monterey County is proposing to amend the land use plan and related zoning for 25 distinct areas of the Del Monte Forest segment of its Local Coastal Program (LCP). The amendment, known locally as Measure A, would facilitate multiple development projects by the Pebble Beach Company. The Measure A development projects include a new 18-hole golf course and related development in Area MNOUV; a new golf driving range and related development near Spanish Bay; a new equestrian center in the Sawmill Gulch restoration area; 160 new visitor serving units (91 new units at Spanish Bay, 11 new

units adjacent to the proposed new golf course, 58 new units at the Pebble Beach Lodge); new conference facilities at the Lodge and Spanish Bay; new underground parking structures at the Lodge and Spanish Bay (providing 821 parking spaces); 60 new employee residences (12 units near Spanish Bay, and 48 units in the Pebble Beach Company corporation yard area); 34 new residential lots by subdivision and associated road and utility infrastructure; Highway 1, Highway 68, and 17 Mile Drive interchange modifications; related road and infrastructure improvements within the Forest; and conservation easements over some 274 acres in the coastal zone (and areas outside the coastal zone).[1] Figure 2B of the staff report shows the various locations where LCP land use designation changes are proposed.

Measure A originated as an initiative titled "The Del Monte Forest Plan: Forest Preservation and Development Limitations," and was adopted by County voters in the fall of 2000. The Monterey County Board of Supervisors transmitted the amendment to the Commission for review on April 20, 2005. The Pebble Beach Company has described the initiative as addressing all of its remaining undeveloped lands in the Del Monte Forest and thus, as resolving many of the concerns raised over the years about future development in the Forest.

Summary of Preliminary Staff Analysis and Conclusions

As detailed in this preliminary staff report, the amendment is highly problematic with respect to the Coastal Act requirements to protect sensitive biological resources because it proposes intensive recreational land uses in areas that are mostly environmentally sensitive habitat areas (ESHA) and wetlands. ESHA concerns are also raised by the Measure A components that propose residential subdivision in certain areas of Del Monte Forest, though the amendment does propose open space designations that would be appropriate for other areas that have ESHA resources. It also proposes land use changes to allow development of an equestrian center in the Upper Sawmill Gulch area of the protected Huckleberry Hill Natural Habitat Area (HHNHA). This development is prohibited by the habitat restoration conditions and associated recorded conservation easements at Sawmill Gulch required by the Coastal Commission when it approved the Spanish Bay Resort Development and Golf course in 1985.[2]

Commission staff has for many years advised the Pebble Beach Company and the County that both the proposed amendment and the proposed development projects raise serious concerns with respect to their approvability under the Coastal Act, the LCP, and the Commission's Spanish Bay CDP, and that the

---

[1] Although the Commission strongly advised Monterey County to wait for Commission action on Measure A before acting on any coastal development permits for the proposed development contemplated by Measure A (see Exhibit 3), the County approved this development in March of 2005, conditioned on the Commission's approval of both Measure A as submitted and amendments to the Spanish Bay coastal development permit. In addition to the development listed above, the County approval includes miscellaneous road development, trail relocations, and requirements for protective easements over various areas that were proposed for conservation by the Pebble Beach Company, including land owned by the Pebble Beach Company located outside of the coastal zone. 22 appeals of the Monterey County approval that have been filed with the Commission and are pending the review of Measure A.

[2] Commission staff has indicated to Monterey County and the Pebble Beach Company that the proposed LCP amendments for Sawmill Gulch would require an amendment to the Commission's coastal development permit for the Spanish Bay Resort project and further, that such an amendment could not be accepted because it is a weakening amendment of the Commission's original action (see Exhibit 3).

development projects should not be evaluated and acted upon absent resolving the basic LCP planning and Spanish Bay CDP questions prior to taking action on the projects; on the latter issue, the Commission itself raised similar concerns and process recommendations in a late 2004 letter.[3] Other portions of Measure A that are responsive to resources on the ground (such as designating areas that appear to be ESHA as resource conservation in the LCP) would be appropriate, and components that are aimed at enhancing public visitor-serving facilities within existing developed areas (such as proposed changes to expand visitor-serving facilities at the Pebble Beach Lodge and Spanish Bay Resort) may be appropriate, provided any coastal resource impacts are properly addressed.

Summary of Preliminary Issue Identification

As noted, the breath and complexity of the issues raised by the requested amendment preclude adequate in-depth review prior to the Commission's March 2006 hearing. These issues, as they are currently understood, are summarized as follows:

Biological Resources

The legal standard of review for the Commission's evaluation of the Measure A land use plan changes is the Coastal Act, including the definitions of ESHA (30107.5) and wetlands (30121), and the policies requiring protection of these resources (e.g. 30240, 30233).[4] The Coastal Act generally prohibits all new development in identified ESHAs and wetlands except for development that is dependent on the resource, such as habitat restoration or, for wetlands, certain limited types of development unavoidably sited in a wetland location.[5]

Staff has examined the extensive biological evidence for the areas affected by Measure A. Although more detailed analysis is required for certain areas, staff has determined that much of the land proposed for land use changes is ESHA.[6] First, nearly all of the areas affected by Measure A contain undeveloped native Monterey pine forest in association with a wide variety of sensitive species ranging from approximately 7 acres in LUP Area K to approximately 246 acres in and around LUP Areas P, Q, and R; at the site of the Pebble Beach Company's proposed golf course, in Area MNOUV, there area about 116

---

3 See Exhibit 3 for selected Commission staff and Commission comment letters over the years in reverse chronological order.

4 Once the evaluation of Measure A for consistency with these policies is completed, proposed Implementation Plan amendments will be analyzed for their conformance with and adequacy to carry out the land use plan as it may be amended. Measure A land use changes could be approved as submitted, denied, or denied and recommended for approval with modifications.

5 Section 30233 thus limits wetland fill to such development as new ports, commercial fishing facilities, maintenance dredging of existing navigational channels, incidental public services such as burying pipes, restoration purposes and nature study activities. The legislature has also declared in Coastal Act 30010 that the Coastal Act is not intended to allow the Commission to exercise its authority in such a manner to result in a taking of private property. Thus, in practice the Commission must sometimes authorize development in an ESHA or wetland that would otherwise be prohibited if such prohibition would result in a takings.

6 Section 30107.5 defines "environmentally sensitive area" as "any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments." Generally the Commission has a presumption that areas provide habitat for "sensitive species", including those listed by the Federal government or California as endangered or threatened, or species found on the California Native Plant Society's List 1B, are ESHA, although ESHA determinations are made based on site-specific evaluation of resources existing at the time of an LCP amendment or development application (see, for example, LUP Policy 3.4 of the Malibu LCP).

acres of native pine forest.[7]

The vast majority of the world's remaining native Monterey pine habitat is found only along California's coast in three areas: Año Nuevo, Cambria, and the Monterey Peninsula.[8] The species is classified by the California Native Plant Society (CNPS) as 1B.1. 1B indicates that the species is rare, threatened, or endangered in California and elsewhere. The California Department of Fish and Game Natural Diversity Data Base (NDDB) List of Special Vascular Plants, Bryophytes, and Lichens (January 2006) classifies the Monterey pine as S1.1, indicating that, within California, there are fewer than 6 viable "element occurrences" and that the species is considered "very threatened." In addition, the NDDB (September 2003) designates Monterey Pine Forest as a rare community type. The species also is on the International Union for Conservation of Nature and Natural Resources (IUCN) Red List of Threatened Species.[9]

The Coastal Commission has a long history of concern for the protection of Monterey pine forest, and it is identified as a sensitive habitat in seven certified LUPs. The Del Monte Forest LUP requires that the natural forested character of Del Monte Forest be retained to "maximum feasible degree" and states that the "long-term preservation of the Forest resource is a paramount concern."[10] In recent years, the Commission has focused on the significance of Monterey pine forest areas as determined by their size, health, biodiversity and other factors to determine whether or not occurrences of Monterey pine are ESHA. Relatively large, unfragmented stands of native Monterey pine that are not highly degraded are rare and meet the definition of ESHA under the Coastal Act. Remaining relatively intact native stands of Monterey pine also are especially valuable due to their special nature as the genetic repository of the species; and Monterey Pine Forest habitat may also be especially valuable due to its ecosystem function of supporting populations of other rare species. In general, little significant development has been approved by the Commission in recent years in Monterey pine forest areas determined to ESHA, other than residential development involving existing legal lots of record.

In Del Monte Forest, the remaining significant stands of Monterey pine forest affected by Measure A are rich in biodiversity, and provide habitat areas for many other sensitive species that independently qualify as ESHA. For example, the federally-listed endangered Yadon's piperia, an orchid apparently found only in Monterey County, occurs in all of the affected planning units, including the two largest known occurrences of piperia in the world in Areas MNOUV and PQR, together making up roughly two-thirds of the known population. Similarly, Hooker's manzanita and Hickman's onion (both CNPS 1B) are scattered through 12 different planning units. The California red-legged frog, listed as

---

7 The Del Monte Forest land use segment is divided into planning areas which include within them a number of alphabetically lettered planning units affected by Measure A. These planning units are labeled B, C, F, G, H, I, J, K, L, M, N, O, P, Q, R, U, and V. Measure A also affects the Pebble Beach Lodge and Spanish Bay resort areas, the Pebble Beach Corporation Yard, Sawmill Gulch, and non-lettered areas near Area O and J and adjacent to the existing equestrian center.

8 Two other small occurrences are found on the Guadalupe and Cedros Islands located off the Pacific coast of Mexico.

9 IUCN 2004. 2004 IUCN Red List of Threatened Species.

10 The Commission conducted a Periodic Review of the Monterey County LCP in 2002-3. Although not formally acted on by the Commission yet, this review included preliminary staff recommendations to both update and strengthen the LCP's Monterey pine habitat policies, and to designate significant remaining areas of undeveloped Monterey pine forest as ESHA.

threatened by the U.S. Fish & Wildlife Service (USFWS), was sighted in two locations in Area MNOUV; these locations are characterized by the EIR as occupied foraging and dispersal habitat. In addition, the native pine forest also is habitat for other sensitive species, including several raptor species (e.g., Coopers hawk and white shinned hawk, state species of special concern).

Area MNOUV also contains other significant coastal dune habitat and wetland areas that are ESHAs. Monterey County did delineate some of these areas, but Commission staff fieldwork has documented significantly larger areas of both sensitive coastal dunes and riparian/wetland resources.[11] For example, as shown in Figure 5 of the staff report, based on just a limited review of certain locations in Area MNOUV, there appear to be significantly more acres of wetlands than documented by the County. Additional delineation work would be necessary to fully document wetland resources in the areas proposed for intensive recreational development by Measure A. The coastal dune habitat affected by Measure A, also shown in Figure 5, is part of the Asilomar-Fan Shell Beach dunes system, long identified and protected as ESHA by the Commission.[12] Monterey County's environmental assessment identified various sensitive dune species in this coastal dune area, including Monterey spine flower (CNPS 1B.2), Menzies' wallflower (CNPS 1B.1), beach layia (1B.1), Tidestrom's lupine (1B.1), and sand gilia (CNPS 1B.2).

Finally, as mentioned above, Measure A contemplates intensive recreational uses in the Sawmill Gulch area of the HHNHA. In addition to the inherent conflict with prior Commission mitigation requirements and existing legal restrictions, Measure A could result in increased impacts to the surrounding HHNHA. This area is specifically identified as ESHA in the LCP, and it contains significant sensitive habitats, such as the Gowen Cypress forest habitat.

Overall, preliminary staff analysis of Measure A with respect to the biological resources indicates significant conflicts with the Coastal Act's ESHA and wetland protection policies.[13] For example, as indicated by the project already approved by the County, the intensive golf course development specifically contemplated by Measure A for Area MNOUV could result in the loss of approximately 145 areas of ESHA, and result in significant loss of wetlands and coastal dune habitat.[14] In Area C, the County has approved a golf driving range, pursuant to the proposed land use of Measure A, that would

---

[11] Staff advised Monterey County in January 2005, prior to the County taking action on Measure A, that additional delineation work appeared necessary to better document the resources potentially impacted by Measure A. Apparently the County did not do any additional environmental assessment.

[12] Appendix A of the LUP also identifies coastal dunes as ESHA; see exhibit 5.

[13] Monterey County did not identify ESHA by applying the Coastal Act definition of ESHA to existing resource conditions but rather, relied on the Land Use Plan's Appendix A list of species and habitats known to be ESHA at the time of Land Use Plan certification in 1984 to make this determination. Not only is this list not the legal standard of review for the Measure A land use amendments, it is extremely out of date. Notable sensitive species not listed in the LUP Appendix A include the threatened California red-legged frog, the endangered Yadon's piperia, and such CNPS List 1B species as Monterey pine, Hooker's Manzanita, and Hickman's Onion.

[14] Overall it is estimated that the Monterey County approved project would remove approximately 122 acres of native Monterey pine forest, and approximately 18,000 trees. The golf course itself would remove 63 acres of native Monterey pine forest (and over 10,000 individual trees), and the remainder of the forest habitat there would be otherwise fragmented (e.g., in between fairways, along fringe of course, etc.). Similarly, with respect to Yadon's piperia, roughly 36,000 individual plants, or 21% of the known population of this endangered species, would be removed at Area MNOUV for the golf course.

result in the loss of approximately 17 acres of Monterey pine forest habitat (and almost 2,000 individual trees). Overall, Measure A could result in the direct loss or degradation of approximately 122 acres of native Monterey pine forest habitat, and indirect loss and fragmentation of additional acreage. Staff has not completed its analysis of each LUP planning area affected by Measure A, though, and more detailed assessment also is needed in certain areas, before a final recommendation on the consistency of Measure A with the Coastal Act can be made.

Public Works

In addition to specific land use changes, Measure A proposes to remove the LUP's Resource Constraint Area overlay from all of the affected properties that currently prohibits new development in these areas. This land use designation and corresponding "B-8" IP designation originally were put in place to reflect the fact that there was inadequate public services, including water supply, sewage treatment, and traffic capacity, to support new development in the Del Monte Forest (beyond in-fill on existing legal lots of record and the Spanish Bay Resort development approved in 1985). Additional review of this issue will be needed to address Coastal Act requirements to provide adequate public services for new development.

Other Issues

Monterey County has described Measure A as significantly reducing the potential number of additional residential units that could be built in the forest relative to the current LCP. Similarly, the Pebble Beach Company has both described Measure A as a "downzoning" and emphasized the conservation areas of the plan that would protect forest areas that might be developed otherwise and that would serve as mitigation for the impacts that will occur from the development contemplated by Measure A. Several observations in response to these characterizations of Measure A need to be made.

First, only certain components of Measure A are appropriately characterized as a "downzoning" – namely, those planning unit areas where the residential zoning is being changed to an open space conservation designation (e.g., portions of Areas PQR, G, I, H, B, and L). In parts of these areas and other lettered areas though, the proposed change from residential zoning to an intensive recreational zoning could support much greater intensities of development (and associated resource impacts) (e.g., in Areas MNOUV, C, Sawmill Gulch, and K). For purposes of evaluating Measure A for consistency with the Coastal Act, the application of the term "downzoning" in these areas is not appropriate. Finally, other components of Measure A actually "upzone" areas currently in an open space conservation designation to intensive recreational zoning (e.g., Sawmill Gulch, surrounding Area O).

Second, the densities of the residential designations of the existing certified LCP that have been used by the Company and County to date (ranging from estimates of 849 units up to 1,067 units) are *maximums*. The unit counts that have been cited were derived by multiplying the maximum allowed density by the affected land area, bracketing all other constraints. In reality, these maximums are subject to all of the typical resource planning and site constraints that must be evaluated prior to residential subdivision. None of the planning units affected by Measure A are subdivided. If residential subdivision was proposed under the current LCP, the biological resources of the areas would have to be evaluated, and if it was determined that an area was ESHA, as staff believes many of them should be, subdivision would

be prohibited.

Consistent with the Coastal Act, the LCP restricts new development in habitat areas to "resource dependent uses."[15] There is no legal entitlement to subdivide Monterey pine forest or other ESHA, let alone up to the theoretical maximum zoning densities of the LCP that have been cited as being eliminated by Measure A. In cases where development was proposed in areas that are entirely ESHA, development would be limited to the minimum necessary to avoid a taking of private property. In short, when existing ESHA resources are considered, the development potential under the certified LCP may already be significantly less relative to the maximum densities originally contemplated by the LUP in 1984.[16]

Third, in terms of the habitat protection and mitigation potentially offered by Measure A, it should be clear that the LCP already substantially protects the habitat areas in question if they are ESHA. Although open space conservation zoning likely would be more protective of ESHA than residential zoning, it is not correct to compare the theoretical maximum residential subdivision density with the "no subdivision" scenario. Rather, the minimum development that must be allowed under a takings analysis, such as a single residential development on a legal lot of record, is the relevant comparison. For example, in the vicinity of sub areas P, Q, and R, preliminary review suggests that there is only one legal lot of record that, depending on the takings analysis, might qualify for a single residential development of limited scope if it was determined that the area was entirely ESHA.

Fourth, in contrast to some environmental laws, the Coastal Act simply does not allow mitigation in the place of avoidable ESHA impacts. As was made clear in the Bolsa Chica decision, Coastal Act section 30240 does not allow non-resource dependent development in an ESHA, regardless of any mitigation that may be offered.[17] In this sense, the "preservation" components of Measure A are not relevant to the evaluation of other components of Measure A that would allow intensive recreational development in habitat areas, except inasmuch as it may be found that such development must be located in an ESHA and thus, that impact mitigation is needed. In the case of the proposed golf course, for example, it seems

---

15 Similar to the Coastal Act, the Monterey County LCP defines ESHA as: Environmentally sensitive habitat means an area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. (See individual land use plan segments definitions for specific examples.) (IP Section 20.06.440 defines ESHA) Within the DMF LCP segment, ESHA is further defined by IP Section 20.147.020(H) as follows: Environmentally sensitive habitats: Environmentally sensitive habitat areas are those in which plant or animal life or their habitats are rare or especially valuable due to their special role in an ecosystem. These include rare, endangered, or threatened species and their habitats; other sensitive species and habitats such as species of restricted occurrence and unique or especially valuable examples of coastal habitats; riparian corridors; rocky intertidal areas; nearshore reefs; offshore rocks and islets; kelp beds; rookeries and haul-out sites; important roosting sites; and Areas of Special Biological Significance (ASBS). The DMF segment goes on to define "rare and endangered species" in IP Section 20.147.020(AA) as follows: Rare and/or Endangered Species: Rare and Endangered Species those identified as rare, endangered, and/or threatened by the State Department of Fish and Game, United States Department of Interior Fish and Wildlife Service, the California Native Plant Society and/or pursuant to the 1973 convention on International Trade in Endangered Species of Wild Flora and Fauna. In addition to the Appendix A list of known ESHAs that was added to the LUP by the Commission at the time of certification, the LCP is also clear that ESHAs are to be determined at the time of proposed development, based on site-specific biological review.

16 According to Monterey County there are no more than 18 legal lots of record in the proposed project areas affected by Measure A (and 41 in the overall Pebble Beach Company project area).

17 *Bolsa Chica Land Trust v. Superior Court* 71 Cal.App.4th 493, 507.

unlikely that such a finding would be made, particularly given the existing recreational and institutional land uses and minimal entitlements that may otherwise exist in the area. Further, neither the Coastal Act nor the LCP *require* the approval of a golf course other recreational uses that are not resource-dependent, within an ESHA.

Finally, it should be noted that to the extent that Measure A includes preservation components that might be considered mitigation for other development contemplated by Measure A, the Commission typically does not consider preservation of existing ESHA that is already substantially protected as complete mitigation for the physical loss of habitat areas. Rather, the Commission looks for mitigation that involves creation of new habitat, or restoration of degraded habitat areas, such as the restoration required in Upper Sawmill Gulch as a condition of the Spanish Bay Resort coastal development permit. Although not directly related to Measure A, it should also be noted that, with the exception of its Federal Consistency review powers, the Commission has no authority over development or mitigation proposals outside of the coastal zone, such as has been required by the County in its approval of the Pebble Beach project.

Staff Report Contents

page

Part One: Background and Amendment Description....9
1. Forward....9
2. Del Monte Forest Area Background....9
3. Proposed LCP Amendment....12
   A. Existing LCP Provisions....12
   B. Proposed LCP Amendment....14
4. Proposed LCP Amendment Background....21
   A. Pebble Beach Company Project....22
   B. Measure A....23
   C. Spanish Bay CDP....26
   D. Down-Zoning?....28
5. Procedure/Standard of Review for LCP Amendments....33
Part Two: Resource Issues....34
1. Applicable Policies....34
2. ESHA Definition Applicable to Measure A....36
3. ESHA Determination....43
   A. Monterey pine Background....43
   B. ESHA Criteria....47
C. ESHA Analysis....51
   1. Introduction....51
   2. Area MNOUV (Pebble Beach Company Project: Golf Course Site)....52
   3. Areas B and C (Pebble Beach Company Project: Golf Driving Range and Employee Housing Sites)....61

4. Sawmill Gulch (Pebble Beach Company Project: Equestrian Center site) 66
5. PQR (Pebble Beach Company Project: Residential Subdivision and Preservation Sites) 71
6. Areas F, G, H, I, J, K, and L (Pebble Beach Company Project: Residential and Preservation Sites) 75
7. Corporation Yard Commercial Area (Pebble Beach Company Project: Employee Housing)77
8. Pebble Beach Lodge and Spanish Bay Resort 78
9. Other Issues.....78
Exhibit 1: Del Monte Forest Location Map
Exhibit 2: Measure A
Exhibit 3: Selected Commission Staff and Commission Correspondence
Exhibit 4: Spanish Bay CDP Excerpts
Exhibit 5: Del Monte Forest LUP Excerpts
Exhibit 6: LUP OSAC Plan Excerpts
Exhibit 7: Sensitive Species Occurences
Figures 1-14: Land Use Maps and Biological Resources; Pebble Beach Company Lots

Click on the the links at left to go to the report exhibits and figures.

Part One: Background and Amendment Description

1. Forward

Monterey County proposes to amend the Del Monte Forest segment of its LCP. The amendment proposes land use and implementation plan changes directly affecting over 600 acres of land in the Del Monte Forest, almost exclusively lands of the Pebble Beach Company, which owns the roads and most of the undeveloped property within the Forest. The amendment is project-driven, having been developed to provide for the Pebble Beach Company's development plans for the Forest. It is also somewhat unique inasmuch as it was approved by the County electorate through an initiative process in 2000 (i.e., Measure A). This section of the report provides contextual background on the Del Monte Forest and the LCP, and the specific ways in which the amendment proposes to change relevant LCP provisions for the Del Monte Forest area.

2. Del Monte Forest Area Background

The Del Monte Forest (DMF) area is located on the Monterey Peninsula and is bounded roughly by the cities of Pacific Grove and Monterey to the north, and Carmel to the south; State Highway One skirts the Forest a couple of miles inland (see Exhibit 1). DMF has long been recognized for its natural beauty and is well known for its mostly craggy shoreline that extends through large areas of dunes up through and into a steep landform mantled by native Monterey pine forest and its related habitats. The Forest is home to a variety of plant and animal species, including some that are exceptionally rare. As the Del Monte Forest Land Use Plan (LUP) describes:

> *The spectacular meeting of forest, land, and sea in the Del Monte Forest Area is not only an important scenic attraction of the Monterey Peninsula, for both residents and visitors, but vital habitat for a variety of vegetation and wildlife, including several rare and endemic species dependent on the unique ecosystem. That so much of the Forest's natural and scenic resources remain unspoiled is also significant; it provides a sharp contrast to urban developments in the cities of Carmel, Pacific Grove, and Monterey.*

One of the most compelling characteristic of the Del Monte Forest area is its awe-inspiring physical setting. Framed by the Asilomar Dunes in Pacific Grove upcoast and the sands of Carmel Beach downcoast, the DMF shoreline includes the incredible white sand dunes and beaches at Spanish Bay, Fan Shell Beach, and Signal Hill, the craggy shoreline from Cypress Point to Pescadero Point, and the striking calm waters and beaches of Stillwater Cove – part of the larger Carmel Bay Area of Special Biological Significance (ASBS) and the Monterey Bay National Marine Sanctuary. Inland of the shoreline, the Forest transitions through both developed and undeveloped areas with a variety of gurgling streams and creeks towards the peak of the Monterey Peninsula. Aside from major clearings for golf courses, much of the inland portions of DMF – even residentially developed areas – remain substantially mantled by forest cover; predominantly native Monterey pine forest, but also native Monterey cypress, Gowen cypress, Bishop pine, and combinations of all of them. Several areas have been formally set aside for preservation, such as the roughly 275 acre Huckleberry Hill Natural Habitat Area with its Monterey pine, Gowen cypress, Hooker's manzanita and related habitats. At least nineteen special status plant species are found in the Forest, including the federally endangered Yadon's piperia that is found in the Del Monte Forest but almost nowhere else in the world. Similarly there exists habitat for at least thirteen special-status wildlife species in the affected area, and at least six such listed species have been positively identified in these areas to date, including the federally threatened California red-legged frog. Similarly, the native Monterey pine forest itself here, in some ways the defining characteristic of the Del Monte Forest and specifically of the affected land area, is one of only five such native pine forest occurrences in the world, and it is well known in this sense as part of the largest and most extensive of these worldwide. In sum, the natural physical setting is dramatic, and the Del Monte Forest remains home to significant forest and related resources befitting it name.

Within this extraordinary physical setting, the Del Monte Forest has also over time seen substantial development such that DMF is now home to eight golf courses, two high-end resorts (the Inn at Spanish Bay and the Pebble Beach Lodge), one main commercial area (in Pebble Beach at the Lodge), mostly larger homes on large lots, and a meandering interior road system. Even with the level of development to date however, the Forest continues to mostly function and appear as more of a well established natural area – dominated by Monterey pine forest – within which development has been melded as opposed to an area of development surrounded by smaller patches of natural resources. This balancing has been achieved at least partly because there are significant natural areas that remain undeveloped, and in light of the spectacular natural physical setting overall. Overall, the DMF is well known for its blend of natural resources and its large, often mansion-like, homes. It is also well known as a golf destination (including being home to one of the most famous golf courses in the world, the Pebble Beach Company's Pebble Beach Golf Links) through which winds the world-famous 17-Mile Drive, and in which lies Pebble Beach itself. In fact, the Del Monte Forest is often referred to as "Pebble

Beach" more generically, particularly outside of the immediate Monterey Peninsula area even though Pebble Beach is just one area within the larger Del Monte Forest area.

The Del Monte Forest is a very large land area – approximately 7 square miles – that has long remained a private, gated enclave along roughly 7 miles of central California shoreline. A circuitous private road system winds through the DMF. The Pebble Beach Company owns the roads and almost all of the undeveloped land in DMF. The Company also owns and operates the two resorts in DMF, much of the Pebble Beach Lodge-related commercial operations, as well as four of the eight DMF golf courses.[18] The Company owns all of the land directly affected by the proposed LCP amendment. In addition to its resort and recreational resources, the Company maintains the infrastructure for Del Monte Forest, including roads and utilities. The Pebble Beach Company's predecessor, the Del Monte Properties Company, acquired all of the Del Monte Forest and much of the surrounding area in the early 1900s. Although the Company has obviously sold much of these original holdings, as evidenced by the other golf course properties and DMF's existing residential stock, it remains the predominant Forest landowner and the dominant management entity.

Access into the Forest is controlled by the Pebble Beach Company through five manned gates for which an entrance fee of $8.50 is required for the general public to gain vehicular access;[19] bicyclists and pedestrians are allowed free entrance. Past the gates significant public access amenities have been developed in this private setting – including a series of public shoreline access points connected by miles of shoreline and interior pedestrian and equestrian trails supported by public parking areas. Many of these public access improvements were developed as part of the terms and conditions of the Commission's approval of the Spanish Bay Resort and Golf Course development in 1985, and are operated and maintained by the Company for the general public.

Almost all of the Del Monte Forest, and obviously all of the area affected by the proposed LCP amendment, is located within the California coastal zone.[20] Because the entire DMF coastal zone area is seaward of the first through public road, all coastal development decisions by the County within the Forest are appealable to the Coastal Commission.

See Figures 1-13 for annotated maps and photos of the Del Monte Forest area.

---

[18] The Company's DMF golf courses are the Pebble Beach Golf Links, Spyglass Hill Golf Course, The Links at Spanish Bay, and the Peter Hay (9-hole) Golf Course. All of these courses are open to the public. The Company also owns and operates the Del Monte Golf Course located in Monterey outside of the Del Monte Forest. The other four DMF golf courses that are owned and operated by entities other than the Company are the private Cypress Point Golf Club, the private Monterey Peninsula Country Club (two courses), and the public Poppy Hills Golf Course; the latter owned and operated by the Northern California Golf Association.

[19] The fee structure is written into the LCP as LUP Policy 96, where the terms of LUP Policy 96 were also made part of the terms and conditions of the Commission's approval of the Spanish Bay resort (CDP 3-84-226).

[20] The majority of the Country Club planning area within the Del Monte Forest is not in the coastal zone (see Figure 1, 2B). This area includes the two Monterey Peninsula Country Club golf courses and related residential development downcoast from Spanish Bay and Pacific Grove and along the shoreline roughly from Point Joe to Bird Rock. Only that portion of the Country Club area seaward of and including 17-Mile Drive is located in the coastal zone.

3. Proposed LCP Amendment

A. Existing LCP Provisions

Structure of the Monterey County LCP

The certified Monterey County LCP has four geographic segments – the Del Monte Forest area is one of these segments.[21] Each of these segments has its own LUP, which when considered together form the LCP's overall LUP. The Implementation Plan (IP) portion of the LCP is broken up into six sections that complement one another: the overall LCP component of the zoning code that applies to all of the segments (i.e., the coastal zone regulations in Title 20 of the County Code), four segment-specific IP sections that provide increasing detail for each of the four segments, and then a sixth part that includes other applicable County ordinances, the zoning district maps, and a series of other relevant appendices. The Coastal Commission certified the individual LCP LUP segments between 1982 and 1986; the Del Monte Forest LUP segment was certified in 1984. The complete LCP IP was effectively certified on January 12, 1988.[22] On February 4, 1988, Monterey County assumed authority for issuing most coastal development permits in the County. Since that time the LCP has been amended some two dozen times, including ten LCP amendments specific to the Del Monte Forest. The Commission conducted a periodic review of the certified LCP in 2002-3, and transmitted preliminary staff recommendations (not adopted by the Commission) to the County.[23]

Structure of the Del Monte Forest LCP Segment

Coastal development in the Del Monte Forest area is primary governed by the DMF LUP and the DMF-specific IP segment (Chapter 20.147 of the County Code) and the zoning district maps that show the forest (Sections 10 and 16 of the County Zoning Plan). The Del Monte Forest LUP is organized around eight planning areas: Spanish Bay, Country Club, Gowen Cypress, Spyglass Cypress, Middlefork, Huckleberry Hill, Pescadero, and Pebble Beach. Within portions of these eight planning areas, a series of planning units have been further delineated and identified alphabetically as Areas A through Y. The LCP amendment directly affects most of the alphabetically identified areas (see also below). See maps showing the LUP planning area boundaries and alphabetical areas in Figure 2B.

The DMF LUP has three primary land use designations: Residential, Commercial, and Open Space. Each of these designations are further broken down into sub-designations. For the Residential land use designation, there are five sub-designations with densities ranging from one unit per two acres up to four

---

21 The other three segments are North Monterey County, Carmel Area (excluding the City of Carmel), and Big Sur.

22 Portions of the Malpaso and Yankee Beach areas within the Carmel Area segment were not certified at that time and remain Areas of Deferred Certification (ADCs) within which the Commission still retains direct coastal permitting authority.

23 The periodic LCP review effort was timed (and requested by the County) to coincide with the County's General Plan update process; a process that remains ongoing as of the date of this staff report. The Commission delayed action on the recommendations of the Periodic Review to allow the County adequate time to complete its General Plan update.

units per acre that generally define low intensity, large lot development patterns.[24] The Commercial designation has three sub-designations: Visitor-Service Commercial, General Commercial, and Institutional. These commercial designations are exclusively applied to the existing Spanish Bay and Pebble Beach Lodge areas, and the Pebble Beach Company's corporation yard (the latter being non-visitor-serving). The Open Space designation includes three sub-designations as well: Open Space Recreational, Open Space Forest, and Open Space Shoreline. The Open Space Recreational designation applies exclusively to all existing golf courses and the Pebble Beach equestrian center. The Open Space Forest designation applies to resource protection areas, as does the Open Space Shoreline designation (with the additional shoreline locational criteria applied).[25]

Although similarly labeled, the LUP's Open Space Recreational land use category encompass very different types of land use from the other LUP open space categories, and a different type of land use than the phrase "open space" typically connotes. The Open Space Forest and Open Space Shoreline designations are resource protection land use designations (applied to rare species habitat, dunes, riparian areas, tidepools, shoreline, beaches, reserves, etc.) within which only very low intensity development is even allowed (e.g., public access trails). These designations are meant to protect resources as natural open space. In contrast, the Open Space Recreational land use category is not a resource protection designation, but rather provides specifically and only for three development-intensive land uses: golf course, the Beach and Tennis Club, and the equestrian center. These three allowed land uses thus provide for significant development, including structural development (even more so in the case of the Beach and Tennis Club that is exclusively structural) and tended and intensively used areas (e.g., turfed golf course holes, horse corrals, riding rings, etc.). The point is important for understanding the Measure A amendment because it proposes to designate large undeveloped areas as Open Space Recreational (see description of proposed LCP amendment) specifically to allow intensive development in certain areas.

Finally, the LUP also includes several land use designation overlay categories. Chief among these is the Resource Constraint Area overlay that applies to the majority of the land involved in the proposed LCP amendment. See Exhibit 5 for an excerpt from the LUP further defining the three primary designation classifications, and see Exhibit 5 for existing LUP Figure 5 showing land use designations as they are currently applied within the Forest.

With respect to zoning, the LCP IP zoning districts that apply to DMF essentially mimic the LUP land use designations. For those areas designated Residential in the LUP, the corresponding zoning districts

---

24 The five designations are 1 unit/2 acres, 1 unit/1.5 acres, 1 unit/acre, 2 units per acre, and 4 units per acre. In addition, in a relatively few number cases in the Forest, density per unit differs from these five sub-designation categories and is explicitly identified on LUP maps. The proposed LCP amendment only involves properties with one of the five base designations.

25 Open space lands in DMF are also further governed by the open space management categories of the LUP's Management Plan for Open Space Property, also known as the OSAC Management Plan (or OSAC Plan) in reference to its initial preparation for the Del Monte Forest Open Space Advisory Committee (or OSAC) during the course of initial LUP development in the early 1980s. There are eleven DMF open space management categories and these are based on the type of open space resource being managed (e.g., natural reserve, open forest, etc.). See Exhibit 6 for excerpts from the OSAC Plan describing the open space management categories and depicting (on DMF maps) different areas in DMF to which various management categories and associated requirements apply.

are either Low Density Residential (LDR) or Medium Density Residential (MDR).[26] For those areas designated Commercial in the LUP, the zoning districts are Visitor Serving Commercial (VSC), Coastal General Commercial (CGC), or Institutional Commercial (IC). For those areas designated Open Space in the LUP, and similar to the distinction drawn above, the zoning designations break down along two very different classifications. The Open Space Forest and Open Space Shoreline designations (i.e., the two resource protection-related open space designations) are implemented by the Resource Conservation (RC) zoning district. RC is considered the most resource protective of the County's LCP zoning designations. The Open Space Recreational land use category, on the other hand, is implemented by the Open Space Recreation (OR) zoning district; a district whose purpose is to provide for outdoor recreation (like golf courses), and not resource protection.[27]

With respect to secondary combining zoning designations, the Resource Constraint Area overlay that applies to the land use designations is implemented by the Building Site (B) combining zoning district which is further defined by eight variations, B-1 through B-8.[28] The B-8 district, often referred to as the resource constraint overlay, applies to the majority of the land involved in the proposed LCP amendment, including all of the alphabetically lettered planning units. Lands with a B-8 overlay cannot be subdivided and development on them is almost entirely prohibited.[29] All DMF land is also combined with the Design Control (D) combining zoning designations, a district meant to guide development with respect to size, scale, layout, appearance and other such elements of design meant to ensure compatibility and protect public viewsheds, among other things. Finally, all County coastal zone land, including that within the Del Monte Forest, includes the "(CZ)" coastal zone identifier (e.g., "RC (CZ)" identifies the Resource Conservation zoning district in the coastal zone).[30]

B. Proposed LCP Amendment

The proposed LCP amendment includes some changes that would apply throughout the Del Monte

---

26 In some cases, the LDR and MDR zoning designations are further defined by maximum density notations (e.g., LDR/2 means an LDR district with a maximum density of 2 acres per unit).

27 Throughout this report, land use designations are generally spelled out, followed by zoning districts in parentheses. For example "Open Space Forest (RC/B-8)" represents the Open Space Forest land use designation and the Resource Conservation zoning district to which the B-8 resource constraint overlay also applies. For cases where the "B-8" district is shown, the Resource Constraint Area LUP designation also applies. For ease of reference, the Resource Constraint Area LUP designation is not generally spelled out in this report, but it is understood to apply to the property in question.

28 B-1 through B-5 identify specific site area and setback standards, and B-6 through B-8 include restrictions on development more generally. The B-8 district is often referred to as the "Resource Constraint Overlay" because it restricts development where there are public facility constraints; the majority of property involved in the LCP amendment is zoned with the B-8 combining district in addition to its underlying base district.

29 The B-8 designation has been applied almost exclusively to undeveloped DMF lands lacking a resource conservation land use designation (e.g., those undeveloped lands not designated Open Space Forest (RC)), and essentially allows only the first single family home on a legal residential lot.

30 For the purpose of this report and for clarity in presentation, the "(D)" and "(CZ)" designations are not included where zoning designations are identified. In omitting this reference, it is acknowledged that each zoning designation in the DMF actually includes these identifiers; both in terms of the existing LCP and the proposed amendments to it.

Forest, but it primarily consists of specific changes that would apply to targeted areas within the Forest. In particular, the amendment includes a series of proposed changes to LUP and IP land use designations for most of the aforementioned LCP alphabetical areas, as well as similar designation changes to a subset of areas that do not have an LCP alphabetical code. Overall, new land use designations are proposed for over 600 acres of property, the majority of which is currently undeveloped. All of this land, as well as the other areas most directly affected by the proposed amendment (such as the Inn at Spanish Bay and the Pebble Beach Lodge area) are owned by the Pebble Beach Company.[31] More specifically, the amendment proposes to make the following LCP changes:[32]

1. Description

Area MNOUV (Pebble Beach Company Project: Golf Course Site)[33]

Areas M, N, O, U, and V (MNOUV) are about 140 acres of land that is currently designated Residential (LDR or MDR) with maximum densities ranging from 1 to 4 units per acre. In addition, a roughly 8-acre area surrounding Area O is designated Open Space Forest (RC). All of these areas are further designated as Resource Constraint Area (B-8). The proposed LCP amendment would designate all of Area MNOUV (including all of the nearby non-lettered property currently Residential (LDR/1.5)) and all of the 8-acres of resource conservation to Open Space Recreation (OR) with the exception of a 4-acre area straddling Areas M and O near the intersection of Stevenson Drive and Spyglass Hill Road that would be designated to Visitor Service Commercial (VSC). The Resource Constraint Area (B-8) overlay would be removed for all of Area MNOUV. All of these new land use designations would be reflected in LUP Figure 5 and the IP zoning maps.

In addition, the proposed amendment would also: add text to the LCP indicating that up to 24 golf suites would be located within the 4-acre Visitor Service Commercial (VSC) area that would be designated on Areas M and O (where the text would be added in the LUP's commercial land use description and in IP Section 20.147.020(N)); modify LUP Figure 15 to include a note indicating that trails shown within area MNOUV on Figure 15 are illustrative, and to indicate that any final trail location and/or alignment is to be determined at the time of project approval in these areas; delete the reference to Area M in LUP Policy 116 (regarding affordable housing); and change the LUP's OSAC Plan to specify that areas designated OR in Area MNOUV are to be managed and maintained pursuant to LUP OSAC Plan management category VI applicable to golf course uses and development.

Areas B and C (Pebble Beach Company Project: Golf Driving Range and Employee Housing Sites)

Areas B and C make up about 53 acres of land that is currently designated Residential (MDR) with maximum densities of 2 to 4 units per acre; all of which is further designated as Resource Constraint

---

31 The LCP amendment includes modifications relating to Area X in the Pebble Beach planning area and to Area Y in the Pescadero planning area. Areas X and Y are not owned by the Pebble Beach Company.

32 For each of the below areas, see Figure 2B for a graphic depiction of their location within the Del Monte Forest and the existing and proposed LUP and IP land use designations, and see Exhibit 2 (i.e., Measure A itself) for the proposed LUP and IP text and other changes.

33 Includes the non-lettered property near MNOUV, and the area surrounding Area O also directly affected by the proposed amendment.

Area (B-8). The proposed LCP amendment would designate all 29 acres of Area C to Open Space Recreation (OR), and would designate approximately 20 acres of Area B to Open Space Forest (RC); the remaining four acres of Area B would remain Residential (MDR). The Resource Constraint Area (B-8) overlay would be removed for all of Areas B and C. All of these new land use designations would be reflected in LUP Figure 5 and the IP zoning maps.

In addition, for Area B the proposed amendment would also: add text in several LUP and IP locations explicitly identifying Area B for employee housing, including proposing to replace LUP Policy 82 (identifying maximum unit counts in Area B premised on LUP Table A) with text indicating that "Area B may be used for up to 12 units of employee housing," and including modifying LUP Policy 116 to change its reference from providing senior housing to providing employee housing, and change the areas to which that applies from Areas M and G to Area B; include text in Spanish Bay planning area LUP land use text indicating that "employee housing may be proposed in Area B;" add text to IP Section 20.147.090(B) (Land Use and Development Standards; Specific Development Standards) stating that "additional employee housing is permitted consistent with all other plan policies," and that "up to 12 units of employee housing may be provided in a portion of Area B;" and, applicable to employee housing more generally, change LUP Policy 78a and IP Section 20.147.090(B) to remove explicit criteria limiting employee housing to be "in dormitory/bunkhouse or in temporary structures (i.e., former mobile homes)."

In addition, for Area C the proposed amendment would also add text indicating: that a driving range and related facilities "are expected to be constructed" in Area C; that "parking will be provided in a portion of Area C to accommodate visitor-serving facilities in Spanish Bay" (in the LUP's land use section applicable to Spanish Bay, and in the Planned Circulation Improvements section of LUP Chapter 4); and that all of Area C is to be managed and maintained pursuant to LUP OSAC Plan management category VI applicable to golf course uses and development.

Sawmill Gulch Area (Pebble Beach Company Project: Equestrian Center site)

The Sawmill Gulch area is about 45 acres that is currently designated for resource conservation: Open Space Forest (RC). The proposed LCP amendment would designate all of Sawmill Gulch to Open Space Recreation (OR), and this new land use designation would be reflected in LUP Figure 5 and the IP zoning maps. In addition, the proposed LUP text indicates that Sawmill Gulch is to be managed and maintained pursuant to LUP OSAC Plan management category VII (Other), and specifically within Category VII as "equestrian center" (i.e., by OSAC definition, managed and maintained as an area that "do[es] not require specific open space management criteria," and that cites as a reference for what is meant by equestrian center management the "Collins Field Industrial Horse Trail."[34] Finally, the proposed amendment would also add text to the LUP's land use text relative to the LUP's Gowen Cypress planning area to indicate that existing mined areas can be used as a equestrian center.

Area PQR (Pebble Beach Company Project: Residential Subdivision and Preservation Sites)

[34] LUP OSAC Plan page 12; see Exhibit 6.

Areas P, Q, and R (PQR) are about 158 acres of land that is currently designated Residential (LDR) with a maximum density of 1 unit per acre; all of which is further designated as Resource Constraint Area (B-8). The proposed LCP amendment would designate approximately 145 acres of Area PQR to Open Space Forest (RC), would designate approximately 5½ acres as Residential (LDR/1), and would designate approximately 7½ acres as Residential (LDR/2).[35] The Resource Constraint Area (B-8) overlay would be removed for all of Area PQR. All of these new land use designations would be reflected in LUP Figure 5 and the IP zoning maps.

The proposed amendment would also add text to the LUP's land use text relative to the LUP's Pescadero planning area indicating that "there will be 7 lots located on approximately 15 acres" in Area PQR.

Area F (Pebble Beach Company Project: Residential Subdivision Site)

Area F is about 47 acres of land that is currently designated Residential (MDR) with a maximum density of 2 units per acre; all of which is further designated as Resource Constraint Area (B-8). The proposed LCP amendment would designate approximately 27 acres as Residential (LDR/1), and would designate approximately 20 acres as Residential (LDR/2).[36] The Resource Constraint Area (B-8) overlay would be removed for all of Area F. This new land use designation would be reflected in LUP Figure 5 and the IP zoning maps.

The proposed amendment would also add text to the LUP's land use text relative to the LUP's Gowen Cypress planning area to indicate that "16 residential dwellings is [sic] planned in Area F."

Area G (Pebble Beach Company Project: Preservation Site)

Area G is about 35 acres of land that is designated Residential (MDR) with a maximum density of 2 units per acre; all of which is further designated as Resource Constraint Area (B-8). The proposed LCP amendment would designate Area G to Open Space Forest (RC), and would remove the Resource Constraint Area (B-8) overlay. This new land use designation would be reflected in LUP Figure 5 and the IP zoning maps.

The proposed amendment would also add text to the LUP's text relative to the LUP's Huckleberry Hill planning area to state that "Elimination of residential units in Area G will result in preservation of approximately 965 acres of contiguous open space forest between the Gowen Cypress, Huckleberry Hill, Middle Fork and Pescadero Canyon areas."

Area H (Pebble Beach Company Project: Preservation Site)

Area H is about 24 acres of land that is currently designated Residential (MDR) with a maximum density of 2 unit per acre; all of which is further designated as Resource Constraint Area (B-8). The proposed LCP amendment would designate Area H to Open Space Forest (RC). The Resource Constraint Area (B-8) overlay would be removed for all of Area H. This new land use designation

[35] Where the "1" and "2" indicate that the maximum allowed density is 1 unit per 1 and 2 acres, respectively.

[36] Ibid; maximum densities.

would be reflected in LUP Figure 5 and the IP zoning maps.

Area I (Pebble Beach Company Project: Residential Subdivision and Preservation Sites)

Area I is about 50 acres of land that is roughly split evenly into two designation categories: Residential (LDR) with a maximum density of 1 unit per acre, and Residential (MDR) with a maximum density of 2 units per acre; all of which is further designated as Resource Constraint Area (B-8). The proposed LCP amendment would designate about 19 acres of Area I as Residential (LDR/1.5), and would designate the remainder of Area I as Open Space Forest (RC). The Resource Constraint Area (B-8) overlay would be removed for all of Area I. This new land use designation would be reflected in LUP Figure 5 and the IP zoning maps.

The proposed amendment would also add text to the LUP's land use text relative to the LUP's Middlefork planning area to indicate that "open space and 11 lots for residential dwellings in Area are the principal proposed land uses" in Area I.

Area J (Pebble Beach Company Project: Residential and Preservation Sites)[37]

Area J and the small nearby property (about 1 acre) are together about 10 acres of land that is currently designated Residential (MDR) with a maximum density of 2 units per acre; all of Area J is further designated as Resource Constraint Area (B-8). The proposed LCP amendment would designate roughly one-half of Area J as Residential (LDR/2) and one-half as Residential (LDR/4), and would designate the small nearby property as Open Space Forest (RC). The Resource Constraint Area (B-8) overlay would be removed for all of Area J.

Area K (Pebble Beach Company Project: Residential Site)

Area K is about 7 acres of land that is currently designated Residential (MDR) with a maximum density of 2 units per acre; all of which is further designated as Resource Constraint Area (B-8). The proposed LCP amendment would designate about 4 acres of Area K to Open Space Recreational (OR), and would designate the remaining 3 acres as Residential (LDR/6). The Resource Constraint Area (B-8) overlay would be removed for all of Area K. This new land use designation would be reflected in LUP Figure 5 and the IP zoning maps.

In addition, the proposed amendment would also add text indicating that the portion of Area K designated "OR" is to be managed and maintained pursuant to LUP OSAC Plan management category VI applicable to golf course uses and development.[38]

Area L (Pebble Beach Company Project: Preservation Site)

Area L is about 18 acres of land that is currently designated Residential (MDR) with a maximum density of 2 unit per acre; all of which is further designated as Resource Constraint Area (B-8). The proposed LCP amendment would designate Area L to Open Space Forest (RC). The Resource

[37] Includes the non-lettered property near Area J that is also directly affected by the proposed amendment.

[38] The portion of Area K designated Open Space Recreational is not part of the Pebble Beach Company's proposed golf course.

Constraint Area (B-8) overlay would be removed for all of Area L. This new land use designation would be reflected in LUP Figure 5 and the IP zoning maps.

Corporation Yard Commercial Area (Pebble Beach Company Project: Employee Housing)

The Pebble Beach Company corporation yard commercial area is about 34 acres of land that is currently designated in two commercial categories: about 14 acres are designated General Commercial (CGC) and about 20 acres are designated Institutional Commercial (IC); all of which is further designated as Resource Constraint Area (B-8). The proposed LCP amendment would maintain these designations but would remove the Resource Constraint Area (B-8) overlay. This new land use designations would be reflected in LUP Figure 5 and the IP zoning maps.

The proposed amendment would also add text to the LUP's text relative to the LUP's Huckleberry Hill planning area to make the text changes applicable to employee housing previously noted above.

Also applicable to this area, LUP Table A identifies the maximum allowed number of units (residential and visitor serving) in the Del Monte Forest. The proposed LCP amendment would delete LUP Table A and all references to it (see also below). Currently, the corporation yard area is not ascribed any units by Table A. As a result, the LUP does not provide for residential development in that area. By eliminating Table A and related LUP text, the LUP limitation on residential use there is also eliminated. In other words, by proposing to delete Table A, the amendment proposes to allow residential units in the corporation yard commercial area.

All Above Areas

The amendment proposes to change the way the LUP's land use designation figures are displayed. Currently, the LUP's land use designations are identified on LUP Figure 5, and Figure 5 is supplemented by LUP Figures 6a, 7a, 8a, 9a, 10a, 11a, 12a, and 13a. Figures 6a through 13a show the same information as LUP Figure 5, but each figure is "zoomed-in" to show each planning area at a finer scale. The proposed LCP amendment would delete the zoomed-in figures and references to them, and retain the modified (as described above) Figure 5. The proposed amendment would modify LUP text applicable to the each LUP planning area to reflect the deletion of the zoomed figures and to reflect the proposed reliance instead on the amended LUP Figure 5 alone. In other words, the elimination of the excerpted figures is an organizational as opposed to a substantive change; it is the proposed Figure 5 changes that would govern in this sense.

Pebble Beach Lodge and Inn at Spanish Bay

The LCP currently limits the number of units allowed at the Pebble Beach Lodge and Inn at Spanish Bay: 161 maximum units at the Lodge and 270 maximum units at Spanish Bay. The proposed amendment would modify LUP text applicable to the Spanish Bay and Pebble Beach LUP planning areas to eliminate the maximum unit references. In addition, as described above, the proposed LCP amendment would delete LUP Table A and all references to it (see also below). Together, the proposed LCP amendment eliminates the requirement that the number of units at these two facilities be kept below 161 and 270 units respectively, and eliminates unit caps altogether for them (i.e., there would be

no maximum number of units identified in the LCP).

Table A

As described above, the proposed LCP amendment proposes to eliminate Table A and associated LCP references to it. Because Table A identifies the maximum number of units that are allowed within each LUP planning area in the Forest, its elimination is actually a proposal to do at least two additional things.[39] First, akin to the elimination of any maximum number of units at the Lodge and Spanish Bay, the LCP amendment eliminates the requirement that unit counts within each planning area not exceed the identified maximum. In other words, the amendment indirectly proposes to allow additional units in LUP planning areas where unit maximums have been reached or may have been reached (under current Table A structure) in the future (including additional caretaker units, second units, etc.).

Second, in addition to the above-described lettered areas, there are other lettered areas in the Forest represented in LUP Table A. Along with the proposed deletion of Table A, the proposed LCP amendment includes language that would be added to the LUP's land use text associated with the LUP's Pebble Beach and Pescadero planning units indicating that "20 additional residential dwellings are planned on land in Area Y," and "23 additional residential dwellings are planned for Area X." In other words, for Areas X and Y (not owned by the Pebble Beach Company), the proposed amendment ascribes a unit count to these areas where the number of units has been taken from the maximum figures in existing Table A. This unit count would no longer be controlled by LUP language identifying these as maximums.

Resource Constraint Area

In addition to the elimination of the Resource Constraint Area (B-8) overlay as described above, the proposed LCP amendment would add text to the LUP and IP indicating that water, wastewater, and transportation constraints no longer apply for the above-described lettered areas (see Measure A in Exhibit 2).

2. Measure A Severability

The Measure A LCP amendment includes some severability language of note. Specifically, Section 13 of Measure A ("Compliance with California Coastal Act") states as follows:

> *It is the intent of the voters of the County of Monterey that this Initiative be consistent with the California Coastal Act. In the event any section, sub-section, sentence, clause, phrase, or part of this Initiative is determined to be inconsistent with the Coastal Act by a final judgment of a court of competent jurisdiction, this Initiative and the whole thereof shall be of no further force or effect.*

In addition, Section 14 of Measure A ("Severability") states as follows:

[39] In addition to the changes associated with its proposed deletion that apply to the corporation yard commercial area, the Pebble Beach Lodge, and the Inn at Spanish Bay.

1. *If any section, sub-section, sentence, clause, phrase, or part of this Initiative is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Initiative, The voters hereby declare that this Initiative, and each section, sub-section, sentence, clause, phrase, or part thereof would have been adopted or passed irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, phrases, or parts are declared invalid or unconstitutional.*

2. *The voters who signed this petition also declare that they would have signed the petition irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or parts thereof would be declared invalid or unconstitutional, and it is the intent of the voters that the rest of the Initiative be placed on the ballot.*

Thus it appears that the LCP amendment cannot be severed in terms of a Coastal Act analysis: if one part is determined to be inconsistent, then all of it is moot.[40] Conversely, however, it appears that if one or more parts is determined to be invalid or unconstitutional, then only that part is mooted and the rest still applies. It is not clear at this point how such severability sections would be rectified in various LCP amendment outcome scenarios; further analysis and conclusion may provide better decision-making context, and staff intends to continue to analyze this issue.

3. Filing

The proposed LCP amendment package has not yet been filed. Although substantial materials have been provided for the Commissions use in its analysis and decision-making process, discussions are ongoing with the County with respect to the level of detail and information necessary in that respect. In any event, the Commission is not currently under any deadline for action on the LCP amendment, and this staff report and associated public hearing is not the hearing that is provided for under section 13522 of the Commission's regulations.

4. Proposed LCP Amendment Background

The proposed LCP amendment is timely inasmuch as the Del Monte Forest LCP segment has not been significantly updated in the roughly two decades since its certification by the Commission. Much has changed in that time, both in terms of the Forest's physical environment and our understanding of it in relation to coastal resource protection and LCP planning under the Coastal Act. The fact that the proposed amendment directly changes land use designations on the Company's remaining undeveloped holdings not designated for resource conservation (and directly affects some 600 DMF acres in all) also provides an opportunity to provide some certainty to the Forest in terms of the future potential development of these areas.

[40] This is similar to the standard of review and procedure for LCP amendments on the whole where if one part must be denied, the whole of it must be denied. That said, however, once an LCP amendment is denied, the Commission can identify modifications that would allow for its approval (see also LCP amendment procedural section). This Coastal Act compliance section of Measure A would appear to be an attempt to limit the potential for such an outcome – at least to the extent it were ultimately decided by the courts.

The proposed amendment, though, also must be understood in relation to its special project-driven context, and the particular issues raised by this context. This section provides some background on the Pebble Beach Company's proposed project, already approved by Monterey County in March of 2005, to help with the proper framing of Measure A and its coastal resource implications. .

A. Pebble Beach Company Project

The Pebble Beach Company has been pursuing development on its remaining undeveloped land holdings in the Del Monte Forest (including the land directly affected by this proposed LCP amendment) for many years. The current project has its genesis in its predecessor known as the "Pebble Beach Lot Program" from the early 1990s. That project included a 400-lot subdivision, an 18-hole golf course (first at Pescadero Canyon and then at the current proposed golf course site in and around Area MNOUV), and extensive related development throughout the Forest. Although the County completed substantial CEQA and other analytic work on the Lot Program project during the 1990s, the project was never approved. Ultimately, the Pebble Beach Company was acquired by the current owners in 1999, and the Company developed the current iteration of project.

As approved by Monterey County in March of 2005, the Pebble Beach Company development project that Measure A was designed to facilitate includes: a new 18-hole golf course and related development on about 216 acres in and around areas M, N, O, U, and V (MNOUV); a new driving range and related development on about 29 acres at Area C near the Inn at Spanish Bay; a new equestrian center on about 45 acres in the Sawmill Gulch restoration area; 160 new visitor serving units (91 new units at Spanish Bay, 11 new units adjacent to the proposed new golf course, 58 new units at the Pebble Beach Lodge); new conference facilities at the Lodge and Spanish Bay; new underground parking structures at the Lodge and Spanish Bay (providing 821 parking spaces); 60 new employee residences (12 units at Area B on 4 acres, and 48 units on about 14 acres in the corporation yard area); 34 new residential lots by subdivision and associated road and utility infrastructure in Areas F, I, J, and K, and P, Q, and R (PQR); Highway 1, Highway 68, and 17 Mile Drive interchange modifications; related road and infrastructure improvements within the Forest; and conservation easements over some 274 acres in the coastal zone (and area outside the coastal zone). These projects, which are located at some 25 distinct locations within the Forest, have generally been treated as a single "project" in terms of their presentation by the Pebble Beach Company and their consideration by the County (the series of projects are hereafter referred to as the Pebble Beach Company "project").

As documented in the EIR and supporting information, the proposed project anticipated by Measure A would result in significant resource impacts, including significant impacts to a series of listed species including removing approximately 150 acres of native Monterey pine forest (including removing approximately 15,000 individual native Monterey pine trees (CNPS 1B) and 18,000 trees in all – including Gowen cypress (Federally Threatened, CNPS 1B), Bishop pine, and coast live oak), removing 45 acres of Hooker's manzanita (CNPS 1B), and reducing the total known population of Yadon's piperia, a federal endangered species (and CNPS 1B) by 21% (an estimated loss of over 36,000 individual piperia plants). In addition, the project includes additional impact on wetlands, riparian corridors, and on a series of sensitive wildlife species, including the California red-legged frog

(federally threatened, state species of special concern). With respect to the later, a take permit from USFWS for the direct removal of occupied aquatic habitat at the proposed golf course area (and the indirect impacts otherwise) has been required by the project EIR. In addition to the direct impacts on these and other species, the proposed project also results in significant direct impacts due to fragmentation of resources, including reduced habitat value overall, and increased negative edge effects. All in all, the proposed project appears to be significantly at odds with, at the least, the habitat protective policies of the Coastal Act and LCP.[41]

The County has submitted the project EIR to the Commission as part of the supporting package of environmental information for Measure A. It has also submitted a separate analysis of Measure A that essentially compares the resource impacts of the proposed land uses against the theoretical development maximums allowed under the existing land uses to conclude that there would be no adverse impacts to coastal resources with Measure A relative to existing conditions given other LCP resource policies that are not being changed by Measure A. For example, with respect to the proposed recreational use for the golf course site at MNOUV, the County concludes:

> *Redesignation of residential uses to open space recreational uses in Planning Units . . . MNOUV could potentially cause similar impacts to forest resources although . . . alternative policy directives remain in place to protect these resources in the same manner as these resources would be protected as residential uses.*[42]

B. Measure A

It is generally acknowledged that the proposed Pebble Beach Company project is not consistent with the certified LCP.[43] At a minimum, such inconsistencies include that: an equestrian center is not allowed in Sawmill Gulch in the Open Space Forest (RC) designation;[44] 149 new visitor-serving units exceed the limits on such units at the Inn at Spanish Bay and at the Pebble Beach Lodge; 11 new golf course cottages are not allowed within Areas M and N; portions of the new golf course are not allowed within the existing Open Space Forest (RC) designation applicable to a portion of the proposed golf course site; and, more fundamentally, the Resource Constraint (B-8) overlay prohibits new development beyond a single residence on each legal lot (thus prohibiting almost all of the project).

Measure A was an initiative designed in part to address the inconsistencies of the project with the certified LCP. As described earlier, the Measure A changes were structured to directly affect the lands

---

41 In light of this, Commission staff have consistently informed the Company and the County over the years that the project did not appear consistent with the LCP and the Coastal Act. See Exhibit 3 for selected Commission staff letters over the years in reverse chronological order.

42 Monterey County, Del Monte Forest LCP Amendment Measure "A" Analysis, March 2005, IV-14.

43 Note that the County and Company have considered such inconsistencies to be land use inconsistencies as opposed to ESHA/resource inconsistencies.

44 More broadly, such development is not allowed at Sawmill Gulch by virtue of the terms and conditions of the Spanish Bay CDP; see below.

of one property owner (the Pebble Beach Company),[45] and were designed to facilitate development projects on some of those lands. As such, the proposed amendment is in large part a project-driven LCP amendment. Measure A, though, also includes changes that would redesignate certain areas from residential land use to open space conservation. In fact, when presented to the voters of Monterey County, Measure A was titled the "Del Monte Forest Plan: Forest Preservation and Development Limitations." As identified in Measure A itself, the purpose of Measure A was as follows:

> *FINDINGS AND DECLARATIONS*
> *The people of the County of Monterey hereby find and declare the following:*
>
> *a. Habitat for Monterey pine trees in Monterey County is diminishing and steps need to be taken to preserve additional natural stands of Monterey pine.*
>
> *b. Areas of the Del Monte Forest, including the Pescadero Canyon area, provide critical habitat for the preservation of the Monterey pine.*
>
> *c. The people of Monterey County desire a significant reduction in the amount of future residential development permitted in the Del Monte Forest area to reduce the impacts on Monterey pine habitat and a significant increase in open space to assist in the preservation of the Monterey pine.*
>
> *d. Any future visitor-serving development should occur adjacent to existing visitor-serving or recreational facilities.*
>
> *e. Any future development in the Del Monte Forest area must be consistent with the protections currently provided by the California Coastal Act.*
>
> *f. Any future development in the Del Monte Forest area must be subject to full and complete environmental review as well as public participation through the holding of public hearings.*
>
> *PURPOSE AND INTENT*
> *The people of the County of Monterey hereby declare their purpose and intent in enacting the Initiative to be as follows:*
>
> *a. To preserve additional Monterey pine trees and related habitat in the Del Monte Forest area of Monterey County.*
>
> *b. To significantly reduce future residential development and increase open space in the Del Monte Forest area.*

[45] According to the Company, the proposed development projects involve all undeveloped (and some developed) Pebble Beach Company-owned land in DMF, where the undeveloped land is that that is not designated Open Space Forest (RC) except for at Sawmill Gulch. The land affected by Measure A involves a subset of such Pebble Beach Company land. In other words, Measure A makes changes to a subset of Pebble Beach Company land, and the project involves all of that land as well as all of the Company's remaining undeveloped, non-Open Space Forest (RC) holdings in the Forest.

c. *To encourage future visitor-serving development adjacent to existing visitor-serving or recreational facilities in the Del Monte Forest area.*

d. *To require that any future development in the Del Monte Forest area be consistent with the protections currently provided by the California Coastal Act.*

e. *To require that any future development in the Del Monte Forest area be subject to full and complete environmental review and include public participation through the holding of public hearings.*

As a means to achieve these identified purposes, Measure A primarily relies on the LCP land use designation changes describes above. In this sense, the core changes proposed by Measure A are the land use and zoning changes described earlier that are made through the amendment of LUP Figure 5 (the Del Monte Forest Land Use Map) and the corresponding IP zoning maps. However, the LUP text and other changes provide additional explicit direction. It is only by carefully reviewing the land use designation figure changes in light of the text that it is clear what Measure A intends to do (as described in the above description of the proposed LCP amendment), and it is only by understanding the underlying Del Monte Forest resource value relative to the directly affected areas that one can completely understand the context of what Measure A proposes. Toward that end, Commission staff provided a comment letter in advance of the vote on Measure A to provide some of the background necessary for considering Measure A as an LCP amendment that would need to evaluated for consistency with the Coastal Act. The letter concluded that the proposed changes had the potential to substantially increase the level of intensity of use in the Forest and its resource areas, including explicitly in relation to the areas proposed for the new golf course, driving range and relocated equestrian center.[46] The Measure A initiative was approved by Monterey County voters in November 2000.

As with all LCP amendments, the Measure A changes require Commission certification of an amendment to the LCP before they can become effective and potential development reviewed against them, as is typically the case in Monterey County.[47] Absent such changes, the project was and is directly inconsistent with the LCP (as described above) and couldn't be approved consistent with it. Because of this, and because the outcome of such a Commission review is uncertain – particularly in light of the significant issues engendered by the proposed changes – Commission staff long recommended to the County and the Company that the proposed Measure A LCP changes be resolved before any final County deliberations on the Company's project; ultimately the Commission itself recommended the same thing in a letter to the County in late 2004.[48] In 2005 the County approved coastal permits for the

[46] See letter dated October 23, 2000 in Exhibit 3.

[47] In prior instances where LCP amendments were required to allow development being considered by the County, the County has only granted conceptual approval of the requisite coastal permits, and has only taken a final action on the coastal permits after Commission review and approval of the necessary LCP amendments (see, for example, the LCP amendments and permits associated with Mission Ranch (amendment 2-91 and CDP PC-7595) and Oak Hills (amendment 1-95 and CDPs SB840-842) that were referenced by the Company in their January 6, 2005 letter on this topic.

[48] See Commission staff correspondence and Commission letter in reverse chronological order in Exhibit 3.

Pebble Beach Company project prior to forwarding the proposed LCP amendment to the Commission for consideration.[49] Among other things, the County's coastal permit approval was premised on the Measure A changes taking effect verbatim, and was conditioned on the Commission's certification of Measure A as submitted.[50] On this basis and others, 22 appellant groups appealed the County's coastal permit decisions to the Commission.[51]

C. Spanish Bay CDP

In addition to requiring, at a minimum, the proposed Measure A changes, the proposed Pebble Beach Company project also requires amendments to the Commission's Spanish Bay coastal development permit (CDP 3-84-226). The Spanish Bay permit was approved by the Coastal Commission in 1985, and provided for the Spanish Bay Inn, golf course, and condominium development located just inside of the entrance to the Forest from Pacific Grove adjacent to Asilomar State Beach. The Spanish Bay project was a watershed event with respect to the DMF LCP segment not only because of the sheer size and scope of the resultant development that was as large or larger than anything yet constructed in the Forest (and the fact that it was the first large scale project to be approved following LUP certification), but also because it included a series of public access facility improvements along the shoreline throughout the Forest that formalized and enhanced the public's ability to access the shoreline.

As part of the Spanish Bay project, the Commission allowed the Company to reopen and mine the Sawmill Gulch site for sand to be used for the golf course and the associated dune restoration. The mined sand was brought from Sawmill Gulch to the Spanish Bay shoreline by an extensive conveyor belt system. As partial mitigation for the impacts due to the project (including the construction of a fifth gate and access road into the Forest, and those associated with using the Sawmill Gulch site for sand mining and the related conveyor belt transport system), the Spanish Bay CDP required that all of Sawmill Gulch be restored, placed under easement, and protected in perpetuity; including the upper portion being made a part of the Huckleberry Hill Natural Habitat Area surrounding Sawmill Gulch.[52] In

---

49 Monterey County coastal permits CDPs PLN010254 and PLN010341. The County also approved application PLN040160 at the same time, modifying conditions of approval that are part the Coastal Commission's Spanish Bay CDP. However, because the Commission must approve such CDP changes, the County's action on application PLN040160 was not a coastal development permit action for purposes of the Coastal Act and the LCP. See also Spanish Bay CDP description below.

50 Such an action by the County was in excess of the County's legal authority, or *ultra vires*. Under the Coastal Act, the County only has delegated authority to issue coastal development permits that are consistent with its certified LCP (PRC 30604(b)). The certified LCP also requires that all coastal development permits approved by the County be consistent with the policies and ordinances of the LCP (e.g., CIP 20.02.060(A), 20.06.755, and 20.70.050(B)(3)). The County did not have the legal authority to issue coastal permits for developments that are clearly inconsistent with the LCP on a presumption that the LCP would be changed in the future to allow such development. This fundamental lack of authority is not cured by making such an approval contingent on the presumed outright certification of Measure A by the Commission.

51 Appeal Numbers A-3-MCO-05-044 and A-3-MCO-05-045 filed on June 27, 2005.

52 CDP 3-84-226 Special Conditions 5 (requiring scenic and conservation easement over parts of Sawmill Gulch); 6c (requiring rehabilitation and dedication of the upper Sawmill Gulch); 9g (requiring that all disturbed areas of Sawmill Gulch, including upper and lower Sawmill Gulch areas, be restored); and 28a (requiring rehabilitation of upper Sawmill Gulch). Also, by virtue of CDP 3-84-226 Special Condition 3, all relevant County conditions were incorporated as Coastal Commission CDP conditions. These incorporated conditions refer to the conditions of County permit PC-5040 as amended by PC-5405, including PC-5040 conditions 8, 9, and 10 providing for Sawmill restoration, and including PC-5405 conditions 13(s) and 13(t) providing for additional restoration and for scenic

years following, restoration at Sawmill Gulch commenced, and conservation easements were placed over the upper and lower portions of it. This restoration and preservation requirement was one of the mitigations designed to offset the significant coastal resource impacts associated with the development of the Spanish Bay resort, including the construction of a new access road through the designated forest ESHA of Huckleberry Hill Natural Habitat Area (see Exhibit 4 for excerpts of Spanish Bay CDP findings). But for these mitigation measures (which the Pebble Beach Company agreed to and has, in material respect, implemented when it accepted the permit) the Spanish Bay project CDP could not have been approved.

The Pebble Beach Company's proposed project seeks to develop the Sawmill Gulch site with a new equestrian center (to replace the existing equestrian center that would be demolished to make way for the Company's proposed golf course in and around Area MNOUV).[53] In addition to the known land use/zoning inconsistencies (that require certification of Measure A changes), such proposed development in Sawmill Gulch is in direct conflict with the terms and conditions of the Commission's Spanish Bay CDP.[54] This area was specifically required to be restored and protected in perpetuity as mitigation and the Pebble Beach Company now seeks to undo this restoration to allow development in this area. Such a proposed amendment to the Spanish Bay CDP to allow for the development of this mitigation restoration area raises significant issues with respect to its approvability, and as such the outcome of any Commission decision on it is uncertain. As with the Measure A LCP amendment, Commission staff long recommended to the County and the Pebble Beach Company that any proposed Spanish Bay CDP changes be acted on by the Commission before any final County deliberations on the Company's project; ultimately the Commission itself recommended the same processing order in a letter to the County in late 2004.[55] As with Measure A, the County approved coastal permits for the Pebble Beach Company project without the proposed Spanish Bay amendment having been acted upon by the Commission (and not yet even applied for by the Company – even as of the date of this staff report). Similar to the condition requiring Commission certification of Measure A, the County conditioned the project on the Commission approving the required changes to the Spanish Bay CDP.[56]

Overall, the Pebble Beach Company's project is dependent upon both the Commission's certification of the Measure A changes as submitted, and on the Commission's approval of the required Spanish Bay coastal permit amendments. If the Commission does not act precisely in these ways, then the County's coastal permit approvals are essentially mooted.

---

easement. Thus, the Commission's approval (including the requirements of it emanating from the incorporated County conditions) requires restoration of and easement over the entire Sawmill Gulch site. In addition, the upper portion of the restored and protected area was to be made part of the Huckleberry Hill Natural Habitat Area by virtue of the same cited conditions.

53 See also Sawmill Gulch discussion in the findings that follow.

54 There are other amendments to the Spanish Bay coastal permit that would also be required to allow for the Company's project to proceed, including eliminating the 270-room cap, and potentially others (such as the proposed rooms and other additions at Spanish Bay itself).

55 Again, see Exhibit 3 for selected Commission staff and Commission comment letters in reverse chronological order.

56 As with Measure A as well, the inconsistency with the Spanish Bay CDP was a primary issue identified in the appeals received on the County's actions.

D. Down-Zoning?

The primary component of the proposed amendment is to change the land use and zoning designations for approximately 629 acres of Del Monte Forest land, roughly 600 acres of which are undeveloped at the current time. Although there are other related and important components (as seen above), these land use changes are the focus of the proposed LCP amendment. The vast majority of the affected acreage, roughly 542 acres, is currently designated residential, with 53 acres designated resource protection (at Sawmill Gulch and near Area O at the proposed golf course site) and 34 acres designated commercial (at the Pebble Beach Company corporation yard area). With respect to the 34-acre commercially designated area, it would remain so designated. With respect to the 53-acre resource conservation area, the proposed amendment would designate all of this area to Open Space Recreation (OR). With respect to the remaining 542 acres, the proposed amendment would designate: roughly 274 acres Open Space Forest (RC/B-8); roughly 169 acres to Open Space Recreation (OR) (thus a total of roughly 222 acres would be designated to recreational uses); roughly 95 acres to Residential (LDR or MDR); and roughly 4 acres would be designated to Visitor Service Commercial (VSC). All Resource Constraint Area (B-8) overlays would be eliminated.

Thus, the primary effect of Measure A is to shift the DMF land use framework for the affected property from a mostly residential orientation to a mostly open space orientation. Towards this end, some have argued that the proposed LCP amendment should be considered a down zoning that will better protect coastal resources because instead of a large number of residential developments, the revised LCP would allow for a reduced number of such residential developments along with a golf course, equestrian center, and visitor serving development in its place.

Development Potential Under the Current LCP

The County has indicated that the current development potential for the properties that are directly affected by the proposed amendment is 849 potential residential lots through subdivision[57] (and presumably 849 associated single-family residential developments). The 849 lot figure is derived from LUP Table A, which shows the maximum number of potential residential dwellings allowed in the alphabetical planning unit areas of the Del Monte Forest, and is the latest figure in a series of such residential development potential figures that have been used by the County and the Pebble Beach Company for this purpose.[58] However, Table A is a questionable starting point for establishing an LCP "baseline" against which to evaluated the proposed amendment (and/or project).[59]

---

[57] Monterey County Measure A Analysis (March 2005).

[58] The numbers used in this respect have ranged from 849 to 1,067 residential units. These differences appear to be related to the way in which residential potential for areas outside of lettered areas (and outside of the area directly affected by the proposed amendment's new land use designations) are accounted for (e.g., within the existing equestrian center), and the way in which Table A residential numbers for each alphabetical area are either included or excluded from the Table A total because (a) they are already developed with residences, and/or (b) they are deemed to not be directly affected by the proposed LCP amendment land use changes.

[59] Commission staff have consistently informed the County and the Pebble Beach Company for years that the actual development potential of the project area lands is likely much lower than a rote reliance on the theoretical maximums of Table A, particularly given the sensitive biological resources found in many of the areas in question (see below). See Commission staff selected correspondence to this effect in Exhibit 3.

LUP Table A

Among other things, LUP Table A[60] identifies the maximum number of residential units that could be developed on any of the alphabetically lettered planning units of the Del Monte Forest (see LUP Table A in Measure A in Exhibit 5). The LUP Table A unit maximums were derived from multiplying the maximum LUP residential densities shown in LUP Figure 5 by the acreage of each lettered planning unit area (for example, because Area C is 28 acres and it is shown as 2-units per acre in LUP Figure 5, Table A identifies 56 units in Area C). In other words, the Table A numbers represent simple arithmetic, and are not premised on some sort of substantive evaluation of development potential. Toward this end, the LUP clearly states that the Table A unit counts are maximums:

> *The number of residential and visitor-serving units shown on Table A and the densities shown on Figure 5 and on the following land use plan maps for the various planning areas are maximum figures. The exact density is contingent upon natural resource constraints present and availability of public services as determined through project review.*

The Table A unit counts represent a theoretical multiplication exercise that holds all other applicable LCP policies constant, and thus is designed to show the absolute highest end of the potential development spectrum where the highest end could only be achieved on a property if there were no coastal resource constraints that would not allow the design of the theoretical maximum density on the site. The LCP makes clear that actual development potential is dependent on resource constraints. As such, the Table A numbers do not represent any sort of entitlement for subdivision and/or other development at the level indicated.[61] In this sense, Table A is not very useful to a comparison of existing and proposed land uses and the potential impacts to coastal resources.

Takings

As discussed in more detail below, the majority of the properties for which land use designation changes are proposed are both undeveloped and occupied by significant biotic resources in association with one another (e.g., native Monterey pine forest, Yadon's piperia, wetland, dunes, etc.).[62] As a result, they are highly constrained in terms of both subdivision and other development. To the extent these resources constitute ESHA, development potential is even more strictly limited.[63] In light of such resources, it is more accurate to state that the development potential of the directly affected lands is much lower than the Table A maximum numbers. And, depending on the determination of existing resources (e.g., whether a property constitutes ESHA), the development potential may depend on a Fifth Amendment "takings" analysis.

For example, within the context of Constitutional takings law and the LCP, the maximum development potential of a residentially zoned legal lot that is entirely ESHA is probably not more than a single

---

60 Note that proposed amendment would eliminate Table A; this proposed change is analyzed elsewhere in these findings.

61 In fact, subdivision of the affected land is prohibited by virtue of the current B-8 zoning.

62 See ESHA findings that follow.

63 The LCP's ESHA policies prohibit subdivision and are extremely protective of ESHA, mimicking the Coastal Act in that respect

house.[64] The actual development potential of the directly affected lands is thus more accurately a function of the number of legal lots and where and how they are located in relation to ESHA and other resources and constraints than anything else.[65] For example, with respect to LUP Area C, this area appears to be part of one larger legal lot recognized by the County and it is occupied by significant biotic resources. If these resources were determined to be entirely ESHA, the maximum development potential here would likely be one single-family home, not the maximum 56 units identified in LUP Table A.

Legal Lots

The legal lot framework associated with both the Pebble Beach Company's proposed project area and the subset of the proposed project area directly affected by the proposed LCP amendment is somewhat unclear. Likewise, that framework cannot easily be broken down between the area directly affected by the proposed amendment and the area not directly affected but still a part of the proposed project area. According to the County, the Pebble Beach Company originally requested unconditional certificates of compliance (COCs)[66] for 77 lots that cover their proposed project area. The County ultimately issued 41 COCs for a part of the project area, where a portion or all of 18 of the 41 COC lots are located within the property area directly affected by the proposed LCP amendment. To account for the other property areas not recognized as legal lots by the County, both inside and outside of the proposed LCP amendment area, the County approved conditional certificates of compliance (CCOCs)[67] as part of the Company's project that recognized three areas as legal lots, and approved subdivisions within the three areas to arrive at the a final number and configuration of lots within the project area necessary to satisfy the Company's project.[68] Thus, in terms of the area directly affected by the proposed LCP amendment, a portion or all of 18 lots have been recognized by the County, and the other area remains unresolved absent the Company's project; within the project area the County has recognized 41 legal lots. See Figure 14 for a graphic depiction of this described legal lot framework presented by the County.

Because of the way the legal lot framework is intertwined, it is difficult to separate the LCP amendment area from the project area. In other words, the 41 and 18 lot figures are both relevant to this legal lot discussion because of the connection of the project to the proposed LCP amendment (and more broadly because that is the context within which the analysis regarding the LCP amendment and project down-zoning have been cast), and because a portion of the LCP amendment area has not been determined to be legal absent the project. More generally, it is only by taking the legal lot framework and

---

64 Each takings analysis is case specific, and the actual development potential of any particular property will depend on the transactional history of the parcel, applicable laws and regulations, development context, environmental constraints, etc.. As a rule of thumb, land use regulation often relies on one residential unit per one legal lot as a point of reference. This is particularly relevant within the affected Forest area in that residential land use designations are prevalent in the current LCP.

65 Including the Resource Constraint Overlay and the B-8 zoning designation that applies to almost all of the directly affected lands, prohibiting subdivision and prohibiting most other development absent removal of these constraints (see also Resource Constraint Area overlay findings).

66 An unconditional certificate of compliance recognizes a lot as having been legally created pursuant to all applicable laws in effect at the time of its creation.

67 A conditional certificate of compliance represents a new subdivision subject to currently applicable laws, including the LCP.

68 The CCOCs/subdivisions are part of the County's coastal permit actions that have been appealed.

understanding it in relation to existing underlying development, resources, and legal development requirements, that a true accounting of potential buildout under the current LCP can be provided. Preliminary analysis of this question suggests there are no more than 41 legal lots of record, as recognized by the County, potentially at issue in a Measure A analysis of development potential. Further analysis, in conjunction with an analysis of existing resources and legal requirements is needed to establish more precisely any development potential.

Visitor Serving Units

Although development potential has been primarily characterized in terms of residential development as an analytic tool, the proposed amendment also includes changes that would allow for additional visitor-serving development at the Pebble Beach Lodge, at the Spanish Bay Inn, and at the proposed new golf course. With respect to the proposed golf course site, visitor-serving units are not currently allowed and thus this type of development potential is currently zero there. With respect to the Lodge and Inn, the LUP identifies maximum unit counts (161 and 270 respectively), and these facilities are already developed up to this maximum.[69] In that respect, potential additional unit development at the Lodge and Inn is prohibited and this type of development potential is currently zero there as well.[70]

Development Potential Under the Proposed Amendment

Under the proposed amendment, a smaller area would be designated residential, and a larger area designated recreational relative to the existing LCP. However, depending on ultimate conclusions about existing resource constraints, the amendment includes some LCP text that could be read to provide for additional residential development beyond the certified LCP, which is currently constrained by the clear policy that development potentials are contingent on resource constraints. For example:

- The proposed amendment eliminates Table A and the language associated with it that indicated that the Table A figures were maximums. It then indicates that "20 additional residential dwellings are planned on land in Area Y," and "23 additional residential dwellings are planned for Area X." In other words, for Areas X and Y (not owned by the Pebble Beach Company), the proposed amendment ascribes a unit count to these areas where the number of units has been taken from the maximum figures in existing Table A. This unit count would no longer be controlled by LUP language identifying these as maximums, and could be read to represent an LUP entitlement to 43 units.[71]

- Currently, the Pebble Beach Company's corporation yard area is not ascribed any units by Table A.

---

69 The 270-room cap at Spanish Bay is also reflected in the underlying Spanish Bay CDP.

70 It may well be that additional facilities other than units could be developed at these sites consistent with the LCP otherwise, but the scope of such facilities is speculative. That said, it appears likely that some amount of non-unit expansion could likely be found consistent with the LCP.

71 In the case of Area X, there appear to be 3 existing lots, and all of these appear to be developed.. Staff is unaware of any analysis having been done to support a conclusion that additional development would be appropriate here. In the case of Area Y, this land is part of the larger Pescadero Canyon area near Areas P, Q, and R, it is undeveloped, and it appears to be covered by Monterey pine forest in association with other sensitive species. It appears unlikely that 23 units would be appropriate here. Thus, at a minimum, Areas X and Y need further evaluation before assigning a unit count to them that would be inappropriate.

As a result, the LUP does not provide for residential development in that area. By eliminating Table A and related LUP text, the LUP limitation on residential use there is also eliminated and development of units consistent with the LCP's commercial designation otherwise would be allowed consistent with all other LCP standards.[72]

- The proposed LUP text indicates that "11 lots for residential dwellings" would go into Area I, 7 lots into Area PQR, and indicates that 16 residential dwellings would go into Area F. As with Areas X and Y, this LUP text could be read to represent an LUP entitlement to 34 units.
- For Area B, the proposed LUP text indicates that "employee housing may be proposed," changes LUP Policy 116 to indicate that this area "may accommodate employee housing," and indicates that this area "may be used for up to 12 units of employee housing." Again, this LUP text could be read to represent an LUP entitlement for that development.

In addition, the amendment removes the unit caps applicable to the Pebble Beach Lodge and the Spanish Bay Inn, thus opening the door to more development if it can be found consistent with the LCP otherwise. And similar to the residential discussion above, the amendment includes other LCP text that could be read to provide for additional development. For example:

- For Area C, the proposed LUP text indicates that a driving range and related facilities "are expected to be constructed," and indicates that "parking will be provided in a portion of Area C to accommodate visitor-serving facilities in Spanish Bay." This LUP text could be read to represent an LUP entitlement for that development.
- For Areas M and N, the proposed LUP text indicates that up to 24 golf suites will be located in these areas. Again, this LUP text could be read to represent an LUP entitlement for that development.

And finally, and perhaps most importantly, the proposed LUP text would require that the areas that would be designated recreational by the proposed land use changes in Area C and Area MNOUV be managed and maintained as golf courses, and the Sawmill Gulch restoration area as equestrian center. In other words, the LUP would ascribe a low resource value to these areas, and direct that they be used for these intensive uses.

Summary of Measure A Development Potential Changes

Measure A proposes significant changes of residentially designated areas to open-space conservation designations. Given the biotic resources in these various areas, this appears to be an appropriate "down-zoning." It should be acknowledged, though, that these areas are already substantially protected from significant development impacts under the certified LCP.

Other Measure A changes, though, are more problematic. With respect to the land proposed to go from

[72] The Company's proposed project provides for 48 housing units in a townhouse style development of eight buildings.

Open Space Forest (RC) to Open Space Recreational (OR) (i.e., the open space category that allows for intensive recreational development), this can only be considered an "upzoning." It is designed to accommodate significant development of lands that are occupied by significant biological resources and/or are currently protected by their existing land use designation.[73] Finally, with respect to the land proposed to go from residential to Open Space Recreational (OR), Visitor Service Commercial (VSC), or Residential (LDR/MDR), and particularly in light of the proposed LUP text explicitly identifying golf course and other related elements of the Company's proposed project, this change would appear at best to be neutral with respect to development potential; and this conclusion would be based on an assumption that both the maximum theoretical residential development levels could be approved in these areas under the certified LCP, and that the grading and other impacts to resources would be as extensive as the development of an 18 hole golf course – a scenario that seems highly unlikely in both cases given the existing forest management planning and protection policies of the LCP.

5. Procedure/Standard of Review for LCP Amendments

Measure A was submitted as a single-part LCP amendment[74] for purposes of Commission action. It includes both LUP and IP amendments that are subject to different review criteria and procedures. The standard of review for the proposed changes to the LUP is consistency with the Coastal Act, and the standard of review for proposed changes to the IP is that they must be consistent with and adequate to carry out the LUP. Thus, the amendment's proposed LUP changes are subject to one set of criteria and a separate Commission vote, and the amendment's proposed IP changes another set of criteria and another separate Commission vote. Within these LUP and IP components, however, the same "whole" review applies. Thus, if any one component of the LUP changes proposed must be denied, then all of the LUP changes proposed must be denied (and similarly with the IP changes). The Commission may proposed modifications to the amendment to correct any inconsistencies in the LUP and IP that may be identified.[75]

As described earlier, a substantial portion of Measure A is designed to facilitate a specific project proposed by the Pebble Beach Company that has already been approved by the County. Thus, this project represents a potential development outcome if Measure A is approved as submitted. The Pebble Beach Company's project is thus used in the findings below as an example of the type of development that might follow such LCP changes. To the extent the County has relied on the project's EIR as support for this LCP amendment, the project is also directly relevant in that sense.[76] That said, the project is <u>not</u>

---

73 And in the case of Sawmill Gulch, are restoration areas that serve as mitigation for previous development.

74 Partially because local governments are limited to proposing three LCP amendments in any one year, LCP amendments may be submitted in multiple parts. Oftentimes local governments will avail themselves of this option when an LCP amendment submittal packages disparate proposed changes to an LCP in one amendment (e.g., a single LCP amendment proposing changes to the design review chapter of an IP at the same time as proposing separate changes to the LUP's bluff setback requirements would likely be submitted as two parts of one LCP amendment). In this case, the proposed LCP amendment was not broken into parts.

75 As indicated before, it is not clear to what extent Measure A's severability elements may come into play in various Commission decision outcome scenarios; see previous section describing the proposed LCP amendment for additional detail in this respect.

76 The County has indicated that the project EIR was and should be used for LCP amendment purposes.

before the Commission at this time. Although it can be used to help understand the implications of the amendment, and it obviously illuminates the coastal resource issues raised by Measure A, the Commission is charged at this time with reviewing the LCP amendment only. Consideration of the merits of the appeals filed on the County's approval of the project would follow at a future Commission hearing.

Part Two: Resource Issues

1. Applicable Policies

The standard of review for Land Use Plan amendments is the Coastal Act. With respect to biological resources, Coastal Act Section 30240 requires the protection of environmentally sensitive habitat areas (ESHAs) by prohibiting almost all development within ESHAs, and by requiring that all adjacent development be sited and designed so as to maintain the productivity of such natural systems. In particular, Coastal Act Section 30240 states:

> ***Section 30240.***
>
> *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
>
> *(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Thus, only resource-dependent development, such as habitat restoration, is allowed within an ESHA; all development within or adjacent to an ESHA must be sited and designed to prevent significant impacts to it. Section 30107.5 of the Coastal Act defines environmentally sensitive areas as follows:

> ***30107.5:*** *"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Article 4 of Chapter 3 of the Coastal Act also describes protective policies for the marine environment, including water quality, and specifically calls out wetland resources. Coastal Act Sections 30230 and 30231 provide:

> ***Section 30230.*** *Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic*

significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231. *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

In addition, Coastal Act Section 30233(a), 30233(c) and 30233(d) specifically address wetlands protection. In particular, Coastal Act Section 30233 limits development in wetlands to a few limited categories where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects:

Section 30233(a). *The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

Section 30233(c). *In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the l9 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.…*

Section 30233(d). *Erosion control and flood control facilities constructed on water courses can impede the movement of sediment and nutrients which would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for such purposes are the method of placement, time of year of placement, and sensitivity of the placement area.*

In addition to these wetland specific policies, wetlands can also be ESHA to which both types of protection may apply.

The standard of review for Implementation Plan amendments is conformance with and adequacy to carry out the Land Use Plan. The relevant portions of the Monterey County Implementation Plan for Del Monte Forest contain a comprehensive set of ESHA policies and procedural requirements that may be relevant to the analysis of the proposed Measure IP changes once the LUP evaluation is completed.

2. ESHA Definition Applicable to Measure A

One of the broader themes with respect to both the proposed project and the proposed LCP amendment has been what constitutes ESHA in the Del Monte Forest. The reason that this distinction is important is because when an area is identified as ESHA, both the Coastal Act and the LCP allow only resource-dependent use and development within such an area. Further, such uses and development, as well as any use and development adjacent to such ESHAs, must not significantly disrupt or degrade the ESHA (see also ESHA findings below). In short, the Coastal Act and the LCP require that ESHA be avoided and typically buffered from development impacts. Providing mitigation for ESHA impacts to allow

development in an ESHA is not allowed for avoidable impacts to ESHA.[77]

In evaluating the ESHA issues of the Measure A LCP amendment, Monterey County relied heavily on Appendix A of the Del Monte Forest LUP (which was included in the LUP at certification in 1984) as the definitive list of what constitutes ESHA, regardless of what an ESHA evaluation of resource conditions at the time that Measure A was proposed might yield.[78] According to the County's analysis of Measure A, if a resource is not identified in Appendix A, or shown on the associated habitat mapping of LUP Figure 2, it cannot be ESHA:

> *ESHAs in the project area are defined in the DMF LUP: Figure 2 shows the location of areas in the Del Monte Forest that qualify as ESHAs and Appendix A of the LUP provides a complete list of ESHAs for the Del Monte Forest.*[79]

This approach to defining ESHA in Del Monte Forest is not appropriate for a number of reasons. First and most fundamental, Appendix A is not legally relevant to the Coastal Commission's statutorily prescribed review of the proposed Measure A land use changes under the Coastal Act. As discussed above, the standard of review for a land use plan amendment is the Coastal Act. In the case of ESHA, this includes the Coastal Act definition of ESHA (30107.5) and Coastal Act Section 30240. Land use plan amendments must be consistent with Coastal Act 30240 to be approved. If an LUP amendment would entail significant inconsistencies with this policy, based on a review of existing biological resources at the time of the amendment, it could not be approved. This attention to existing resources on the ground at the time of an amendment or proposed development is an important component of the Commission's approach to protecting ESHA given the inherent dynamic nature of the environment and constant changes in our scientific understanding of biological resources, processes, values, functions, and so forth. It becomes particularly important in planning contexts such as this one, where the last in-depth assessment of ESHA resources in specific areas was over twenty years ago.

Second, even if Appendix A of the LUP was legally relevant to the Coastal Act review of the Measure A Land Use plan amendments, as is suggested by the County, it cannot reasonably be concluded that it alone defines a complete and final list of all ESHA in the Del Monte Forest. In fact, the methodology employed by the LCP to identify ESHA is much more inclusive and comprehensive in terms of both what constitutes ESHA and required procedures to identify and protect ESHA

As cited, Section 30107.5 of the Coastal Act defines environmentally sensitive areas as follows:

> *"Environmentally sensitive area" means any area in which plant or animal life or their habitats*

---

[77] This was confirmed in the Bolsa Chica case, wherein the Court found: "Importantly, while the obvious goal of section 30240 is to protect habitat values, the express terms of the statute do not provide that protection by treating those values as intangibles which can be moved from place to place to suit the needs of development. Rather, the terms of the statute protect habitat values by placing strict limits on the uses which may occur in an ESHA... ." *Bolsa Chica Land Trust v. Superior Court* 71 Cal.App.4th 493, 507.

[78] See LUP Appendix A in Exhibit 3.

[79] Monterey County Measure A Analysis, March 2005, III-4.

are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

The overarching Monterey County LCP definition for ESHA is essentially the same as the Coastal Act definition. IP Section 20.06.440 defines ESHA as follows:

Environmentally sensitive habitat means an area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. (See individual land use plan segments definitions for specific examples.)

Within the DMF LCP segment, ESHA is further defined by IP Section 20.147.020(H) as follows:

Environmentally sensitive habitats: Environmentally sensitive habitat areas are those in which plant or animal life or their habitats are rare or especially valuable due to their special role in an ecosystem. These include rare, endangered, or threatened species and their habitats; other sensitive species and habitats such as species of restricted occurrence and unique or especially valuable examples of coastal habitats; riparian corridors; rocky intertidal areas; nearshore reefs; offshore rocks and islets; kelp beds; rookeries and haul-out sites; important roosting sites; and Areas of Special Biological Significance (ASBS).

Notable in its absence in this definition is any reference to Appendix A or Figure 2. The DMF segment goes on to define "rare and endangered species" in IP Section 20.147.020(AA) as follows:

Rare and/or Endangered Species: Rare and Endangered Species those identified as rare, endangered, and/or threatened by the State Department of Fish and Game, United States Department of Interior Fish and Wildlife Service, the California Native Plant Society and/or pursuant to the 1973 convention on International Trade in Endangered Species of Wild Flora and Fauna.

Thus, these LCP policies indicate that ESHA can apply to a wide range of habitat types and areas, mimicking the Coastal Act in that respect, and go on to provide explicit criteria applicable to the DMF segment for determining when a species is considered to be rare and/or endangered by the LCP, and thus by extension when the species or its habitat is considered to be ESHA.

Within this definitional framework, DMF LUP Chapter 2 ("Resource Management Element") provides additional direction within the DMF in the section entitled "Environmentally Sensitive Habitat Areas" as follows:

Environmentally sensitive habitat areas are those in which plant or animal life or their habitats are rare or especially valuable due to their special role in an ecosystem. These include rare, endangered, or threatened species and their habitats; other sensitive species and habitats such as species of restricted occurrence and unique or especially valuable examples of coastal habitats; riparian corridors; rocky intertidal areas; nearshore reefs; offshore rocks and islets; kelp beds; rookeries and haul-out sites; important roosting sites; and Areas of Special

> *Biological Significance (ASBS). The California Coastal Act provides unprecedented protection for environmentally sensitive habitat areas and within such areas permits only resource-dependent uses (e.g., nature education and research, hunting, fishing, and aquaculture). The Act also requires that any development adjacent to environmentally sensitive habitat areas be properly sited and designed to avoid impacts which would degrade such habitat areas.*
>
> *In the Del Monte Forest Area, examples of terrestrial, aquatic, and riparian habitats which have been determined to be entirely or in part environmentally sensitive include: the rare Monterey cypress and endangered Gowen cypress forest communities, the endemic Monterey pine/Bishop pine association, remnants of the indigenous coastal sand dunes, riparian corridors, wetlands, and sites of rare and endangered plants and animals associated with these and other habitats. A complete listing is included as Appendix A of this Plan. The locations of these are shown in Figure 2.*

This LUP introduction to ESHA refers back to the "unprecedented protection" afforded ESHA by the Coastal Act, reiterates the broader Coastal Act definition of ESHA (and that is certified in the LCP sections cited above), and concludes by introducing LUP Appendix A and LUP Figure 2 associated with it. The relevance of Appendix A and Figure 2 in this respect emanates from the above textual introduction to these LUP elements. Building upon the first paragraph that describes ESHA and its protection in DMF in Coastal Act terms, the second paragraph of the ESHA text clearly indicates that <u>examples</u> of habitats deemed to be ESHA in DMF <u>include</u> the series of habitats then described. The implication in this respect is that Appendix A identifies a subset of examples that were known at that point in time in 1984; this is further evidenced by the use of the word "includes" (implying the list of examples is a subset and not all of them). The paragraph then concludes by referring the reader to LUP Appendix A for a complete listing (and Figure 2 for mapping of same). The most reasonable way to understand the reference to Appendix A as "a complete listing" is as a listing of the examples referenced by the first sentence of the second paragraph. This is further evidenced by the reference in the above-cited IP Section 20.06.440 definition of ESHA that refers to the "land use plan segments definitions for specific examples" of ESHA. This interpretation is further supported by Appendix A itself, that again indicates in its introduction that "the environmentally sensitive habitats of the Del Monte Forest Area <u>include</u> the following" (emphasis added); again implying that the list of ESHA examples includes what is listed, but that there are others not listed that make up the remainder of things considered ESHA (as also indicated by IP Section IP Section 20.147.020(H)). In other words, Appendix A is meant as a list of <u>examples</u> of ESHA known in 1984, and not a static list meant to apply to all time.

Finally, the LUP specifically refers to the list of examples as a list of species "*which have been determined to be*" environmentally sensitive. The use of the past tense in this section is important as it shows that the list of ESHA examples was being determined at a discrete point in time, and that it was not being made prospectively. The Commission's findings and actions for the Del Monte Forest Land Use Plan also support this interpretation of the intent of Appendix A. First, Appendix A was actually recommended for addition to the LUP as a modification by the Commission to address the fact that the LUP as submitted by the County did not adequately identify specific habitats *known* to be ESHA at the time. Thus, the Commission required Appendix A to assure that known ESHAs would be better

protected, as required by Coastal Act section 30240. In findings discussing this problem, it is clear that the intent was to identify ESHAs known at that time, not for all time. In referring to the ambiguity in the submitted LUP, the findings discuss how that given this ambiguity, there would be no certainty "that every *presently-known* environmentally sensitive habitat will be protected [emphasis added]."[80] Similarly, findings make clear that Figure 2 (the ESHA map) was intended to show, "to the maximum extent feasible . . . all *known* environmentally sensitive habitats [emphasis added]."[81] The intent was not to lock in a static universe of ESHAs for all time.

On this point, the LCP is clear that resources on the ground are meant to govern resource evaluations, and that continued re-evaluation in this regard is not only encouraged, it is required. For example, the LUP indicates that LUP maps are to be continually updated based upon new information. The LUP states as follows in Chapter 1:

> *RELATION OF MAPS TO PLAN*
>
> *In addition to the Del Monte Forest Land Use, Recreation Facilities and Public Access, and Circulation Maps, the Environmental Considerations and Environmentally Sensitive Habitat Areas maps are to be used as background resource material for decision-making.*
>
> *The intended use of the Resource Maps which are available at a reduced and 600 scale, is to generally illustrate the basis of policies for purposes of planning or reviewing development proposals in the Coastal Zone. The County, in incorporating these maps into the plan, acknowledges that they are not definitive and may contain errors or inaccuracies or may be incomplete. Thus, there is no substitute for careful field checking by qualified persons to verify the location of coastal resources or other information represented. Challenges to the accuracy of the maps are encouraged by the County in a continuing effort to maintain the best database possible. As new or more accurate information becomes available, the 600 scale maps will be revised and updated, and decisions will accordingly be based on the new data.*

Thus, LUP Figure 2: "generally illustrates" ESHA; it is acknowledged that it is "not definitive" and "may be incomplete;" requires "careful field checking by qualified persons to verify the location of coastal resources;" is meant to be continually updated "as new or more accurate information becomes available;" and decisions are to "be based on the new data" developed in that regard. Figure 2 represents the habitat examples in Appendix A and thus, by extension, the same qualifications and limitations apply to Appendix A in the same way.[82]

The resource evaluation aspect of the LUP is further embodied in specific policies. For example, LUP

---

80 California Coastal Commission, Del Monte Forest Land Use Plan, Determination of Substantial Issue and Preliminary Recommendation for the Meeting of December 1-3, 1982, November 15, 1982.

81 Commission findings for Del Monte Forest Segment, Land Use Plan, September 24, 1984.

82 It might be argued that this and other LUP sections discussing ESHA identification are intended only to apply in the development review context, not an LUP amendment context. To the extent this argument is valid, it undermines the County's use of Appendix A, which is also part of the LUP, for purposes of evaluating Measure A land use challenges. The point here is merely to illustrate that the LUP and IP clearly contemplate that new information might redefine known ESHAs.

Policy 12 states:

> *Where development of any type, including subdivision of land for development purposes, is proposed in or near documented or expected locations of environmentally sensitive habitats, field surveys by qualified individuals shall be required in order to determine precise locations and to recommend mitigating measures to ensure protection of any sensitive species or habitat(s) present. Where OSAC maintenance standards have been prepared, these shall be observed in the preparation of such recommendations.*

This policy requires field evaluation for both documented (such as Appendix A/Figure 2 examples) or expected (for other reasons) ESHA. Similarly, LUP Figure 17 states:

> *Prior to approval of development on existing legal lots of record, protection of rare, endangered, and sensitive native plant and animal habitats which potentially occur in the area shall be ensured by the following means:*
>
> - *A site survey shall be conducted by a qualified botanist (or biologist in the case of animal habitat) for the purpose of determining the presence of rare, endangered, or unique plants and developing appropriate mitigation. This survey should be conducted in April or May, as it must be designed to detect the presence of any of the habitats listed in Appendix A of this Plan.*
> - *Performance standards covering building locations, lot setbacks, roadway and driveway width, grading, and landscaping shall be established as a means of carrying out the recommendations of the site survey. The purpose of this is to isolate building sites from identified locations of rare or endangered plants or other environmentally sensitive habitat.*
> - *Scenic or conservation easements covering the environmentally sensitive habitat shall be dedicated to the Del Monte Forest Foundation as provided by policy 13 above.*

IP Section 20.147.040(A)(2) likewise states (emphasis added):

> *ENVIRONMENTALLY SENSITIVE HABITAT DEVELOPMENT STANDARDS.*
>
> *Intent of Section: It is the intent of this section that the environmentally sensitive areas of the Del Monte Forest be protected, maintained, enhanced and restored in accordance with this implementation ordinance and the policies of the Del Monte Forest Area Land Use Plan. All categories of land uses, both public and private, shall be subordinate to the protection of environmentally sensitive areas.*
>
> *A. Biological Survey Requirements. …2. A biological survey shall be required for all proposed development which can be described using one or more of the following criteria: a. the development is located within an environmentally sensitive habitat,* ***as shown on Figure 2 "Environmentally Sensitive Habitat Areas" contained in the Del Monte Forest Land Use Plan or other current available resource information or through the planner's on-site investigation****;*

> *(b) the development is potentially located within an environmentally sensitive habitat,* ***according to available resource information and/or on-site investigation****; (c) the development is or may potentially be located within 100 feet of an environmentally sensitive habitat and/or has the potential to negatively impact the long-term maintenance of the habitat as determined through project review or; there is disagreement between staff and the applicant as to whether the proposed development meets one of the above criteria.*

In other words, the LCP envisions Figure 2 and Appendix A as a subset of ESHA, and contemplates additional ESHA areas being identified based on Figure 2/Appendix A or "other current available resource information or through the planner's on-site investigation."

In fact, much has changed in the Forest since 1984 and LUP Figure 2 and Appendix A have not been updated to reflect these changes. Since 1984, new sensitive species have been discovered and listed (e.g., federally-listed endangered Yadon's piperia) and other species have become more threatened and have been listed as a result (e.g., federally-listed threatened California red-legged frog; CNPS 1B species Hooker's Manzanita). Although listed species habitat is, almost by definition, typically considered to be ESHA, species listed since 1984 are not necessarily listed in Appendix A. The fact that Federal and California Endangered Species Act "take" authorization would be required for species that would be displaced by the Company's project but that are not listed in LUP Appendix A (like California red-legged frog) is a good indicator that there may be more ESHA present than only that in the 1984 Appendix A. As discussed in more detail below, the Del Monte Forest in general, and the proposed amendment and project area specifically, are home to a high number of sensitive species and/or significant habitat resources. Much of this habitat is inter-related understory and overstory (like the Monterey pine-Yadon's piperia association). In fact, there are at least nineteen species of plants in the amendment/project area that are considered to be rare or endangered, and at least eight of these that are state and/or federally listed as endangered or threatened. Similarly there exists habitat for at least thirteen special-status wildlife species in the project area, and at least six listed species have been positively identified in these areas to date. The County acknowledges, and the EIR for the Pebble Beach Company project well documents, many of these resources. Whether or not they are ESHA should be determined by an application of the more general definitions of the Coastal Act (for LUP evaluation) and the LUP (for IP evaluations). To presume that only those habitats that are listed on Appendix A constitute ESHA lacks biological common sense.

Third, the interpretation that Appendix A/LUP Figure 2 identifies <u>all</u> ESHA in DMF and that no other habitats can be considered ESHA conflicts with the larger body of ESHA policies and LCP text cited above. These cited policies, definitions, and other references are clearly premised on there being other habitats (than those listed by Appendix A) that could be considered ESHA, are clearly premised on resource evaluation for determining which of these habitats are ESHA, identify clear criteria for determining which species and habitats should be considered rare and endangered (and thus ESHA by LCP definition), and identify the Coastal Act's "unprecedented protection" of ESHA as the foundation for how ESHA is to be protected by the LCP. In sum, the LCP frames the question of what constitutes ESHA very broadly based on the resources themselves dictating what is ESHA, and this broader framing is not consistent with a narrow interpretation that Appendix A is the static list of all ESHA for

all time. If that were to actually be the case, these conflicting LCP references would instead not be present and/or would be structured to indicate that Appendix A was the only list – they are clearly not structured in this manner.

To the extent that the narrow reading of Appendix A is plausible, there is a conflict with other policies and ordinances of the LCP ESHA protection framework. In such cases, the LCP directs that such conflicts ultimately be resolved by the Coastal Act (IP section 20.02.050(D). Given that the LUP cites the Coastal Act in the framing its ESHA protection parameters, and the LCP's only ESHA definitions (i.e., IP Section 20.06.440 applying throughout the County's coastal zone, and IP Section 20.147.020(H) applying specifically to DMF) reflect the Coastal Act's broader definition in this respect, it would seem that the more general approach to identifying ESHA that is inherent in the LCP and Coastal Act, would prevail.

Finally, although a comprehensive analysis is not available, it may well be that the Monterey County itself has not typically or least consistently applied its proposed "narrow interpretation" of Appendix A in other decisions under the LCP. As discussed in the Preliminary Periodic Review of the implementation of the LCP, although attention to the ESHA policies and required findings is not always as strong as it could be, the County does generally require biological studies at the time of development proposals where warranted to support its decisions. Presumably this is to assure that sensitive biological resources that may not have been identified previously are identified and adequately protected. A good example is LCP Major amendment 1-93 for a subdivision in Del Monte Forest. In approving this amendment, the County Board of Supervisors made findings that the specific boundaries of the subdivision were appropriate to provide protection of Hickman's Onion habitat, relying directly on the findings of the certified EIR for the project. This EIR, which was certified by the Board, included specific findings that while the LUP did not identify an ESHA on the site, that there was an environmentally sensitive habitat present (Hickman's Onion) that was identified in the biological review. The EIR thus notes that Hickman's onion was identified as a rare plant listed by the CNPS; it was not, and still is not, listed in Appendix A. Monterey County went on to apply the ESHA policies to the subdivision with respect to the Onion habitat, including designing the subdivision to avoid and buffer the habitat with a 100 foot setback.[83]

3. ESHA Determination

A. Monterey pine Background

The Coastal Commission has a long history of concern for native Monterey pine forest. Beginning with the *California Coastal Plan* there are references to the pines of Del Monte Forest as a natural feature to be protected and direction to preserve the Cambria and San Simeon pine occurrences as a "restricted natural community" and "one of the last native Monterey-pine forests found in the world."[84] As the

[83] See Monterey County Board of Supervisors resolution 93-45; and certified EIR for LCP Major Amendment 1-93., p.22; and section 2.4.
[84] *California Coastal Plan*, California Coastal Zone Conservation Commissions, December, 1975, pp. 232, 360.

Commission began to review and certify LCPs along the Central Coast, the three populations of Monterey pine were generally recognized and described as sensitive habitat. As summarized in the Table below, each of the seven LCPs that encompass areas of native Monterey pine forest specifically identify Monterey pine forest as a sensitive species or habitat that should be considered ESHA under certain circumstances. Four LCPs generally define MP forest as ESHA (San Mateo, Santa Cruz, San Luis Obispo Counties, and Carmel). Three jurisdictions identify Monterey pine in certain circumstances as being ESHA, such as the Monterey pine/sand dunes association in Pacific Grove, or the Monterey pine/Bishop pine association in the City of Monterey.

In Monterey County, the Carmel Area LUP/IP defines naturally occurring groves of Monterey pine as ESHA if they are associated with rare or endemic species, or provide wildlife or aesthetic value. The Del Monte Forest LUP ESHA treatment of Monterey pine is more targeted, though, and specific ESHA references are limited to the Monterey pine/Bishop pine association, and dunes association. In addition, Huckleberry Hill Natural Habitat Area, which includes Monterey pine, is mapped as ESHA. The DMF LUP also generally maps other occurrences of MP in Figure 2. However, the DMF LUP also has an extensive set of forest protection policies designed to protect the Del Monte Forest, whether or not particular areas are designated ESHA.[85]

Although generally identified as sensitive habitat in various LCPs, the Commission has still evaluated Monterey pine and ESHA issues in planning and regulatory matters case-by-case, based on an assessment of resources on the ground.[86] Early in its history, the Commission did not necessarily strictly protect Monterey pine forest areas impacted by development as ESHA. In at least one case this appears to be because Monterey pine was not determined to be ESHA.[87] In others, the Commission made findings that the forest areas in question would not be significantly disrupted, but did not focus specifically on the Coastal Act requirement to limit development in ESHAs to resource dependent developments. Notably, in the coastal development permit for the Spanish Bay Resort (3-84-226), the

---

85 In general these policies require maximum preservation of forest resources and the use of forest management plans for any developments that would significantly impact Monterey pine forest. For example, Monterey pine is defined as a native tree species of the Del Monte Forest. It may not have been formally listed or mapped as ESHA in 1984, but the native pine forest making up the Del Monte Forest was to be preserved as a matter of "paramount concern" (LUP Policy Guidance Statement). Although the removal of individual pine specimens is *allowed* by the plan, the natural forest is to be retained "to the maximum feasible degree" (LUP Policy 31); projects are *required* to minimize tree removal (IP Section 20.147.050(D)(3)) with preference for design concepts which pursue this goal (LUP Policy 34); and, perhaps most importantly, "where LUP objectives conflict, preference should be given to long-term protection of the forest resource" (LUP Policy 32), likewise evident in IP Section 20.147.050(D)(1): "when standards conflict, preference shall be given to those which provide the greatest long-term protection to the forest resource." Although these policies evince a clear intent to protect Monterey pine resources in Del Monte Forest, one of the preliminary staff recommendations of the Monterey County Periodic Review (not adopted by the Commission yet) was to strengthen the LCP by more clearly recognizing and protecting the habitat aspects of Monterey pine forest, as opposed to the "tree-centric" approach embedded in the current LUP emphasis on minimizing the removal of "significant trees" and mitigating through plantings of new trees.

86 In general, once identified as ESHA, each LCP limits new development within Monterey pine forest areas to resource dependent development, similar to Coastal Act section 30240.

87 See, Poppy Hills Golf Course (3-84-120), wherein the Commission recognized the significance of Gowen Cypress and Bishop pine occurrences in association with Monterey pine, but did not require strict avoidance of all such occurrences or otherwise identify the larger Monterey pine forest impacted by the project as ESHA; also, see the MacComber (1-93) and Griffen (1-94) LCP amendments to allow residential subdivisions in Del Monte Forest; and the Leimert subdivision in Cambria approved by the County but not appealed to the Commission (3-SLO-97-130).

Commission found that the project would "undeniably and substantially impact a designated environmentally sensitive habitat" (Monterey pine forest in the Huckleberry Hill Natural Habitat Area designated as ESHA), but that this impact, as well as other impacts to biological resources, could be acceptably mitigated so that there would be a "net enhancement" in the ESHAs in Del Monte Forest (see Exhibit 4, for excerpted Monterey pine and other Spanish Bay CDP findings). Thus, the Commission found that the project as mitigated was consistent with Coastal Act section 30240.[88]

Table: Protection of Monterey Pine in Certified LCPs/LUPs

Jurisdiction & LUP/IP Date of Certification	Monterey Pine Population	Treatment of Monterey Pine (MP) in LCP
San Mateo County 1980	Año Nuevo	Identified as "unique" species and mapped on sensitive habitat maps. Specific MP policy (7.48)
Santa Cruz County 1982	Año Nuevo	"Indigenous MP" defined as sensitive habitat (Policy 5.1.2; IP 16.32.040b; Appendix B)
San Luis Obispo County 1988	Cambria	"Monterey pine forest" identified and mapped as a Sensitive Resource Area, "Terrestrial Habitat" (ESHA) in North Coast Area Plan (Cambria, San Simeon)
Monterey County *Carmel Area* 1983/88	Monterey	"Naturally occurring groves" identified as ESHA in Carmel Area where forest is associated with rare or endemic species; provides wildlife value, or high aesthetic value. (LUP 2.3.2; IP 20.146.40)
Monterey County *Del Monte Forest* 1984/88	Monterey	MP/Bishop Pine association listed as ESHA; MP/dune association, occurrences in Huckleberry Hill listed in Appendix A; other significant occurrences shown in Figure 2.
City of Pacific Grove 1990	Monterey	"Pine forest/sand dune association" identified as environmentally sensitive habitat and mapped (LUP 2.3.1).
City of Monterey 1992	Monterey	Significant stands of MP mapped in Skyline LUP segment; Bishop/MP association mapped as ESHA (Figure 4)
City of Carmel 2003	Monterey	Pescadero Canyon MP occurrence identified and mapped as ESHA (LUP Text; Figure 5.3; Appendix F)

More recently, the Commission generally has not permitted new development in Monterey pine forest

[88] This is the type of decision that was found to inconsistent with the Coastal Act in the afore-mentioned *Bolsa Chica* decision.

determined to be ESHA, except where necessary to avoid a takings of private property. For example, in the Pelle decision in Cambria (A-3-SLO-02-074), the Commission approved a significantly reduced residential building envelope (12,458 sf) on a 4.7 acre parcel in Monterey pine forest determined to be ESHA, to avoid a takings, and required the remainder of the property, which included merger of several parcels, to be put into a conservation easement. Similarly, in the Seaberg permits (A-3-SLO-00-078; A-3-SLO-00-079), the Commission limited new residential development footprint to 10,000 square feet, on an approximate 2.5 acre parcel determined to be entirely Monterey pine forest ESHA. In San Mateo County, the Commission identified Monterey pine forest ESHA on an approximate 85 acre parcel, as well as other ESHA, and required that a new residential development avoid this forest area in order to comply with the San Mateo County LCP (Lee, A-2-SMC-99-066).

In planning decisions, such as the North Coast Area Plan LCP Update for San Luis Obispo County (1998), the adopted Periodic Review of SLO County LCP (2001), and SLO County Major LCP major amendment 1-04 Part 2 (2005), the Commission has continued to recognize Monterey pine as ESHA and adopted policies or recommendations to strengthen its protection under Coastal Act section 30240. For example, in SLO County LCP major Amendment 1-04 Part 2, the Commission found that a 32 acre parcel was Monterey pine forest ESHA, and adopted modifications, since accepted by the County, requiring that the ESHA be protected with an Open Space designation rather than the proposed Agricultural designation.

Most recently, the Commission has generally found that ". . . within the native forest habitats, those stands of Monterey pines that have not been substantially developed and urbanized meet the definition of Environmentally Sensitive Habitat Area (ESHA) . . ." but has also emphasized the site-specific factors that may support a Monterey pine forest ESHA determination or not, including the size, health, and biodiversity of the forest areas.[89] For example, in the Community Hospital of Monterey Peninsula decision (3-03-068), the Commission found that "native Monterey Pine forests are rare and play a special role in ecosystems by providing necessary habitat for other rare and unusual species," but also that in this case, the relatively small area of pine forest (0.75 acres) impacted by a necessary hospital facility expansion was not ESHA because of the relative disturbance and fragmentation and thus arguable lower biological value, of the forest in the project area. The impacted area also did not contain other sensitive species in the understory. In contrast, the Commission recently found that an even smaller area of pine forest (6,100 sf) that would be impacted by a necessary water tank project for the Cambria Community Services District was ESHA, because the forest was part of much larger contiguous block of healthy forest and associated with other sensitive species. There was also evidence of pine regeneration (seedlings) on the project site. Although it recognized the public health and safety aspect of the project (providing adequate fire fighting flows and access), the Commission nonetheless reduced the size of the project and allowed only the minimum encroachment into the forest necessary to provide for the project, ultimately reducing the impact to 1600 square feet).[90]

---

[89] See, for example, A-3-SLO-05-017 Pine Knolls Water Tanks De Novo ADOPTED 6.9.05.doc.

[90] *Id*. Approved Site Plans (2006). The forest area in question was also in a conservation easement held by the Nature Conservancy.

B. ESHA Criteria

Environmentally Sensitive Habitat Area (ESHA) is defined in Section 30107.5 of the Coastal Act as "…any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities."

There are several important elements in this definition:

1. An area can be designated ESHA either because of the presence of individual species of plants or animals or because of the presence of a particular habitat. A "habitat" is simply a place that has the physical and biological characteristics necessary to support a particular species population or a particular biological community and is often given the name of the community.

2. An area can be designated ESHA because of rarity; it may support a rare species or the area itself may constitute a habitat that is rare.

3. An area can be designated ESHA because it is especially valuable due to its special nature (e.g., a research reserve).

4. An area can be designated ESHA because it is especially valuable due to its role in the ecosystem (e.g., providing nesting sites for raptors or overwintering habitat for Monarch butterflies).

5. Finally, the area must be easily disturbed or degraded by human activities. Unfortunately, in today's world, this criterion is almost universally met.

<u>What constitutes rarity?</u> There are several types of rarity, but each of them poses a threat to the continued existence of species that naturally occur in larger or more widespread populations. Increasing numbers of species have become absolutely rare, having been reduced to a few hundreds or thousands of individuals. The prognosis for these species is very poor. Another common pattern is for species to be globally rare but locally abundant. Such species only occur at a few places either because of natural phenomena such as climate change or due to human impacts such as habitat loss. However, in the areas where they do still occur, they may be abundant. The survival of these species is also precarious because localized impacts may affect a large proportion of the population with devastating effects. At the other end of the spectrum of rarity are species that are geographically widespread, but are everywhere in low abundance. Some species naturally occur in this pattern and have life-history characteristics that enable them to persist. However, naturally abundant species that have been reduced to low density throughout their range are at heightened risk of extinction, although their wide distribution may increase their opportunities for survival.

What constitutes "especially valuable?" All native plants and animals and their habitats have significant intrinsic value. However, the language in the definition of ESHA makes clear that the intent is to protect those species and habitats that are out of the ordinary and special, even though they may not necessarily be rare. As in all ESHA determinations, this requires a case-by-case analysis. Common examples of habitats that are especially valuable due to their role in the ecosystem are those that support rare,

threatened or endangered species and those that provide important breeding, feeding, resting or migrating grounds for some stage in the life cycle of animals species and are in short supply (e.g., estuaries provide nursery habitat for many marine fishes such as the California halibut). Habitats may also be especially valuable because of their special nature. Examples include those rare instances of communities that have somehow remained relatively pristine, areas with an unusual mix of species, and areas with particularly high bio-diversity.

Are all examples of rare habitats or are all areas supporting individuals of rare species ESHA? The reason ESHA analyses are all site-specific is that there is no simple rule that is universally applicable. For example, a plot of a rare habitat type that is small, isolated, fragmented and highly degraded by human activities would generally not meet the definition of ESHA because such highly impacted environments are not rare or especially valuable and, in some cases, are so altered that they no longer fit the definition of their historical habitat type. Larger, less isolated, more intact areas that are close to or contiguous with other large expanses of natural habitat are more likely to meet the ESHA definition, but "large," "isolated," "intact," and "close to" are all terms that are relative to the particular species or habitat under consideration. What is spatially large to a Pacific Pocket Mouse is small to a mountain lion or bald eagle. What is isolated for a dusky footed woodrat may not be for a California gnatcatcher. Similarly, an area supporting one or a few individuals of a rare species might not meet the definition of ESHA because scattered individuals might be common and not significant to the species. However, this is relative to the actual distribution and abundance of the species in question. If a few individuals of a species previously thought to be extinct were found, the area would clearly meet the definition. Whereas, if the same number of individuals of a species with a population of 25,000 were found in an isolated, degraded location, the area would probably not meet the definition. An ESHA analysis will generally include a consideration of community role, life-history, dispersal ability, distribution, abundance, population dynamics, and the nature of natural and human-induced impacts. Therefore the analysis can be expected to be different for different species; for example, different for pine trees than for understory orchids.

Monterey Pine Forest

As is evident in the Del Monte Forest, the various categories of ESHA are not mutually exclusive. A particular geographic area may meet the definition of Environmentally Sensitive Habitat Area for several reasons. Monterey pine (*Pinus radiata*) is a species whose natural populations are globally rare but locally abundant. Probably as a result of natural climate change, this previously more widespread species now occurs in natural unplanted stands only at five localities. There are small populations on two islands off Baja California and larger forests at Año Nuevo, Monterey, and Cambria in California. On the Monterey peninsula, only about half the original forest remains. Much of this is fragmented and urbanized and threatened with genetic contamination from planted, non-indigenous trees. The California Native Plant Society has classified the Monterey pine as a "1B.1." "1B" indicates that the species is rare, threatened, or endangered in California and elsewhere. The "0.1" modifier indicates that it is considered "seriously endangered in California (over 80% of occurrences threatened/high degree and immediacy of threat)." The California Department of Fish and Game Natural Diversity Data Base (NDDB) List of Special Vascular Plants, Bryophytes, and Lichens (January 2006) classifies the

Monterey pine as S1.1, indicating that, within California, there are fewer than 6 viable "element occurrences" and that the species is considered "very threatened." In addition, the NDDB (September 2003) designates Monterey Pine Forest as a rare community type. Therefore, relatively large, unfragmented stands of native Monterey pine that are not highly degraded are rare and meet the definition of ESHA under the Coastal Act.

Native stands of Monterey Pine are also especially valuable because of their special nature as the genetic repositories of the species[91]. This is particularly significant in the context of the commercial importance of the species and in the context of the threat to the viability of the species posed by climate change and exotic disease. Although Monterey Pine is a locally endemic species in its natural state, it is also the most widely planted pine in the world. In the United States, it is primarily used by the Christmas tree and landscape trades (a 1985 estimate of Monterey pines put the number of landscape trees in California at 50 million). However, elsewhere, especially in the southern hemisphere, it is a plantation species that forms the basis for a lumber and paper industry of world importance, with plantings that covered 8.6 million acres in 1990. Plantations are grown in many countries, but are especially significant in New Zealand, Australia, Chile, and South Africa. In 1998, it was reported that Monterey pine accounted for about 9% of New Zealand's gross domestic product and for over 12% of the value of that country's exports. The genetic resources found in the remaining native stands must be maintained if Monterey pine is to remain an important commercial species. However, genetic conservation is also critical to the continued existence of the native forests. There are many stresses, such as the rapid climate change that is upon us, that must be met in place in urbanized environments where there is no room for populations to shift geographically to respond to environmental trends. Widely distributed species will decline in some areas but persist in others. However, local endemics like Monterey pine must evolve in place or perish. A more immediate threat is pine pitch canker which is caused by an exotic fungus (*Fusarium subglutinans*). This fungal disease spread rapidly after it was first observed in ornamental pines in 1986. By 1994, all three native forests in California were infected. Within an individual, each infection is localized and does not spread throughout the tree systemically. However, there are commonly multiple infections. Branches, shoots, cones, and exposed roots may all be infected and the infections result in die back of the tissues beyond the infected site. Infections reduce the fitness of the tree and severe infections may result in death. Based on observations of planted stands, it was initially predicted that the pine pitch canker might result in 91% mortality of planted trees and up to 85% mortality in native forests. Later surveys have documented a lower mortality rate, particularly among trees in native forests. A small percentage of trees apparently never contract the disease. More importantly, about 27% of trees that were inoculated with the disease organism showed some level of resistance to the pathogen. It also appears that trees that are repeatedly inoculated may develop resistance, and some trees show signs of remission from the disease. The epidemiology of the disease is still far from known and pine pitch canker is still a serious threat to native forests; however, there appears to be genetically based resistance among a portion of the population. Unfortunately, there is also genetic variability within the pathogen and a real concern is that, in the future, one of the known more virulent strains of *F. subglutinans* may be accidentally introduced, as was the existing strain.

[91] The existing natural populations of any species constitutes its genetic repository. However, the emphasis is made here because the entire natural population occurs in only five small areas in the world.

Conservation of the genetic resources of the species within each population is critical to its ability to withstand these various environmental challenges. It is clear that the remaining relatively intact native stands of Monterey pine are especially valuable due to their special nature as the genetic repository of the species and therefore meet the definition of ESHA under the Coastal Act.

Although significant as a species, Monterey pine is also important as the defining member of Monterey pine forests, which provide habitat to some 200 species of plants and dozens of species of animals. On the Monterey peninsula, there is a great deal of natural variability in the physical habitat that is associated with differences in proximity to the coast, differences in elevation, and differences in soils that are associated with the series of marine terraces and dune formations of different ages. There is controversy about whether these physical habitats are disjunctive in character (an "ecological staircase") or whether they are simply part of a cline or gradient of habitat change, but in either case the variability in the physical environment appears to be mirrored in differences in the local characteristics of the Monterey pine (some of which may have a genetic basis) and in differences in community makeup that contribute to overall biological diversity. Seventeen special status wildlife species and 19 special status plant species occur within Monterey pine forests in the Monterey region. These include Yadon's piperia (Fed Endangered; CNPS 1B.1), Hickman's onion (CNPS 1B.2; 0.2 indicates "Fairly endangered in California (20-80% occurrences threatened)"), Hooker's manzanita (CNPS 1B.2), and Monterey cypress (CNPS 1B.2) Therefore, Monterey Pine Forest habitat is especially valuable due to its ecosystem function of supporting populations of other rare species and meets the definition of ESHA under the Coastal Act.

Piperia yadonii, variously known as Yadon's rein orchid or Yadon's piperia, is an orchid endemic to Monterey County that grows in Monterey pine forest and maritime chaparral at three main areas within about 6 miles of the coast. During rangewide surveys conducted in 1995 and 1996, about 83,000 individuals were observed, of which about 70% were found in the Del Monte Forest. A 2004 census of potential development and mitigation areas in the Del Monte Forest documented the presence of about 130,000 individuals, most of which were growing in Area MNOUV (57,200 individuals) and Area PQR (56,100 individuals). The difference in the two surveys was mainly in density; the location of the major areas in which the plants were found were very similar. Such year-to-year fluctuations in density are common among many plant species. However, the fact that major new habitat areas have not been found, underlines the importance of the small areas of habitat that remain undeveloped. The great bulk of the population is confined to the Del Monte Forest on the Monterey Peninsula. Although locally abundant, Yadon's piperia is even more globally rare than the Monterey pine. The California Native Plant Society has classified Yadon's piperia as "1B.1 (rare, threatened, or endangered in California and elsewhere and seriously endangered in California with over 80% of occurrences threatened with a high degree and immediacy of threat). The California Department of Fish and Game NDDB List of Special Vascular Plants, Bryophytes, and Lichens (January 2006) classifies the Yadon's piperia as S1.1, (a very threatened species with fewer than 6 viable element occurrences). In 1998, the U.S. Fish and Wildlife Service designated Yadon's piperia as "Endangered" under the federal Endangered Species Act. Yadon's piperia is rare and its habitat independently meets the definition of ESHA under the Coastal Act, regardless of the character of the forest within which it is growing.

Coastal Dunes

Coastal sand dunes constitute one of the most geographically constrained habitats in California. Coastal dunes only form where sand supply and wind energy and direction are appropriate. Dunes are a dynamic habitat subject to extremes of physical disturbance, drying, and salt spray and support a unique suite of plant and animal species adapted to such harsh conditions. Many characteristic dune species are becoming increasingly uncommon. Even where degraded, the Coastal Commission has found this important and vulnerable habitat to be ESHA due to its rarity and important ecosystem functions, including that of supporting sensitive species. In the Del Monte Forest, remnants of native coastal sand dune habitat occur within Areas M & N and at the edge of Area L. Dunes in or adjacent to Area M provide habitat for five special status plants: Monterey spine flower (CNPS 1B.2), Menzies' wallflower (CNPS 1B.1), beach layia (1B.1), Tidestrom's lupine (1B.1), and sand gilia (CNPS 1B.2). Areas of coastal dune vegetation and sandy openings within the Monterey Peninsula are rare and especially valuable due to their important ecosystem functions and meet the definition of ESHA under the Coastal Act.

Wetlands

Most of the project areas have been modified to some degree by human activities. Hydrology within the remaining native Monterey pine forest has been altered by surrounding development, increased runoff from impervious surfaces, fill of natural drainage courses and creation of new drainages downslope from culverts that concentrate and direct runoff. Although their location and boundaries may have been altered by development, many wetlands still exist within the project area. These relatively permanent changes, including the new drainage courses, should be regarded as the new normal condition. Most of the wetlands within Monterey pine forest are seasonally inundated or saturated near the ground surface for weeks or months during most years and support mostly herbaceous vegetation dominated by wetland grasses, rushes & sedges. A few areas support emergent marsh that remains inundated for much of the year. These existing wetlands tend not to be substantially degraded by human activities, provide most of the functions characteristics of wetlands in this region, including aquatic habitat for the California red-legged frog, and meet the definition of ESHA due to their important ecosystem functions.

C.ESHA Analysis

1. Introduction

As described earlier, the proposed LCP amendment is designed in part to facilitate the Pebble Beach Company's project. As such, the project details can help to provide context for the LCP amendment – including providing a relevant example of what the LCP, if amended, might engender. Given that the County has already approved the Company's project, such an analytic tool is all the more relevant. In addition, given that the project represents the identified ultimate outcome of the proposed LCP amendment, it provides a useful organizational reference for analysis. Accordingly, the sections that follow use as their geographic basis the relevant project components to the degree feasible and appropriate. For example, the proposed 18-hole golf course would take place in and around DMF areas M, N, O, U, and V (MNOUV), and thus these areas are evaluated in a combined section in the findings

below.

2. Area MNOUV[92] (Pebble Beach Company Project: Golf Course Site)

A. Setting

Areas M, N, O, U, and V (MNOUV) are located adjacent to one another and occupy approximately 148 acres straddling the Spyglass Cypress and Pebble Beach planning areas (see Figure 2B). MNOUV is adjacent to the Cypress Point Golf Course, the dunes at Signal Hill rising up from Fan Shell Beach, the Spyglass Hill Golf Course, the Pebble Beach Equestrian Center, and existing developed residential properties. MNOUV is partially developed with the roughly 5-acre Pebble Beach Driving Range located on a portion of Area V, two portions (roughly 2 acres total) of the existing Pebble Beach Equestrian Center located on portions of Areas U and V, and the Pebble Beach Company's roughly 5-acre fill/storage area at Signal Hill Dunes on a portion of Area M.[93] The undeveloped portion of MNOUV includes the remaining portions of Areas M, U, and V, and all of Areas N and O. In all, there are approximately 12 developed and 136 undeveloped acres in area MNOUV.

The undeveloped portion of MNOUV is primarily coastal dunes on the northern portion of this area at Signal Hill and native Monterey pine forest elsewhere.[94] The dune area on MNOUV is part of the larger Signal Hill dune system rising from Fan Shell Beach to the west.[95] The MNOUV dunes are partially degraded and bear the scars in some places of historic sand mining activities and more recent edge effects associated with the Pebble Beach Company's fill/storage activities. Nonetheless, these dunes

---

92 In addition to Areas MNOUV, there are two adjacent areas also proposed for land use redesignation by the proposed amendment. The first is the roughly 8-acre resource conservation area surrounding Area O (see Figure 3). To date, the County and Company appear to have considered this area to be a part of Area O, but it is not. The second is an area near MNOUV adjacent to the existing equestrian center that would be incorporated into the Company's proposed golf course. Due to their proximity in this respect, these properties are discussed in this MNOUV section, and references to MNOUV herein include them. In addition the proposed amendment includes changes that would specifically apply adjacent to MNOUV, including changes relative to the equestrian center area. Again, although not located within MNOUV, these changes are discussed in this section given their proximity to MNOUV and the fact that the Company's proposed project includes a golf course that would be constructed partly on the subject equestrian center land.

93 Based on available data, it appears that the fill/storage area was historically part of a larger coastal dune area (at least a portion of which still remains intact), and that this coastal dune was partially mined by the Company until 1965. It also appears, based on an analysis of aerial photos that the site has been partially filled, and that the filled area has continued to expand over time. The site has been and continues to be used as a storage and materials disposal area but no coastal development permits have been authorized for this activity. Depending on further research, the appropriate baseline condition for this area for purposes of evaluating proposed land uses and potential development may be dune. This area is shown mostly as sand or sand dunes in LUP Figure 2a (Vegetation Cover).

94 There is also some overlap at the transition between the dunes and the forest inasmuch as Monterey pine are also present in dune areas. This is an example of the previously discussed Monterey pine forest-dune habitat association.

95 Monterey County identified delineated coastal dunes in this area. However, fieldwork by the Commission's staff ecologist indicates that there are additional areas of dunes in this area that should have been delineated as well. Commission staff informed the County of the need for additional delineation work in this area in January 2005. Staff is not aware of any additional work being done by the County. Commission staff has since performed additional field work and GIS mapping, and the additional dune area identified (and shown in Figure 5) represents the County's previous dune delineation as modified by Commission staff based on more recent fieldwork in February 2006. The additional dune areas identified by Commission staff are located along the boundary between the dunes and the aforementioned fill area (Figure 5).

remain a valuable coastal dune system and are part of the larger Asilomar Dunes system that stretches from the Point Piños Lighthouse Reservation in Pacific Grove through to Cypress Point adjacent to Fan Shell Beach.[96] The dunes here support several listed endangered, threatened, and CNPS 1B plant species including Tidestrom's lupine, Menzies' wallflower, sand gilia, beach layia, Monterey spine flower and others. Seacliff buckwheat, a known host plant for the endangered Smith's blue butterfly, is also present in this area (though butterflies were not detected in surveys in 2000). The dunes provide other special status species habitat as well (including for special concern species such as black legless lizard, silvery legless lizard, California horned lizard, etc.). The MNOUV dune area (mostly within Area M and a small portion of Area N) is considered ESHA pursuant to the Coastal Act.[97]

The MNOUV native Monterey pine forest area is a mostly contiguous[98] block of native pine forest, approximately 116 acres in all, in association with scattered Coast live oak and a variety of understory species. These other species include such sensitive CNPS list 1B species as Hooker's manzanita and Hickman's onion, including significant occurrences of the federally-listed endangered Yadon's piperia. The MNOUV piperia occurrence area is the largest known occurrence in the world (estimated at roughly one-third of the known worldwide population), and the contiguous pine forest is one of the largest areas of native pine forest within the area directly affected by the proposed LCP amendment.[99] As discussed earlier, the Monterey pine forest area as a whole functions as associative habitat for a variety of sensitive species, including Yadon's piperia, and thus forest boundaries can also be used to estimate extent of piperia habitat.[100] The MNOUV forested area also provides habitat for a variety of native animal species, including habitat suitable for several sensitive wildlife species (e.g., Cooper's hawk, Ringtail, Pallid bat, etc.).

In addition, the MNOUV pine forest area contains significant wetland resources, including approximately 4.4 wetland acres identified by Monterey County.[101] In addition to the County-identified wetland acreage, fieldwork by the Commission's staff ecologist indicates that there are additional areas of wetland in MNOUV that should have been delineated as well.[102] These wetland areas include several

---

96 The Commission has a long history of treating the Asilomar Dunes system as ESHA. See, for example, Smith, A-3-MCO-02-058; and Kwiatkowski, 3-03-029.

97 See also previous ESHA criteria and other discussion.

98 Stevenson Drive and Drake Road, as well as a number of public access trails, cross the pine forest area. The forest canopy extends over the trails and parts of the roads.

99 And the largest area of native Monterey pine forest to be impacted by the Company's proposed project.

100 In other words, native Monterey pine forest can be presumed to be Yadon's piperia habitat – see previous ESHA delineation methodology discussion.

101 The County's wetland delineation was applied to the Company's proposed project area. The proposed project area includes Area MNOUV and additional surrounding area. The additional surrounding area includes some area of wetland that were delineated by the County. As a result, the County's wetland acreage totals are slightly lower within Area MNOUV as compared to the Company's project area.

102 Unlike the adjustment to the dune edge boundary, Commission staff was unable to map the additional area of wetland due to the sheer acreage involved, and the degree of additional fieldwork that would be required to accurately delineate wetlands within this area. Rather, staff fieldwork was focused on spot-checking the margins of the County's wetland delineation and a subset of specific areas that appeared to have the requisite indicators (hydrophytic species and soils and water). The fieldwork indicated that substantial areas that weren't delineated by the County should be delineated. Staff is unaware of any additional delineation work performed by the

pond and watercourse areas among them, and portions of these areas provide documented habitat for California red-legged frog among other species. With respect to CRLF in particular, recent reports indicate that the apparent center of the DMF CRLF population is found in the lower Seal Rock Creek watershed, and that the MNOUV area includes both occupied foraging and dispersal habitat (i.e., CRLF having been documented in these wet areas in recent surveys) and suitable aquatic foraging and dispersal habitat for CRLF.[103]

Historically, the MNOUV native Monterey pine forest area was part of a much larger forest that mantled most of the Del Monte Forest, and most of the Monterey peninsula.[104] Over time, this forest has been diminished in size until it is now about one-half of its estimated historic size (see Exhibit 7). This MNOUV forest area continues to be a relatively unfragmented portion of the remaining DMF forest cover that is functionally and physically connected with other large remaining forest areas, including that of the Huckleberry Hill Natural Habitat Area and the area surrounding it located to the northeast of MNOUV.

The MNOUV pine forest area is ESHA pursuant to the Coastal Act.[105] This area represents the type of rare, large intact native Monterey pine forest described earlier that qualifies as ESHA. It is also ESHA because it is both especially valuable as a genetic repository and because it supports related sensitive species habitats, including a series of CNPS 1B species as well as significant areas occupied by the federally endangered piperia. In addition, the area supports significant wetland and other wet resource areas, including areas of CRLF habitat. When combined with the dune ESHA area described above, the vast majority of Area MNOUV is considered ESHA (see biological resources mapped in Figure 5). This ESHA area essentially represents all of the undeveloped portions of MNOUV (i.e., everything but the driving range, the fill/storage area, and the small portions of the equestrian center), with the exception of a roughly 5-acre undeveloped area that is a part of Area V located at the intersection of Stevenson Drive and Ondulado Road that is hemmed in by these roads and the Collins Field portion of the equestrian center (see Figure 5).

Finally, although not contiguous to MNOUV, there is an property south of Area U (opposite the equestrian center from the middle of Area U) that is also directly affected by the proposed land use and zoning designation changes. This property contains some scattered trees but is otherwise ruderal and mostly devoid of significant vegetation. It is currently developed with a residence and related residential development. This property does not appear to be ESHA.

County since staff informed the County of fieldwork results in January 2005. Thus, the County's acreage and delineation underestimate the actual area of wetland present (both within Area MNOUV and the surrounding undeveloped area that would be used for the Company's project), and appear to underestimate such acreage by a significant degree. Towards this end, Commission staff undertook additional fieldwork in February 2006 to better identify areas that clearly appear to be wetland and areas that potentially could be wetland. Theses are shown on Figure 5. Unfortunately, staff was unable to cover all of Area MNOUV, and instead had to concentrate on the central MNOUV area straddling wetland areas at Area N and U. Thus, additional fieldwork in other areas could show even more wetland. In any event, as seen in Figure 5, it is clear that there are more wetlands than delineated by the County, and there may be significantly more wetlands overall in Area MNOUV.

[103] EIR Appendix E.

[104] Jones and Stokes, 1994.

[105] See also previous ESHA criteria and other discussion in preceding findings.

B. Proposed LCP Changes for MNOUV

Area MNOUV is currently designated primarily for low-density residential development and partially for resource conservation. The area designated residential ranges from 1 unit to 4 units per acre, all of which is further designated as Resource Constraint Area (B-8); a total of approximately 140 acres.[106] The area designated for resource conservation is confined to 8-acres surrounding Area O that is designated Open Space Forest (RC). The property south of Area U (but not part of any lettered area) is currently designated residential, 1 unit per 1.5 acres, and zoned LDR/1.5. See Figure 3 for the current LCP land use and zoning designations.

The proposed LCP amendment would designate all of MNOUV and all of the nearby non-lettered property to Open Space Recreation (OR) with the exception of a 4-acre area straddling Areas M and O near the intersection of Stevenson Drive and Spyglass Hill Road that would be redesignated to Visitor Service Commercial (VSC). More specifically, approximately 136 acres would be redesignated from residential to recreational, approximately 8 acres would be redesignated from resource conservation to recreational, and approximately 4 acres would be redesignated from residential to commercial. The Resource Constraint Area (B-8) overlay would be removed for the entire area. See Figure 4 for the proposed LCP land use and zoning designations.

The proposed LCP amendment would also: add text to the LCP indicating that up to 24 golf suites could be located within the 4-acre visitor service commercial area that would be designated on Areas M and O; delete LUP Figures 7a and 12a, and modify LUP text applicable to the Spyglass Cypress and Pebble Beach planning areas reflecting their deletion and the proposed reliance instead on the amended LUP Figure 5 alone; modify LUP Figure 15 to include a note indicating that trails shown within area MNOUV on Figure 15 are illustrative, and to indicate that any final trail location and/or alignment is to be determined at the time of project approval in these areas; and change the LUP's OSAC Plan to specify that areas designated OR in area MNOUV are to be managed and maintained pursuant to LUP OSAC Plan management category VI applicable to golf course uses and development).

C. Preliminary Analysis of Proposed LCP Changes for MNOUV

1. LCP Changes affecting the Undeveloped Portion of MNOUV that is ESHA

As detailed above, the majority of area MNOUV is currently undeveloped, and this undeveloped area is almost all ESHA. This undeveloped ESHA area includes within it significant wetland areas. Under the proposed LCP amendment, the undeveloped MNOUV area would be primarily designated in the LUP as Open Space Recreational (144 acres) with a small 4-acre portion straddling areas M and N designated as Visitor Service Commercial. The Open Space Recreational land (as well as the existing equestrian center and polo field (i.e., Collins Field)) would be managed consistent with OSAC classification category VI applicable to golf courses.[107] Finally, the LUP's description of the Visitor Service Commercial land use designation would be amended to identify up to 24 "golf suite" units in the smaller

[106] Area M is designated 4 units/acre (MDR/B-8), N is 1 unit per acre (LDR/B-8), O (residential portion) is designated 2 units per acre (MDR/B-8), U is designated 1 unit per acre (LDR/B-8), and V is designated 2 units per acre (MDR/B-8).

[107] This component of the proposed amendment is an explicit acknowledgement of what the amendment is meant to provide for; namely the Pebble Beach Company's proposed golf course.

area straddling Areas M and N.

The largest portion of the undeveloped MNOUV ESHA area is proposed to be designated Open Space Recreational. The LUP's Open Space Recreational land use designation is limited to golf courses, the existing equestrian center, and the existing beach and tennis club (as well as necessary support facilities for these uses). Thus, the LUP's recreational land use designation is limited and specific to these three identified higher intensity recreational uses, none of which are resource dependent uses. Measure A further proposes to amend the LUP to provide that this proposed Recreational area be managed according to the OSAC golf course category, thereby further narrowing the proposed land uses.[108] It is clear that the proposed Measure A amendments for MNOUV are designed to accommodate the Pebble Beach Company's proposed golf course, particularly when the explicit OSAC changes are considered. For purposes of understanding the coastal resource impacts of Measure A, the coastal development permits already approved by Monterey County, pursuant to and contingent on the Commission's approval Measure A, provide an excellent example of the type of development and associated impacts that could be expected under an amended LCP. The Pebble Beach Company's proposed project includes an 18-hole golf course and related facilities that would be developed in and around area MNOUV, including within the undeveloped ESHA area (see Figure 5). It would result in the direct removal of most of the MNOUV undeveloped ESHA area (including through fill of what appears to be wetlands), and would result in the fragmentation of any remaining ESHA area (that was not otherwise directly removed) such that habitat values would be significantly disrupted and the areas significantly degraded. Although there is some question as to whether the EIR has adequately captured the extent of the project's impacts to the Monterey pine forest area, the EIR does conclude that some 63 acres of native Monterey pine forest (and over 10,000 individual trees) would be directly removed, and the remainder of the forest otherwise fragmented (e.g., in between fairways, along fringe of course, etc.). Similarly, with respect to Yadon's piperia, the EIR concludes that roughly 36,000 individual plants, or 21% of the known population of this endangered species, would be removed. Other anticipated impacts include the removal of a wetland pond area that is documented aquatic habitat for the CRLF, requiring USFWS take authorization.[109] In sum, this golf course, which is not resource-dependent, would result in direct removal of ESHA and would result in the fragmentation of the remaining ESHA area (that was not otherwise directly removed) such that habitat values would be significantly disrupted and the areas significantly degraded.

With respect to the small portion of the undeveloped MNOUV/ESHA area that would be designated in the LUP as Visitor Service Commercial, the proposed Visitor Service Commercial land use designation (both the current designation and the designation as it is proposed to be amended to add the "golf suite" language) provides for intensive, non resource-dependent uses where development associated with them would likewise be expected to significantly disrupt habitat values (e.g., major hotel and inn accommodations, which the LUP states are the principal uses in this land use designation category). More specifically, the proposed new text specifically identifies up to 24 golf suites, where these are

[108] The OSAC golf course classification category clearly references and is intended for areas that are limited to golf course rough areas. Golf course rough areas are well-tended open space, and the classification is designed for compatibility with golf course maintenance.

[109] EIR Tables 3.3-1, 3.3-6, P2-1, P2-2, and Appendix E

presumed to be similar to the hotel/inn accommodations identified in the existing LUP for this land use designation.[110] Although just one example of what type of development might be proposed if this LUP change were made, the Company's project includes a series of eleven house-like golf suite units of up to about 3,000 square feet each with associated infrastructure and facilities (paths, fences, driveway access, etc.) in this area straddling Areas M and N. These golf suites, which are not resource-dependent, would result in direct removal of ESHA and would result in the fragmentation of the remaining ESHA area (that was not otherwise directly removed) such that habitat values would be significantly disrupted and the areas significantly degraded. Such development is an example of the type of development that might be expected were the LUP to be amended as proposed for this area straddling Areas M and N.[111]

Notwithstanding the substantial anticipated resource impacts of the proposed land use changes, it has been suggested that Measure A would be superior to implementation of the existing LCP. However, as discussed generally above, this argument assumes a baseline condition for comparison purposes that is unlikely, namely, that the areas in question could be subdivided to provide up to the maximum number of residential developments theoretically possible under the LCP. As already shown, the areas in question are substantially ESHA. The LCP does not allow the subdivision of ESHA. The realistic development potential of the MNOUV ESHA areas, therefore, is significantly less than the 233 homes that have been cited by the County and the Pebble Beach Company as the development potential of the area. Assuming that it was determined that much or all of the area was ESHA, the LCP would allow the minimal amount of development necessary to avoid a takings of private property. For single legal parcels that are all ESHA, this generally equates to a single residential unit, although a case-specific takings analysis must always be conducted to determine actual development entitlements. Obviously a single residential development of limited scope would entail significantly less impacts for existing resources than would the intensive development contemplated by Measure A.[112]

2. LCP Changes affecting the Undeveloped Portion of MNOUV that is not ESHA

As discussed above, a small portion of the undeveloped MNOUV area in the southernmost corner of Area V does not appear to be ESHA. In addition, this area, which is also proposed for Open Space Recreational (OR), is hemmed in by existing roads as well as the driving range to the north, the equestrian center to the west, and Peter Hay golf course to the south. As such, this area appears to provide a natural extension of these adjacent recreational uses and development, and a recreational land use designation would allow for it to be used as a future open space recreational expansion/landscape buffer area (provided of course that such development could otherwise be found consistent with the

---

[110] Note that the LCP does not define a "golf suite." The County has indicated in its proposed LCP amendment submittal that a golf suite is considered a visitor-serving unit intended for transient occupancy. The term "suite" implies that a golf suite includes multiple rooms, and the term golf implies that it is somehow associated with golf. Thus, and for purposes of this LCP analysis, a "golf suite" is presumed to be an overnight unit with multiple rooms similar to normal and typical hotel/inn accommodations that is located adjacent to and/or is functionally connected or associated with a golf use (e.g., located adjacent to a golf course).

[111] Ibid.

[112] Commission staff preliminary analysis indicates that there appear to be very few legal lots in this area. In addition, this area already includes substantial development, including existing residential use (on the acquired property), the equestrian center, driving range, and fill/storage area on the remainder of the area. The existence of economic uses would necessarily be factored into a takings analysis.

LCP). Currently, some limited and transitory use and development already occurs in this area, including some temporary development (e.g., support facilities for the AT &T golf tournament.)

3. LCP Changes affecting the Developed Portion of MNOUV

As detailed above, the currently developed portion of MNOUV is limited to four discrete areas: the existing Pebble Beach golf driving range on 5 acres of area V, two small portions of the existing Pebble Beach equestrian center on portions of Areas U and V, and the Company's fill yard occupying +-5 acres of Area M.[113] In terms of the developed golf driving range and equestrian center areas, the proposed Open Space Recreational (OR) designation would correspond to these existing recreational uses. These developed areas have long been occupied and used by such recreational uses and development. The golf driving range has been manicured with turf grass and golf driving range related amenities and facilities, and the equestrian center includes developed equestrian facilities. As described above, the LUP's recreational designation is specifically meant to encompass golf course related facilities (such as these) and the equestrian center explicitly (as discussed above).

With respect to the Company's +-5-acre fill area on Area M, currently designated for residential use, the proposed Open Space Recreational LUP designation and the proposed Visitor Service Commercial LUP designation (where the Visitor Service Commercial is limited to the existing fill access road area that extends from Stevenson Drive to the main fill area proper) raise questions due to the fill area's history and location. As described earlier, this area was apparently historically mined for sand, and has been filled over time (including what appears to be continuing fill even more recently). Although the fill itself is without significant resource value, the filled area was historically part of the Signal Hill dune area previously described that still surround the fill, and it presumably still maintains some facets of dune geology and biology below the fill materials. There is some question as to whether this area should be considered a former dune or should be considered a fill area for purposes of Coastal Act evaluation. In terms of location, unlike the above-described existing developed golf driving range and equestrian center areas, this fill area is not currently developed and used as a (or part of a) recreational facility, and it is essentially surrounded by ESHA. Additional research is needed before a conclusion regarding this site and the proposed Measure A changes can be reached.

In terms of the non-lettered area adjacent to the existing equestrian center and currently residentially developed, the proposed Open Space Recreational (OR) designation would be compatible with the adjacent existing equestrian area on two sides, and residentially developed properties otherwise.

4. LCP Changes in Relation to all of MNOUV – Figure 15 Changes

LUP Figure 15 shows, among other things, a series of trails that wind throughout the Forest like an intricate maze (see Exhibit 2). According to the LUP, this trail system has been and is available for general public access use, and remains one of the most significant public access facilities within the Forest. It allows its users to navigate through the Forest almost exclusively separated from vehicular roads and along alignments that dip into and out of significant natural resource areas thus offering a

[113] Although not located in Area MNOUV, the non-lettered area nearby and discussed in these MNOUV findings (as detailed previously) is also developed.

more natural trail experience as well as opportunities to enjoy Forest resources close up. Use is limited to hikers and equestrians, who, with a little luck and a good trail map, can find their circuitous way from Asilomar Dunes in Pacific Grove through to Carmel Beach in Carmel in an afternoon. In fact, this trail system is the *de facto* California Coastal Trail (CCT) connection between Asilomar Dunes State Beach and Carmel Beach, and the CCT requires and is dependent upon the trails through the Forest in this respect.

Although the trails shown on Figure 15 would not be altered, the LCP amendment proposes to add the following text to LUP Figure 15:[114]

> *Trails shown within Areas M, N, O, U, and V of the Spyglass Cypress planning area are illustrative. Location and alignment be determined at the time of development project approval.*

Thus, the trail note would apply strictly to Area MNOUV and the public trails shown within this area on Figure 15.[115]

The public trails within Area MNOUV are highly used, particularly by equestrians; at least in part because the equestrian center is immediately adjacent to MNOUV and a main riding trail emanates from the equestrian center through the heart of the Monterey pine forest. These trails provide significant public access and recreation opportunities, particularly for forest and other habitat interpretation.

The proposed LUP Figure 15 note seems somewhat innocuous at first glance, particularly when considered in relation to LUP Policy 124 (the only LUP Policy to specifically reference LUP Figure 15) that protects these designated trail routes. LUP Figure Policy 124 states:

> *New development should be sited and designed to avoid encroachment on to designated trail routes (see Figure 15). Trail dedications consistent with LUP policies and site specific access recommendations shall be required as a condition of development approval. If, due to habitat or safety constraints, development entirely outside the trail route is not feasible, the route shall be realigned. Approved realignments shall be generally equivalent to the original route.*

That said, however, the proposed note raises Coastal Act concerns. First, the note attempts to identify the trails shown on LUP Figure 15 as "illustrative" when in fact these trails are existing and currently used for public access. The difference in meaning between existing and illustrative may be a bit nuanced on some levels, but is important nonetheless. The implication is that if the trails shown on Figure 15 are only illustrative, then they could be considered to not be present in a development review context, and

---

[114] In addition, the LCP amendment proposes to change Figure 15 to replace the label "Haul Road Gate" with the label "New Gate" but that change does not affect Area MNOUV and is discussed elsewhere in these findings.

[115] The proposed text is confusing inasmuch as it refers to the Areas M, N, O, U, and V within the Spyglass Cypress planning area, but only Areas M, N, and O are located within that planning area; Areas U and V are located within the Pebble Beach planning area. One interpretation is that the note is meant to refer to only those portions of MNOUV in Spyglass Cypress, but that conflicts with reference to all of MNOUV. Another interpretation is that the note applies to all of MNOUV, but that conflicts with the reference only to the Spyglass Cypress planning areas. In either case, the proposed text includes a technical flaw in this respect that would need correction if the amendment were to be approved. It is presumed here that the County meant for the note to apply to all of Area MNOUV because the LCP amendment is driven by a project that would displace trails within all of MNOUV to allow golf course construction.

thus offered a lesser level of protection as a result.

Second, although it is possible that these public access trails could be protected if the note were added to Figure 15, particularly when considered in context with LUP Policy 124, it is more likely that these trails would be re-routed, and that the resultant re-routed trails would provide a degraded public access and recreation experience over what exists currently when considered in light of the overall LCP amendment (and the project driving it). As seen above, the LCP amendment is geared towards accommodating an 18-hole golf course and related amenities on and around Area MNOUV. The proposed golf course would displace the trails within this area, and the re-routed trails, except for one trail segment running from the Signal Hill dunes to Stevenson Drive near the proposed golf cottages, would be re-routed around the new course. The result would be a lesser public access amenity inasmuch as the trails would no longer extend through dense natural areas but would rather skirt a developed golf course, mostly along vehicular roadways.

4. Preliminary Conclusions for Area MNOUV

The proposed Measure A land use changes for Area MNOUV clearly raise significant issues with respect to Coastal Act requirements to protect ESHA. As discussed above, Area MNOUV is mostly high-quality ESHA. The primary purpose of the proposed amendment is to designate this land for non resource dependent development and uses that would be expected to significantly disrupt habitat values and lead to impacts that would otherwise degrade habitat areas. An example of the type of use and development that would be facilitated by the amendment is the Pebble Beach Company's proposed golf course, golf suites, and related facilities proposed for Area MNOUV and surrounding areas, as has already been approved by Monterey County. This proposed development would result in significant adverse impacts to documented occurrences of sensitive species, habitats and wetland resources. That said, the proposed LCP amendment is timely given the lack of significant LCP update within the Del Monte Forest LCP segment since its certification some twenty years or so.[116] It is also supported by significant resource characterization that presents a unique opportunity to evaluate and plan for future development in relation to current conditions – particularly because of its scope with respect to its coverage of undeveloped Del Monte Forest area lands. Along with Area PQR, nowhere perhaps is that more relevant than at Area MNOUV. As seen in the discussion above, this area includes significant habitat resources for which the question of what is the appropriate level of development is particularly relevant.

In the larger LCP planning context, Commission staff have previously recommended that LCP designation changes relative to Area MNOUV are warranted, but that such changes are different than have been proposed. For example, in previous correspondence and in the Preliminary Periodic Review (not adopted by the Commission), staff has recommended that ESHA areas should be designated as Open Space Forest (RC) for the forested areas. Non-ESHA areas, including existing developed areas, could be designated Open Space Recreational (OR). Similarly, these designations are appropriate for

[116] The County has been working on a General Plan Update for several years, but has not yet completed the update. The Commission refrained from taking action on the Periodic Review of the MCO LCP at the request of the County to allow the General Plan process to be completed.

both existing recreational uses and for some expansion of them at their margins (as described above).

These types of LCP changes would protect a significant area of Monterey pine forest and related habitats, eliminate additional residential development in this area, and allow for reasonable visitor-serving and recreational development in areas that are appropriate for it.

3. Areas B and C (Pebble Beach Company Project: Golf Driving Range and Employee Housing Sites)

A. Setting

Areas B and C are located in the northernmost portion of the Del Monte Forest within the Spanish Bay planning area (see Figure 2B). These areas are located directly inland of the Spanish Bay Resort and 17-Mile Drive in the Navajo Tract area, a portion of which is now maintained as a resource conservation area (including the eastern portion of Area B shown on LUP Figure 5[117]).[118] The Pacific Grove and Country Club gates into the Del Monte Forest frame this area on the east, and Congress Road cuts a wide swath through the middle of it.[119] Other than a maintenance/fire road extending through the northwestern corner of Area B, this area is currently undeveloped.

Both Areas B and C are densely covered with native Monterey pine forest in association with other species, including coast live oak and, in the case of Area B, Yadon's piperia. Both areas include about an acre of wetlands delineated by the County,[120] and Area B includes a well-defined riparian creek corridor (sometimes referred to as Majella Creek) along its northeastern boundary; both the wetland and Majella Creek areas have been designated as providing suitable aquatic habitat for the threatened California red-legged frog. Suitable habitat for other sensitive species is also provided, including potential nesting raptor habitat (including sharp-shinned hawk having been observed nesting in Area B) and pallid bat habitat throughout the forest, and Monterey shrew and ringtail habitat in riparian areas. All of these species are State and/or Federal Species of Special Concern or Fully Protected Species (i.e., ringtail).[121]

Area B is approximately 24-acres, and is part of a larger forested area – a portion of which has previously been dedicated for preservation. Area C is approximately 29 acres. Together, this larger area totals forested areas of which Areas B and C are a part is only bisected by Congress Road (see Figure 7). With respect to Area B, this area is dense Monterey pine forest that is functionally connected to a much larger preserved forest area. Yadon's piperia has been found in patches in Area B, with approximately 2

---

117 The eastern portion of Area B has been dedicated to the Del Monte Forest Foundation as permanent open space. For the purposes of this discussion, Area B is understood to refer to the western portion of Area B that was not so dedicated.

118 The Area nearest Congress Road (and including a portion of Area B) is known as the Rip Van Winkle Open Space that is managed by the City of Pacific Grove and the Monterey Peninsula Regional Park District.

119 Originally an unimproved fire road, a new paved and improved road was cut through this forest area (new Congress Road) to provide direct access to the entrance to the Spanish Bay Resort opposite 17-Mile Drive as part of the Spanish Bay permit.

120 Commission staff wetland fieldwork did not yet extend to Areas B and C.

121 EIR Appendix E.

acres of piperia occurrence area having been identified, and some 300 individual plants. Area C is a well-preserved, dense Monterey pine stand with wetland areas in the southwestern corner. Area C has been identified in the past by CDFG as a high priority area for preservation.[122]

Historically, the native Monterey pine forest and related habitat area at the Navajo Tract (including Areas B and C) was part of a much larger native forest area that mantled most all of the Del Monte Forest, and most all of the Monterey peninsula (see exhibit 7).[123] Over time, this forest area has been diminished in size until it is now about one-half of its estimated historic size. The forest areas at Areas B and C are large stands representing a relatively unfragmented portion of the remaining DMF forest cover that is functionally and physically connected with other large remaining forest areas, including that of the Rip Van Winkle Open Space and the remainder of the Navajo Tract and forested areas to the south (see Figure 2B).

The Area B and C pine forest area is considered ESHA pursuant to the Coastal Act.[124] This area represents the type of large intact native Monterey pine forest described earlier that supports related sensitive species habitats, including the federally endangered piperia, and potentially including other species (such as CRLF), and that also include significant creek and wetland resources

B. Proposed LCP Changes for Areas B and C

Areas B and C are currently designated in the LUP for low density residential development, 2 units per acre in Area C and 4 units per acre in Area B, all of which is further designated by the LUP as Resource Constraint Area; the IP designation for these areas is MDR(B-8). See Figure 3 for the current LCP land use and zoning designations.

The proposed LCP amendment would designate all 29-acres of Area C to Open Space Recreation (OR), and would designate approximately 20 acres of Area B to Open Space Forest (RC); the remaining four acres of Area C would remain Residential (MDR). The Resource Constraint Area (B-8) overlay would be removed for both Areas B and C. See Figure 4 for the proposed LCP land use and zoning designations.

For Area B, the proposed LCP amendment would also add text in various LUP and IP locations explicitly identifying Area B for employee housing, including proposing to replace LUP Policy 82 (identifying maximum unit counts in Area B premised on LUP Table A) with text indicating that "Area B may be used for up to 12 units of employee housing;" include text in Spanish Bay planning area LUP land use text indicating that "employee housing may be proposed in Area B;" add text to IP Section 20.147.090(B) (Land Use and Development Standards; Specific Development Standards) stating that "additional employee housing is permitted consistent with all other plan policies," and that "up to 12 units of employee housing may be provided in a portion of Area B."

---

[122] Monterey Pine Forest Conservation Strategy Report (Jones & Stokes, 1996).

[123] Jones and Stokes, 1994. See exhibit 7.

[124] See also previous ESHA criteria and related discussion in preceding findings.

For Area C, the proposed LUP text indicates that a driving range and related facilities "are expected to be constructed," indicates that "parking will be provided in a portion of Area C to accommodate visitor-serving facilities in Spanish Bay," and indicates that Area C will be managed pursuant to the OSAC classification specific to golf courses.

See proposed text changes associated with Measure A in exhibit 2.

C. Preliminary Analysis of Proposed LCP Changes for Areas B and C

As detailed above, all of Areas B and C are currently undeveloped, and this area is all ESHA. In addition, this undeveloped ESHA area includes within it wetland areas.

Area C

Under the proposed LCP amendment, all 29 acres of Area C would be designated in the LUP as Open Space Recreational and the Resource Constraint Area overlay would be removed. Text would be added indicating that a golf driving range and related facilities was expected to be constructed at Area C, and this area would be managed consistent with LUP OSAC classification category VI applicable to golf courses.[125] The LUP's Open Space Recreational land use designation is limited to golf courses, the existing equestrian center, and the existing beach and tennis club (as well as necessary support facilities for these uses). Thus, the LUP's recreational land use designation is limited and specific to these three identified higher intensity recreational uses that are not resource-dependent. With this proposed recreational area to be managed according to the OSAC golf course category per the proposed amendment, the uses are further narrowed. The OSAC golf course classification is clearly not intended for natural resource areas, including the wetlands delineated to date on Area C, as these are covered by different OSAC classifications.[126] The proposed LUP text would allow for management akin to tended and mowed turf grass where the management purpose is golf course maintenance. As such, it does not adequately account for management of ESHA, including any special management measures necessary.

It is clear that the proposed amendments are designed to accommodate the Company's proposed golf driving range and related facilities at Area C, including by virtue of the explicit OSAC changes in this respect. As witnessed by the County's approval of coastal development permits for the Pebble Beach Company's proposed project, such development is an example of the type of development that might be expected at Area C were the LCP to be amended as proposed. The Company's proposed project includes an extensive double-sided golf driving range facility with two parking lots with over 300-spaces occupying most all of Area B (see Figure 7). Such a golf driving range facility is not resource-dependent. Other than fringe forest areas that would remain along the perimeter, the majority of the forested ESHA area would be directly removed to make way for the proposed project. The delineated wetland areas would be left alone and buffered, but it is unclear to what extent CRLF issues have been addressed and whether the buffers are appropriate in this respect. In sum, the proposed project would

[125] This component of the proposed amendment is an explicit acknowledgement that the amendment is meant to provide for the Pebble Beach Company's proposed project, and specifically the golf driving range proposed for Area C.

[126] For example, OSAC classifications II "Protected Natural Resources," IV "Open Forest," VIII "Riparian and Wetland," IX "Scenic Buffer or Easement," X "Sensitive Habitat," and XI "Rare and Endangered Species".

result in direct removal of most of the Area C ESHA area, and would result in the fragmentation of the remaining ESHA area (that was not otherwise directly removed) such that habitat values would be significantly disrupted and the areas significantly degraded. All told, some 17 acres of forest and related habitat, including almost 2,000 individual trees, would potentially be removed.[127] Remaining habitat values would be significantly degraded, particularly in relation to the larger Navajo Tract area including Area B, and particularly in light of proposed changes and project elements associated with that area (see also below).

Area B

For Area B, 4 acres would be designated residential without a resource constraint overlay and text added explicitly identifying employee housing development at this site (as described above). Twenty acres of Area B would be designated resource conservation. With respect to the latter, such a designation is appropriate given the significance of the above-described resources present at this location, particularly in light of their functional relationship with the surrounding habitat area (including the "retired" portion of Area B, Rip Van Winkle Open Space, etc.). With respect to the residential designation over the subject four acres, such designation is more problematic. Although there are some minor clearings along the maintenance trail/fire road area, these areas are very small and much smaller than the four acre area. Overall, this area is not unlike the rest of Area B (and the rest of the surrounding forested habitat area). It is dense native Monterey pine forest that is part of a much larger contiguous block of forest in association with other species (including the endangered Yadon's piperia). In contrast, the proposed residential designation is designed to allow for residential use and development, and residential use and development is not a resource dependent, and is not appropriate for ESHA.

In particular, as evidenced by the explicit proposed LCP text in this respect, it is clear that the proposed amendments are designed to accommodate employee housing at Area B. As witnessed by the County's approval of coastal development permits for the Pebble Beach Company's proposed project, including such employee housing, such development is an example of the type of development that might be expected at Area B were the LCP to be amended as proposed. At Area B, the Pebble Beach Company's proposed project includes 12 units of housing in four two-story buildings ranging from approximately 5,000 square feet to 10,000 square feet each with associated infrastructure and facilities (garages, parking areas, driveway access, paths, fences, etc.) (see Figure 7). The 12 units are identified as employee housing.[128] Such residential development is not resource-dependent. Although the delineated wetland area within the 4-acre site would be left alone and buffered, the proposed project would result in direct removal of over 2-acres of forest ESHA habitat (and some 264 individual trees).[129] By cutting a hole out of the larger contiguous forest ESHA of which it is a part,. remaining habitat values would be significantly degraded, again particularly in relation to the larger Navajo Tract area including Rip Van Winkle Open Space and also including Area C, and particularly in light of proposed changes and project elements associated with that area (see also below).

[127] DEIR Tables 3.3-1 and 3.3-6.
[128] It is not clear by what means such housing might be restricted to employees and not allowed to enter into the open housing market.
[129] DEIR Tables 3.3-1 and 3.3-6.

D. Preliminary Conclusions for Areas B and C

The proposed LCP amendment as it relates to Areas B and C raises serious consistency issues with the Coastal Act. Areas B and C are mostly high-quality ESHA that should be protected. As generally discussed, development within ESHA is limited to that associated with resource dependent uses that do not significantly disrupt habitat values, and development adjacent to ESHA must be sited and designed to prevent impacts that would significantly degrade ESHA. Although one component of the amendment, namely the proposal to designate some twenty acres of Area B ESHA as resource conservation, recognizes this ESHA context, the primary purpose of the proposed amendment is to designate this land for non resource dependent development and uses that would be expected to significantly disrupt habitat values and lead to impacts that would otherwise degrade habitat areas. An example of the type of use and development that would be engendered by the amendment is the Pebble Beach Company's proposed golf driving range, housing, and related facilities proposed for Areas B and C as has already been approved by Monterey County. This proposed development would directly remove the majority of the ESHA in Area C, would remove some 2 acres of ESHA in Area B, resulting in the direct removal of nearly 20 acres of native Monterey pine forest and related habitats, including the direct removal of over 2,000 individual trees and the related degradation of the remaining habitat not directly removed (e.g., fringe areas surrounding the driving range, the remainder of the otherwise contiguous forested areas, etc.).

As previously indicated, however, the proposed LCP amendment is timely given the lack of significant LCP update within the Del Monte Forest LCP segment since its certification some twenty years or so. It is also supported by significant resource characterization that presents a unique opportunity to evaluate and plan for future development in relation to current conditions – particularly because of its scope with respect to its coverage of undeveloped Del Monte Forest area lands, including the significant habitats of Area B and C and surrounding areas of which they are a part.

Under the current LCP and the Coastal Act, Areas B and C have very low development potential. The reason for this is that the LCP and Coastal Act protect ESHA, limiting development within ESHA to resource-dependent development that will not harm resources. There are any number of potential development scenarios that could occur, but the two most relevant to this LCP discussion given the proposed LCP amendment and the existing LCP are that associated with residential development and that associated with golf course development. In the latter case, and specific to the Company's proposed golf driving project, the potential for residential development is interwoven inasmuch as the LCP allows golf course development in residentially designated areas within the DMF LCP segment. Residential development and golf course development are not resource dependent uses, they would result in significant habitat disruption and degradation, and they could not be developed within ESHA per the LCP. A proposed residential or golf driving range project that involved all of Areas B and C could not meet these fundamental LCP ESHA tests. As described before, such a denial might engender "takings" issues. In that respect, Commission staff preliminary analysis indicates that there appears to be one legal lot in and around Areas B and C corresponding to the one straight COC issued by the County spanning Areas B and C (see Figure 14). In such a case, it may be that the most that could be approved on Areas B and C would be one residential unit sited and designed to minimize impacts (e.g., clustering such development immediately adjacent it existing residential development to avoid habitat fragmentation to

the degree feasible).

In the larger LCP planning context, it appears that LCP designation changes relative to Areas B and C are warranted, but that such changes are mostly different than have been proposed. Specifically, in addition to the 20-acre portion of Area B that is proposed for resource conservation, all of the Area B and C ESHA areas should be designated as Open Space Forest (RC). This classification better reflects resources on the ground; is indicative of the appropriate types, scales, and intensities of use allowed there; and would be more in keeping with the surrounding area also designated Open Space Forest (RC). Such a designation would protect a significant area of Monterey pine forest and related habitats and it would limit additional residential development in this area.

4. Sawmill Gulch (Pebble Beach Company Project: Equestrian Center site)

A. Setting

Sawmill Gulch is located in the northeastern part of the Del Monte Forest within the Gowen Cypress planning area (see Figure 2B). The Gowen Cypress planning area is unique in the Del Monte Forest as it is the only LUP planning area that is almost entirely undeveloped.[130] That is due in part to the fact that it contains the majority of the Huckleberry Hill Natural Habitat Area (HHNHA), and the S.F.B. Morse Botanical Reserve that is a part of HHNHA. Sawmill Gulch itself is located along the northwestern part of Gowen Cypress at the edge of the HHNHA framed in by two arms of Sawmill Gulch Creek. The majority of Sawmill Gulch is in the coastal zone, but a small portion of it near the intersection of Congress Road and S.F.B Morse Drive (near the Del Monte Park neighborhood in Pacific Grove) is located outside the coastal zone (and thus is not a part of the proposed amendment).

HHNHA is one of the most important ecological systems on the Monterey Peninsula and the Del Monte Forest. This habitat area is home to such sensitive species as the planning area namesake "pygmy" Gowen-Cypress forest (federally threatened, CNPS 1B), Eastwood's goldenbush (CNPS 1B), Hooker's manzanita (CNPS 1B), Sandmat manzanita (CNPS 1B), Pine rose (CNPS 1B), and Monterey ceanothus (chapparal) (CNPS 4 "Watch List"). It is also largely populated by native Monterey pine forest (CNPS 1B) in association with Bishop pine and Yadon's piperia (federally endangered, CNPS 1B). Significant wetland and creek areas are also found here in HHNHA, providing habitat for such protected species as California red-legged frog (state species of concern, federally threatened). The LCP categorically deems HHNHA as ESHA,[131] and it is within this HHNHA context that Sawmill Gulch must be understood.

Sawmill Gulch is approximately 45 acres and is topographically divided into upper (roughly 18 acres) and lower (roughly 27 acres) segments. Historically, sand mining occurred in parts of both the upper and lower areas. Ultimately, though degraded by such past mining activities, the 1984 LUP identified this

[130] Aside from the broad swath through this area cut by SFB Morse Drive extending from the Fifth Gate entrance to Del Monte Forest from Highway 68. SFB Morse Drive (and the Fifth Gate) were approved as part of the Spanish Bay permit.

[131] LUP Appendix A; see Exhibit 3.

area as Open Space Forest (RC), and assigned it to LUP OSAC management classification IV "Open Forest." At the same time, the LUP indicated that this area could be used as a sand source for the then pending Spanish Bay project.[132] Ultimately, portions of the Sawmill Gulch area were allowed to be re-opened and mined for sand to be used for the Spanish Bay golf course and the associated dune restoration. The mined sand was brought from Sawmill Gulch to the Spanish Bay shoreline by an extensive conveyor belt system. As partial mitigation for the impacts due to the project, including those associated with using the Sawmill Gulch site for sand mining and the related conveyor belt transport system, and the development of a new entrance road through HHNHA into Del Monte Forest, the Spanish Bay CDP required that all of Sawmill Gulch be restored, placed under easement, and protected in perpetuity.[133] As part of these CDP requirements, the upper Sawmill Gulch area was explicitly made a part of the HHNHA.[134] Specifically, Condition 28(a)(1) of the CDP requires "rehabilitation of the Upper Sawmill Gulch quarry site, and its incorporation into the Huckleberry Hill Natural Habitat Area."[135]

In years following, restoration at Sawmill Gulch commenced, and conservation easements were placed over the upper and lower portions of it. These easements restrict development there to restoration and low-intensity outdoor activities. To date, the restoration has only been partially successful. Although wetlands have established themselves on the site (about one and a half wetland acres delineated by the County), and although roughly 16 acres of forest has taken hold (with some 25 acres are in various stages of regrowth), and although Sawmill provides potential habitat for horned lizard, nesting raptors, and pallid bats (and the Sawmill Gulch Creek tributaries surrounding it include suitable aquatic habitat for CRLF),[136] the required restoration to the required level has not yet been reached. This is partly due to the difficulties of restoring a formerly active mine area and the issues that arise from trying to re-create soil profiles and properties, it is partly due to restoration mistakes and setbacks (such as ongoing erosion wiping out upper soil horizons),[137] and it is partly due to the fact that restoration of such areas is by its very nature a difficult undertaking. Perhaps better known now, such restoration is probably better thought of as a long-term <u>process</u> than something that can be assessed in the relatively short term. Along these lines, the restoration to date probably has suffered also due to the lack of adaptive management and coordination between the Permittee and the Commission in that respect.

Notwithstanding the restoration history thus far, Sawmill Gulch was required to be restored to HHNHA-

---

[132] Including by note reference on LUP Figure 5.

[133] Again, CDP 3-84-226 Special Conditions 5 (requiring scenic and conservation easement over parts of Sawmill Gulch); 6c (requiring rehabilitation and dedication of the upper Sawmill Gulch); 9g (requiring that all disturbed areas of Sawmill Gulch, including upper and lower Sawmill Gulch areas, be restored); and 28a (requiring rehabilitation of upper Sawmill Gulch). Also, by virtue of CDP 3-84-226 Special Condition 3, all relevant County conditions were incorporated as Coastal Commission CDP conditions. These incorporated conditions refer to the conditions of County permit PC-5040 as amended by PC-5405, including PC-5040 conditions 8, 9, and 10 providing for Sawmill restoration, and including PC-5405 conditions 13(s) and 13(t) providing for additional restoration and for scenic easement. Thus, the Commission's approval (including the requirements of it emanating from the incorporated County conditions) requires restoration of and easement over the entire Sawmill Gulch site. In addition, the upper portion of the restored and protected area was to be made part of the Huckleberry Hill Natural Habitat Area by virtue of the same cited conditions.

[134] Ibid; same cited Spanish Bay CDP conditions.

[135] See conditions of the Spanish Bay CDP in Exhibit 4.

[136] EIR Table E-14.

[137] And including the removal of planted trees that were the wrong species.

level value and preserved in perpetuity. This restoration and preservation requirement was one of the mitigations designed to offset the significant coastal resource impacts associated with the development of the Spanish Bay resort. These mitigation measures (which the Pebble Beach Company agreed to and has, in material respect, implemented when it accepted the permit) were and remain a fundamental part of the Spanish Bay project CDP that the Commission approved. The fact that restoration is not yet complete while the benefits of the Spanish Bay development have long continued to accrue to the Company means that Spanish Bay impacts remain unmitigated and is a call to re-double restoration efforts, and not, as the County and the Pebble Beach Company have suggested, a reason to undo the previous mitigation and develop this restoration area.[138] In other words, the fact that portions of the site lack required overstory and understory is a reason for the Pebble Beach Company to focus anew on measures necessary to fulfill its original mitigation commitments.[139]

Within the above context, all of Sawmill Gulch is considered protected habitat, and ESHA, pursuant to the Coastal Act. In this sense, the ESHA determination is in part dependent upon the required restoration outcome of this area in terms of what it is *supposed* to be (and will be following remediation to make the restoration successful). In other words, a successful restoration to HHNHA value levels is presumed present for the purposes of analysis because that is the most appropriate way to rectify the incomplete restoration against the Pebble Beach Company's responsibility for restoration and preservation of the restored area in perpetuity.

B. Proposed LCP Changes for Sawmill Gulch

The Sawmill Gulch area, like all of the remainder of the larger HHNHA, is currently designated for resource conservation: the LUP designation is Open Space Forest and the IP designation is Resource Conservation (RC).[140] The proposed LCP amendment would designate all 45-acres of Sawmill Gulch to Open Space Recreation (OR). See Figure 3 for the current LCP land use and zoning designations, and see Figure 4 for the proposed LCP land use and zoning designations. In addition, the proposed LUP text indicates that Sawmill Gulch will be managed pursuant to the OSAC classification specific to OSAC management classification Category VII (Other), and specifically within Category VII as equestrian center. See proposed text changes associated with Measure A in exhibit 2.

---

138 As previously indicated, such development would also require that weakening amendments to the Spanish Bay CDP be approved by the Commission (see previous Spanish Bay CDP section for detail).

139 In 2003, Commission staff requested that the Pebble Beach Company address on-going deficiencies in the restoration effort. Thus far representatives for the Company have identified certain measures that could be undertaken to address the incomplete restoration effort, but remediation has apparently not progressed.

140 It appears that the LUP Figure 5 that was represented in that voter package as the correct version was not the correct version. It appears that the copy shown to voters showed the Sawmill Gulch area as designated for Commercial-Institutional when it is actually designated Open Space Forest (see Measure A package in Exhibit 2). In other words, with respect to Sawmill Gulch (i.e., where the equestrian center would be located in the Company's proposed project), it appears that voters were asked by the Measure A initiative to vote on changing it from Commercial-Institutional to Open Space Recreation when in fact the applicable question was whether voters agreed it should be changed from Open Space Forest to Open Space Recreation. Those are two very different questions inasmuch as the baseline for what type/amount/intensity of development that might be allowed in Commercial-Institutional is very different from that that might be allowed in Open Space Forest.

C. Preliminary Analysis of Proposed LCP Changes for Sawmill Gulch

As stated above, the Sawmill Gulch area is presumed ESHA and protected habitat by virtue of prior legal actions, recorded easements, required restoration actions, and the HHNHA ESHA designation (for Upper Sawmill). In addition, this undeveloped ESHA area includes within it wetland areas within which uses and development are further restricted by Coastal Act Section 30231 and 30233.

Under the proposed LCP amendment, all of Sawmill Gulch would be designated for Open Space Recreational uses and development, and text would be added indicating that this area would be managed consistent with LUP OSAC classification category VII applicable to equestrian centers.[141] The LUP's Open Space Recreational land use designation is limited to golf courses, the existing equestrian center, and the existing beach and tennis club (as well as necessary support facilities for these uses). Thus, the LUP's recreational land use designation is limited and specific to these three identified higher intensity recreational uses that are not resource dependent. With this proposed recreational area to be managed according to the OSAC equestrian center category per the proposed amendment, the uses are further narrowed. Development associated with them would be expected to significantly disrupt and degrade ESHA habitat values at Sawmill Gulch and the surrounding HHNHA. Likewise, the OSAC equestrian center classification is clearly not intended for natural resource areas, including the wetlands delineated to date in Sawmill Gulch, as these are covered by different OSAC classifications.[142] The proposed LUP OSAC text would allow for management that is, by definition, applicable to open space areas that "do not require specific open space management criteria" and that cites as a reference for what is meant by equestrian center management the "Collins Field Industrial Horse Trail."[143] Equestrian centers by their very nature are cleared areas for horses to be housed and ridden; totally incompatible with habitat protection and restoration. As such, it does not adequately account for management of ESHA and the relationship of the Sawmill Gulch area to the larger HHNHA, including any special management measures necessary.

In terms of the larger HHNHA surrounding Sawmill Gulch, the Coastal Act and LUP specifically protect HHNHA as ESHA, and the LCP clearly recognizes the resource value of this area and articulates a preservation commitment to it. In that context, it is inappropriate to designate a 45 acre area incursion into the heart of the HHNHA for recreational/equestrian center development. Not only would there be direct effects from removal of this habitat area for such development, but the edge effects on the habitat surrounding the recreational development would be expected to be severe, both in terms of increased development itself (and the fact that the "edge" in this respect has been maximized by its configuration), but also by virtue of the equestrian center use and the corresponding expected increase in trail and other use and activity within HHNHA itself. In addition, the upper portion of Sawmill Gulch is, by virtue of the Commission's Spanish Bay CDP and the corresponding conservation easement, part of HHNHA (see HHNHA map in Exhibit 5 and Figure 6). A proposal to designate a portion of HHNHA itself for a

---

[141] This component of the proposed amendment is an explicit acknowledgement that the amendment is meant to provide for the Pebble Beach Company's proposed project, and specifically the proposed equestrian center in Area C.

[142] For example, OSAC classifications II "Protected Natural Resources," IV "Open Forest," VIII "Riparian and Wetland," IX "Scenic Buffer or Easement," X "Sensitive Habitat," and XI "Rare and Endangered Species".

[143] LUP OSAC Plan page 12; see Exhibit 6.

recreational/equestrian center cannot be squared with the Coastal Act.

Finally, it is clear that the proposed amendments are designed to accommodate the Company's proposed equestrian center facilities at Sawmill Gulch, including by virtue of the explicit OSAC changes in this respect. As witnessed by the County's approval of coastal development permits for the Pebble Beach Company's proposed project, such development is an example of the type of development that might be expected at Sawmill Gulch were the LCP to be amended as proposed. The Company's proposed project includes an extensive equestrian center facility including a clubhouse building, a two-story dormitory for overnight stays (for up to 36 children or 12 adults), a covered arena, several barn structures to accommodate 174 horses, hay barn, car storage facility, covered coral shelters, fenced training rings, two single family residences, and 1 four-plex residential structure; all of this development would be constructed in the upper Sawmill Gulch site. The proposed project also includes use of the lower Sawmill Gulch area for outdoor equestrian events, other temporary events, overflow parking, and related activities, including a developed parking and turn-around for longer vehicles. See Figure 6 for proposed project plans in relation to biological resources.

Although not entirely clear from the project materials presented to date (because of the way in which attempts are made to distinguish between forest areas that were planted and those that weren't, as well a lack of clarity concerning potential impacts to restoration areas in progress), it is clear that the majority of upper Sawmill Gulch would be denuded and replaced with extensive development. Similarly, although it appears that there would be less direct removal of significant vegetation in lower Sawmill Gulch, the majority of this area would be used and maintained as a turfed activity area. All told, it appears that the project would result in the direct removal of some 26 acres of forest, and some 3,200 individual trees, including Monterey pine, Gowen cypress, coast live oak and Bishop pine.[144] Given the area that would be given over to turf in the lower portion of the site, it appears that these numbers underestimate total disturbance. Remaining habitat values in Sawmill Gulch, including wetland areas that appear to have less than the required 100-foot buffers,[145] would be significantly degraded, particularly in relation to the larger HHNHA, and particularly in light of the incursion into that area. As previously stated, HHNHA is categorically ESHA in DMF, as are Gowen cypress and Bishop pine.[146] At a minimum, such equestrian center use and development is highly problematic with respect to Coastal Act Section 30240 ESHA protection that applies to the affected Sawmill Gulch property, and inconsistent with the Commission's Spanish Bay CDP.

D. Preliminary Conclusions for Sawmill Gulch

The proposed LCP amendment as it relates to Sawmill Gulch is highly problematic. Sawmill Gulch is ESHA, albeit under restoration, that should be protected. Development within this ESHA is limited to that associated with resource dependent uses that do not significantly disrupt habitat values, and development adjacent to this ESHA and the larger HHNHA ESHA must be sited and designed to

[144] Including some 3.2 acres of "native" forest removed and some 23.2 acres removed that are not "native" (EIR Table 3.3-1); tree removal totals from EIR Table 3.3-6.

[145] See, for example, EIR Figure E-10.

[146] By virtue of LUP Appendix A.

prevent impacts that would significantly degrade ESHA. The primary purpose of the proposed amendment is to designate this land for non resource dependent development and uses that would be expected to significantly disrupt habitat values and lead to impacts that would otherwise degrade habitat areas. An example of the type of use and development that would be engendered by the amendment is the Pebble Beach Company's proposed equestrian center facilities proposed for Sawmill Gulch as has already been approved by Monterey County. This proposed development would directly remove the majority of the ESHA in Sawmill Gulch, and would result in the direct removal of some 26 acres of Monterey pine forest, Gowen cypress, coast live oak and Bishop pine forest and related habitats, including the direct removal of over 3,200 individual trees and the related degradation of the remaining habitat in Sawmill Gulch not directly removed (e.g., fringe areas surrounding the equestrian center use and development), as well as the related degradation of HHNHA area overall by the direct incursion into it and the edge effects from such development incursions overall.

Unlike some other areas (e.g., Areas MNOUV, B and C, PQR, etc.) where the proposed amendment provides an opportunity to appropriately plan for these coastal zone lands in a Coastal Act context for an LCP segment that is some two decades old, Sawmill Gulch is already designated Open Space Forest (RC) in recognition of its resource value and its location as part of and surrounded by the HHNHA. Likewise, this value has been recognized and preserved in perpetuity as mitigation for some of the impacts of the Spanish Bay resort development of some twenty years ago, and these requirements still apply. This area has zero development potential as it has already been set aside as mitigation and appears to be part of one larger legal lot encompassing much of the HHNHA as well as the Company's offices, corporation yard, and former quarry area. Given its ongoing use in this respect, including existing Company uses and development, and given that it is almost all ESHA outside of these developed areas, the development potential of this property has already been realized, and thus its development potential is zero. In short, there is no need to amend the LCP for Sawmill Gulch as the current classification is consistent with the Coastal Act and the resources on the ground, its location relative to HHNHA, and is indicative of the appropriate types, scales, and intensities of use allowed there.

5. PQR (Pebble Beach Company Project: Residential Subdivision and Preservation Sites)

A. Setting

Areas P, Q, and R (PQR) are located at the top of the Pescadero watershed in the Pescadero planning area that encompasses the Del Monte Forest side of Pescadero Canyon leading down into Pescadero Creek running along the Del Monte Forest/Carmel boundary in the southeastern-most portion of DMF (see Figure 2B). The Highway One gate into the Del Monte Forest is located at the northwestern edge of this area. The area is steeply sloped and mostly undeveloped.

Area PQR and the surrounding forested area includes one of the largest area of unfragmented native Monterey pine forest (in association with other sensitive species) within Del Monte Forest; this area of several hundred acres is about the size of the HHNHA, of which approximately 158 acres are located

within Area PQR. This area also includes wetlands (1.7 acres), streams, riparian corridors, and an array of sensitive species including 29 acres of Hooker's manzanita (CNPS 1B), almost 6 acres of Hickman's onion (CNPS 1B), and sandmat manzanita (CNPS 1B). In addition, Area PQR includes some 43 acres of the federally endangered Yadon's piperia and some 56,000 individuals. This PQR piperia occurrence is the second largest in the world (second only to that at the proposed Pebble Beach Company golf course site in and around Area MNOUV) and constitutes about one-third of the total known worldwide population. Finally, this area provides suitable habitat for other sensitive wildlife species, including potential nesting raptor and pallid bat habitat throughout the area, suitable Monterey shrew and ringtail habitat in riparian areas, and six active Monterey dusky-footed woodrat nests;[147] areas containing suitable aquatic and breeding habitat for the federally threatened California red-legged frog are also present.[148]

Historically, the native Monterey pine forest and related habitat area in and around area PQR was part of a much larger native forest area that covered most all of the Del Monte Forest, and most all of the Monterey peninsula (see exhibit 7).[149] Over time, this forest area has been diminished in size until it is about one-half of its estimated historic extent. The forest area at Area PQR and surrounding it remain a large and functional stands representing an unfragmented portion of the remaining DMF forest cover that is functionally and physically connected with other large remaining forest areas, including that of the HHNHA to the north (see Figure 2B).

The Area PQR pine forest and related habitat is considered ESHA pursuant to the Coastal Act.[150] This area represents the type of large intact native Monterey pine forest, particularly when considered in relation to the surrounding forested area, described earlier that supports related sensitive species habitats, including the federally endangered piperia, and potentially including other species (such as CRLF), that also include significant creek and wetland resources.

B. Proposed LCP Changes for Area PQR

Area PQR is currently designated in the LUP for low density residential development (1 unit per acre), all of which is further designated by the LUP as Resource Constraint Area; the IP designation for these areas is LDR(B-8). The proposed LCP amendment would designate approximately 145 acres of Area PQR to Open Space Forest (RC), would designate approximately 5½ acres as Residential (LDR/1), and would designate approximately 7½ acres as Residential (LDR/2).[151] The Resource Constraint Area (B-8) overlay would be removed for all of Area PQR. The Residential (LDR/1) designation would be applied to the western portion of Area P, the Residential (LDR/2) designation would be applied to the northern portion of Area P and R, and the remainder, including all of Area Q would be designated Open Space Forest (RC). The proposed amendment would also add text to the LUP's land use text relative to the

[147] All of these species are State and/or Federal Species of Special Concern or Fully Protected Species (i.e., ringtail).
[148] EIR Appendix E; EIR Tables E-21, E-28, P2-1 and P2-2.
[149] Jones and Stokes, 1994; see Exhibit 7.
[150] See also previous ESHA criteria and related discussion in preceding findings.
[151] Where the "1" and "2" indicate that the maximum allowed density is 1 unit per 1 and 2 acres, respectively.

Pescadero planning area indicating that "there will be 7 lots located on approximately 15 acres." See Figure 3 for the current and proposed LCP designations, and see Figure 4 for the proposed LUP text in Measure A.

C. Preliminary Analysis of Proposed LCP Changes for Area PQR

As detailed above, all of Area PQR is currently undeveloped, and this area is all ESHA. In addition, this undeveloped ESHA area includes within it wetland areas within which uses and development are further restricted by Coastal Act Section 30231 and 30233.

Under the proposed LCP amendment, 145 acres of Area PQR would be designated resource conservation and 13 would be designated for low density residential. With respect to the area that would be designated Open Space Forest (RC), such a designation is appropriate given the significance of the above-described resources present at this location, particularly in light of their functional relationship with the surrounding habitat area (including the rest of the Pescadero watershed forested area and its relation to HHNHA). With respect to the residential designation over the remaining 13 acres, such designation is more problematic.

The proposed Area PQR residential area is essentially indistinguishable in terms of its habitat value when considered in relation to the portion to be designated for resource conservation. This proposed residential area, like the overall PQR area, is part of a much larger and especially valuable forest ecosystem that requires protection. This area is likewise densely forested and includes an array of species in association, including an understory of Hooker's manzanita covering about two-thirds of the proposed residential area on the western portion of Area P, some sandmat manzanita otherwise, and about 3 acres of Yadon's occurrence (and some 1,700 individual plants), almost all of which occupies the proposed residential area spanning the northern portions of Areas P and R. The proposed residential area is dense native Monterey pine forest that is part of a large contiguous block of forest in excess of several hundred acres in association with other species (including the endangered Yadon's piperia). In contrast, the proposed residential designation is designed to allow for residential use and development, and residential use and development is not resource dependent.

In particular, as evidenced by the explicit proposed LUP text that could be argued to represent an entitlement to 7 lots in this residential area, it is clear that the proposed amendments are designed to accommodate subdivision and residential development in these areas. As witnessed by the County's approval of coastal development permits for the Pebble Beach Company's proposed project, including subdivisions resulting in seven lots in these two PQR areas, such development is an example of the type of development that might be expected at Area PQR were the LCP to be amended as proposed (see Figure 13 for proposed lots). In particular, the Pebble Beach Company's proposed project includes a 7-lot subdivision for which it has been estimated that 3 acres of direct forest removal and 7 acres of forest conversion (a total of 10 acres, and over 700 individual trees) would occur, where forest includes all overstory and understory species.[152] Similarly about 6,500 square feet of direct Yadon's piperia loss was

[152] EIR Section 3.3. The "conversion" is an estimate of the area that would be associated with a residential development that would be converted over time to something other than forest habitat.

estimated.[153]

Such residential development is not resource-dependent, and would result in direct loss of ESHA. In addition, remaining habitat values would be significantly degraded, again particularly in relation to the larger forested area of which this area is functionally a part.

D. Preliminary Conclusions for Area PQR

All of Areas PQR is high-quality ESHA that must be protected. Development within this ESHA is limited to that associated with resource dependent uses that do not significantly disrupt habitat values, and development adjacent to ESHA must be sited and designed to prevent impacts that would significantly degrade ESHA. Although one component of the amendment, namely the proposal to designate 145 acres of this habitat area as resource conservation, recognizes this ESHA context, the proposed amendment also includes a component to designate a portion of this larger ESHA for non resource dependent development and uses that would be expected to significantly disrupt habitat values and lead to impacts that would otherwise degrade habitat areas. An example of the type of use and development that would be engendered by the amendment is the Pebble Beach Company's proposed residential subdivision proposed for Area PQR as has already been approved by Monterey County. This proposed development would remove and otherwise degrade the majority of the habitat present in the proposed subdivision area, including the direct and indirect loss of about 10 acres of forest and related habitat, and the related degradation of the remaining habitat not directly removed or converted.

As previously indicated, however, the proposed LCP amendment is timely given the lack of significant LCP update within the Del Monte Forest LCP segment since its certification some twenty years or so. It is also supported by significant resource characterization that presents a unique opportunity to evaluate and plan for future development in relation to current conditions – particularly because of its scope with respect to its coverage of undeveloped Del Monte Forest area lands, including the significant habitats of Area PQR and surrounding areas of which they are a part.

Under the current LCP and the Coastal Act, Area PQR would appear to have extremely low development potential. The reason for this is that this area is entirely ESHA and the LCP and Coastal Act protect ESHA, limiting development within it to resource-dependent development that will not harm resources. As a result, any new development proposed within this area would need to be evaluated in this ESHA context. There are any number of potential development scenarios that may play out in this sense given the large PQR land area, but the most relevant to this LCP discussion given the proposed LCP amendment and the existing LCP is that associated with residential development. Residential development is not a resource dependent use, it would result in significant habitat disruption and degradation, and it could not be developed within ESHA per the LCP.

Commission staff preliminary analysis indicates that there appears to be one legal lot in and around Area PQR corresponding to the one conditional COC issued by the County spanning this area (see Figure 14). Assuming this to be the case, within a takings context, probably the most that could be approved on

[153] EIR Figure E-17-YP.

Area PQR would be one residential unit sited and designed to minimize impacts (e.g., clustering such development immediately adjacent it existing residential development to avoid habitat fragmentation to the degree feasible).

In the larger LCP planning context, it appears that LCP designation changes relative to Area PQR are warranted, but that such changes are slightly different than have been proposed. Specifically, in addition to the 145-acre portion of Area PQR that is proposed for resource conservation, the remaining 13 ESHA acres should also be considered for designation as Open Space Forest (RC). This classification is consistent the resources on the ground; is indicative of the appropriate types, scales, and intensities of use allowed there; and would be more in keeping with the surrounding area also designated Open Space Forest (RC). This type of LCP change would serve to protect a significant area of Monterey pine forest and related habitats and it would limit additional residential development in this area.

6. Areas F, G, H, I, J, K, and L (Pebble Beach Company Project: Residential and Preservation Sites)

A. Setting

Areas Description

Area F is made up of three areas in and around the Poppy Hills golf course in the southwestern part of the Gowen cypress planning area near the enter of the Del Monte Forest (see Figure 2B). The most northerly portion of Area F is located west of Forest Lake reservoir adjacent to Congress Road, and the two southerly portions of Area F are located at Lopez and Sunridge Roads near the Poppy Hills clubhouse Area F has been referred to for convenience by the County and Pebble Beach Company as Areas F-1, F-2, and F-3 corresponding to the more northerly portion, the southwest portion (opposite the clubhouse), and the southeast portion along Sunridge Road respectively.[154]

Area G is approximately 35 acres of forested area adjacent to the Pebble Beach Corporation Yard and the HHNHA.

Area H is approximately 24 acres of forested area also adjacent to the Pebble Beach Corporation Yard and adjacent to Area G.

Area I is made up of two areas comprising approximately 50 acres in the Middlefork planning area near the center of the Del Monte Forest (see Figure 2B). The more northerly portion of Area I is located between Forest Lake and Lopez Roads near the Pebble Beach Community Services District offices, and the more southerly portion of Area I is located along Viscaino and Ronda Roads just south of the Poppy Hills golf course (see Figures 10, 11). Area I has been referred to for convenience by the County and Pebble Beach Company as Areas I-1 and I-2 corresponding to the more northerly portion and the more

[154] The LCP does not break Area F (or any of the lettered sub-units) into numbered parts in this manner. For the purposes of the LCP, they all together constitute Area F.

southerly portion respectively.[155]

Area J and the small nearby property (about 1 acre)[156] make up three areas comprising approximately 10 acres in the Spyglass Cypress planning area just north of the Spyglass Hill golf course area adjacent to the Indian Village preservation area extending to the northern edge of Fan Shell Beach (see Figure 2B). Unlike Areas F and I, Area J has not been labeled with numbers for reference to date. Rather, there is a more northerly portion of Area J north of Spyglass Woods Drive, and a more southerly portion of Area J located directly adjacent to Spyglass Hill golf course.

Area K is also made up of two areas, about 7-acres total in the Spyglass Cypress planning area that span Stevenson Drive in the middle of the Spyglass Hill golf course area (see Figure 2B). As with area J, Area K has not been labeled with numbers for reference to date.

Area L is approximately 18 forested acres immediately adjacent to the Indian Village property held in fee by the Del Monte Forest Foundation. Indian Village is located just inland of 17-Mile Drive at Dunes Drive south of Seal Rock Creek. Indian Village now consists of a 21.04 acre parcel of primarily mature Monterey pine forest with a park-like clearing and picnic facilities as well as the well known Gingerbread House visible from 17 Mile Drive.

Resource Description

These areas are made up of relatively large undeveloped tracts of native Monterey pine forest (in association with other sensitive species). Area F-1 is approximately 10 forest acres, F-2 is approximately 20 forest acres,[157] and F-3 is approximately 17 forest acres; a total of roughly 47 forest acres all told in Area F. Area G is approximately 35 forest acres and Area H is approximately 24 forest acres. Area I is roughly 50 forest acres. Area J is a total of roughly 10 forested acres, Area K is a total of roughly 7 forested acres, and Area L is about 18 forest acres.

To varying degrees, these pine forested areas include an array of sensitive species including Hooker's manzanita (CNPS 1B), Gowen cypress (federally threatened, CNPS 1B), Bishop pine (and including the sensitive Gowen cypress/Bishop pine association), Hickman's onion (CNPS 1B), sandmat manzanita (CNPS 1B), pine rose (CNPS 1B), Monterey clover (FE, FE, 1B), Monterey spineflower (FE, CNPS 1B), Monterey Indian paintbrush (CNPS 4), and Yadon's piperia (FE, CNPS 1B). Theses areas also include some riparian corridor and wetland areas within portions of them, and also include some dune area (in Area L). In addition, these areas provide suitable habitat for other sensitive wildlife species, including potential nesting raptor and pallid bat habitat throughout the area (including sharp-shinned hawk having been observed nesting in Area F, and white tailed kite in Area L), suitable Monterey shrew and ringtail habitat in riparian areas,[158] and occupied and suitable breeding habitat (and other presumed

---

155 Ibid.

156 Includes the non-lettered property near Area J that is also directly affected by the proposed amendment.

157 Note that it appears that the Pebble Beach Company has used portions of Area F-2 as a materials storage area. Commission staff have been unable to locate any coastal permits authorizing such development, and are continuing to evaluate its status in that respect.

158 All of these species are State and/or Federal Species of Special Concern or Fully Protected Species (i.e., ringtail).

habitat) for the federally threatened California red-legged frog in lower Seal Rock creek (e.g., in and around Areas J and K).[159]

Historically, the native Monterey pine forest and related habitat area in and around these areas was part of the much larger native forest that occupied most all of the Del Monte Forest, and most all of the Monterey peninsula (see exhibit 7).[160] Over time, this native forest has been diminished in size until it is about one-half of its estimated historic extent. The remaining forested areas in these above-described areas (and in some cases in relation to that surrounding and/or adjacent to these areas) still remain both individually and cumulatively relatively large portions of the remaining DMF forest cover that is functionally and physically connected with other large remaining forest areas, to varying degrees (see Figure 2B).

The proposed changes in each of the above-described areas is summarized earlier in the findings. Although further evaluation is needed, one needs only to look at the sensitive biological resources on the ground in relation to these areas, and in relation to one another, to see that these areas generally provide a diverse and complementary biological ecosystem. These areas are the type of large intact native Monterey pine forest areas particularly when considered in relation to the surrounding forested area, described earlier that supports related sensitive species habitats, including the federally endangered piperia, and potentially including other species (e.g., CRLF), that also include significant creek and wetland resources.

7. Corporation Yard Commercial Area (Pebble Beach Company Project: Employee Housing)

A. Setting

The Pebble Beach Company corporation yard commercial area is located in the Huckleberry Hill planning area and is about 34 acres of land that is currently designated in two commercial categories: about 14 acres are designated General Commercial (CGC) and about 20 acres are designated Institutional Commercial (IC); all of which is further designated as Resource Constraint Area (B-8). This area is currently partly occupied by the Pebble Beach Company's offices and corporation yard. Historically, the area behind the Company offices was mined, but mining recently stopped. Haul Road, providing access from Highway 68 into this area was recently closed and road area restoration as habitat and trail commenced as part of the Spanish Bay CDP requirements.

B. Proposed LCP Changes for Corporation Yard Commercial Area

The proposed LCP amendment would maintain the LCP land use designations but would remove the Resource Constraint Area (B-8) overlay. This new land use designations would be reflected in LUP Figure 5 and the IP zoning maps. The proposed amendment would also add text to the LUP's text relative to the LUP's Huckleberry Hill planning area to make the text changes applicable to employee

[159] EIR Appendix E.
[160] Jones and Stokes, 1994; see Exhibit 7.

housing previously noted above.

Also applicable to this area, LUP Table A identifies the maximum allowed number of units (residential and visitor serving) in the Del Monte Forest. The proposed LCP amendment would delete LUP Table A and all references to it (see also below). Currently, the corporation yard area is not ascribed any units by Table A. As a result, the LUP does not provide for residential development in that area. By eliminating Table A and related LUP text, the LUP limitation on residential use there is also eliminated. In other words, by proposing to delete Table A, the amendment proposes to allow residential units in the corporation yard commercial area.

C. Preliminary Analysis of Proposed LCP Changes for Corporation Yard Commercial Area

It is clear by looking at the resources map applicable to this area that the question of whether land use designation changes (and ultimately development associated with them) are appropriate here is complicated. In particular, it appears that portions of the site are within the HHNHA, and that other resources may be present (including CRLF habitat). Additional analysis is warranted.

8. Pebble Beach Lodge and Spanish Bay Resort

As summarized at the outset, Measure A would remove the current land use plan maximum limits to the number of visitor serving units at both the Pebble Beach Lodge and the Spanish Bay Resort (161 and 270 units respectively). No land use changes are proposed in these areas. The Pebble Beach project approved by the County does include additional development at these locations. Additional evaluation of Measure A with respect to these areas, and consistency with the Coastal Act, is required.

9. Other Issues

A. Resources Constraint Area (B-8) Overlay

The Coastal Act has policies to concentrate development in urban areas with adequate services as follows:

> ***Policy Number Section 30250 (a):*** *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources….*
>
> ***Policy Number 30254:*** *New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; …. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services*

and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.

Since public service providers in Del Monte Forest have a direct impact on both Carmel Bay (wastewater is discharged there) and Carmel River (water is withdrawn from there), the following Coastal Act policy is also relevant:

Policy Number 30231: *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Historically, public works and services of most concern in Del Monte Forest have been water supply, wastewater treatment and disposal, and transportation facilities. In recognition of limited public services, all of the areas proposed for land use changes currently have a Resource Constraint Area (B-8) overlay that prohibits subdivision and most all development until there are adequate public services to support any proposed development. Measure A proposes removing this overlay designation. In addition to the elimination of the Resource Constraint Area (B-8) overlay as described above, the proposed LCP amendment would add text to the LUP and IP indicating that water, wastewater, and transportation constraints no longer for the above-described lettered areas (see Measure A in Exhibit 2).

Background

Water Supply

Del Monte Forest is within the California American Water Company (Cal-Am) service area. Surface water from the Carmel River is the major source of water use within the service area, and the River withdrawals compromise the riparian habitat and the fish within. Two threatened species, the California red-legged frog (*Rana aurora draytonii*) and the Steelhead (*Oncorhynchus mykiss*), can be adversely affected by water withdrawals, especially during dry conditions. Thus, Cal-Am is under a State Water Board order to extract no more than 11,285 af/yr from the River. Furthermore, Cal-Am has a legal right to only 3,376 af/yr and must ultimately reduce its withdrawals to that amount. Some Cal Am water also comes from the Seaside Groundwater basin, but that basin is being overdrafted as well, and is at risk for causing seawater intrusion to occur.[161]

Water use is under the control of the Monterey Peninsula Water Management District (MPWMD). That District allocates water among cities and the County; who in turn decide how to distribute their

[161] Yates, Eugene, Martin Feeney & Lewis Rosenberg, *Seaside Groundwater Basin: Update on Water Resources Conditions* April 2005 for MPWMD. Estimated sustainable yield is about 2880 af/yr while average extractions are about 5,600 af/yr.

allocations. At present there is almost no excess water to allocate for new development; so, Monterey County maintains a water waiting list for new hookups. There is an exception, however, for properties in Del Monte Forest owned, or sold water allocations to, by the Pebble Beach Company. Since 1994, the Carmel Area Wastewater District and the Pebble Beach Community Service District (PBCSD) have implemented a wastewater reclamation project to provide reclaimed water for use in irrigating golf courses and open spaces in the Del Monte Forest area. An average of 618.4 af/yr of reclaimed water has been applied to golf courses; water that previously would have been supplied by Cal-Am. This represents 72.6% of all irrigation use, leaving an average of 248.2 af/yr of potable water still supplied by Cal-Am for use on public and private golf courses and other open spaces, such as recreational playing fields. Under agreement with the MPWMD, the Pebble Beach Company, because of its financial participation in funding the reclamation project, was granted a water entitlement of 365 acre-feet per year of additional potable water for use on its properties. This agreement was amended in 2004 to allow up to 150 acre-feet per year of the Company's allocation go to non-Company development in the Forest. This is estimated to be a sufficient amount to serve all of the new development shown in the current Del Monte Forest land use plan as well as for the proposed amended plan. Since 1994, when the water reclamation project was completed, the Pebble Beach Company has used less than 10 af/year, leaving a balance of 355.7 af/yr available. The Pebble Beach Company entitlement was based on a projected offset of 800 af/yr that has rarely been reached due to lack of adequate storage.

Wastewater Treatment and Disposal

> *Wastewater disposal and treatment for the Del Monte Forest is provided by the Pebble Beach Community Services District (PBCSD) through a contract with the Carmel Area Wastewater District (CAWD). The CAWD wastewater treatment plant is located south of Carmel. The plant has a total treatment capacity of approximately 3 million gallons per day (mgd) with existing flows ranging between approximately 1.5 and 1.9 mgd. Of the total capacity, 1.0 mgd is allocated to the PBCSD for service in the Del Monte Forest. Currently, PBCSD is using about 500,000-600,000 gallons per day or approximately one half of its allotted capacity.*[162]

The plant treats wastewater to secondary and tertiary levels. As noted above, some of the treated water is piped to Del Monte Forest for irrigation use. The remainder is discharged into Carmel Bay, pursuant to a permit from the State Water Resources Control Board. Carmel Bay is a State Ecological Reserve and a State Water Quality Protection Area (formerly termed an Area of Biological Significance, or ASBS). Although wastewater discharges are prohibited into ASBSs, State law includes a specific exemption for Carmel Bay to continue receiving treated effluent.

Transportation Facilities

Del Monte Forest is served by a private internal road system, including the world-famous Seventeen Mile Drive. Access to the Forest area is provided by five gates: Pacific Grove Gate and Country Club Gate from Pacific Grove, SFB Morse Gate from Highway 68, Highway One Gate from the Highway One/68 interchange, and the Carmel Gate from Carmel. Major roads leading to these gates include

[162] Monterey County Planning and Building Department, 2005.

Highway One, Highway 68, Sunset Drive and 17 Mile Drive in Pacific Grove, and Ocean Avenue to North San Antonio Avenue/Carmel Way in Carmel-by-the Sea.

Roads within the Forest and the gates all operate at acceptable Levels of Service ("C" or better).[163] Some intersections in the vicinity of Del Monte Forest operate at lower levels of service in peak times, most notably Highways 68/1 southbound off ramp, Highway 68/Skyline Forest Drive, highway 68/Beverly Manor, highway 68/Aguajito Road, and highway one Southbound on-ramp/Seventeen Mile Drive which operate at Level of Service F (over-capacity) at some times. The Land Use Plan's target service level is at least "D" (LUP Policy 106).

Preliminary Conclusion

Additional staff analysis of the proposed removal of the B-8 overlay is needed before a complete recommendation on the consistency of this component of Measure A can be made.

B. Table A, Del Monte Forest Density, and Areas X and Y

The proposed LCP amendment proposes to eliminate Table A and associated LCP references to it. Because Table A identifies the maximum number of units that are allowed within each LUP planning area in the forest, its elimination is actually a proposal to do at least two additional things.[164] First, akin to the elimination of any maximum number of units at the Lodge and Spanish Bay, the LCP amendment eliminates the requirement that unit counts within each planning area not exceed the identified maximum. In other words, the amendment indirectly proposes to allow additional units in LUP planning areas where unit maximums have been reached or may have been reached in the future (including additional caretaker units, second units, etc.).

Second, in addition to the above-described lettered areas, there are other lettered areas in the Forest represented on LUP Table A. Along with the proposed deletion of Table A, the proposed LCP amendment includes language that would be added to the LUP's land use text associated with the LUP's Pebble Beach and Pescadero planning units indicating that "20 additional residential dwellings are planned on land in Area Y," and "23 additional residential dwellings are planned for Area X." In other words, for Areas X and Y (not owned by the Pebble Beach Company), the proposed amendment ascribes a unit count to these areas where the number of units has been taken from the maximum figures in existing Table A. This unit count would no longer be controlled by LUP language identifying these as maximums.

[163] Levels of Service range from "A" (the best) to "F" (the worst)

[164] In addition to the changes associated with its proposed deletion that apply to the corporation yard commercial area, the Pebble Beach Lodge, and the Inn at Spanish Bay.

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

TH8b

Prepared March 7, 2006 (for March 9, 2006 hearing)

To: Commissioners and Interested Persons

From: Charles Lester, Deputy Director
Rick Hyman, Central Coast Chief Planner
Dan Carl, Coastal Planner

Subject: STAFF REPORT ADDENDUM for Th8b
Monterey County Local Coastal Program Major Amendment Number 1-05 (Measure A)

Staff would like to provide additional information, clarifications, and minor corrections to the staff report (dated prepared February 24, 2006) as follows:

1. Additional Materials

Information Regarding Map Sources and Data

The staff report figures were developed from data provided by Monterey County, Pebble Beach Company, and their consultants. See addendum Exhibit 1 for notes regarding the development of and the information presented on the staff report figures.

Commissioner Ex Parte Communications

Commissioner Ex Parte communications received as of March 7, 2006 are attached as addendum Exhibit 2.

2. Staff Report Corrections and Clarifications

Estimated Planning Unit/Area Acreages

Differing acreage tabulations in documents discussing the Measure A planning areas (and the larger Pebble Beach Company project) have been produced over the years. One reason for this is that in some cases areas outside of lettered planning unit areas may or may not have been counted as if they were in the lettered areas. In addition, the areas affected by Measure A do not necessarily correspond exactly with proposed Pebble Beach Company project areas. There may also be a certain degree of mapping error due to mapping approximations, GIS methods, etc. The acreage totals in the staff report are best estimates, based on a preliminary review of available information (including the EIR and the County's Measure A analysis) as compared to the acreages for the planning units that are identified in the certified LUP (from Table A), and in some cases Commission staff GIS work. The staff report acreage totals may be slightly different than those presented by the County to date.[1] Although the general magnitude of the estimates is not likely to change significant, the acreages may change based on further review.

Since release of the preliminary report, further refinement of data available for Area MNOUV indicates that minor adjustments are needed. Specifically, staff estimates that this area (including the non-lettered

[1] For example, the County 's Measure A analysis identifies 246 acres for Area PQR, but this total includes 158 acres attributable to Area PQR and 88 acres that surrounds Area PQR.

area surrounding Area O, and including the nearby residentially developed property also included in the Area MNOUV analysis) is approximately 150 acres total of which 16 acres are developed (5 acres for the driving range, 2 acres for two small portions of the equestrian center, 5 acres for the Company's fill/storage area, and 4 acres for the residential property) and 134 acres are not; of the 134 acres, approximately 130 acres appear to be ESHA. When combined with impacts from the affected area surrounding Area MNOUV, ESHA impacts due to the proposed Pebble Beach Company project appear to be approximately 135 acres.[2] Accordingly, Area MNOUV acreage references in the staff report should, where necessary, be modified to reflect these acreage totals.

Conservation Easement Areas

The preliminary report states that conservation easements would be placed over 274 acres of land as part of the proposed Pebble Beach Company project already approved by Monterey County (see staff report pages 2 and 22). The approved project actually proposes a total of 492 acres that would be placed under conservation easement, of which 274 of these acres are lands subject to Measure A. Thus, an additional 218 acres of land not subject to Measure A would be placed under conservation easement as part of the proposed project (201 acres in the coastal zone and 17 acres outside of the coastal zone). In addition, an additional 364 acres of land outside of the coastal zone would be placed under conservation easement pursuant to the mitigations required by Monterey County as part of their approval of the proposed project.[3] Overall, when Monterey County's approval requirements are included, the County-approved project would result in a total of 856 acres placed under conservation easement of which 475 acres are in the coastal zone (and 381 acres are outside the zone).[4]

Monterey Pine and Yadon's Piperia

As discussed in the staff report, native Monterey pine forest in the areas affected by Measure A may be habitat for a variety of sensitive species. It appears that Yadon's piperia is found almost exclusively in Monterey pine forest and chaparral areas.[5] Based on this association, and based on the piperia occurrences mapped to date, staff currently presumes, absent compelling evidence to the contrary, that the boundaries of Yadon's piperia habitat is coterminous with the boundaries of the chaparral and Monterey pine forest areas where piperia has been documented. More detailed review of both specific areas and the biology of Yadon's piperia is needed, though, to determine the boundaries of Yadon's habitat more precisely in any particular area. Sections of the distributed staff report are somewhat unclear on this point (e.g., staff report page 54). Accordingly, references in the staff report to the connection between native Monterey pine forest and Yadon's piperia habitat should, where necessary, be modified to reflect the above habitat relationship criteria.

---

2 The preliminary staff report summary and the Area MNOUV analysis (e.g., SR pages 5 and 52) indicate a total of 148 acres in Area MNOUV and approximately 145 acres of ESHA loss attributable to the project.

3 Project approval stayed as a result of appeal to the Coastal Commission.

4 Acreages verified with Monterey County staff March 3, 2006.

5 Page 4 of the staff report incorrectly states that piperia occurs in all of the affected planning units. In fact it has not been observed in some planning units, for example, Area C.

Deletions/Corrections

Changes are needed to correct cut and paste, editing, and other minor errors as follows:

- On page 54-55, delete the second sentence of the last full paragraph:

  ~~This MNOUV forest area continues to be a relatively unfragmented portion of the remaining DMF forest cover that is functionally and physically connected with other large remaining forest areas, including that of the Huckleberry Hill Natural Habitat Area and the area surrounding it located to the northeast of MNOUV.~~

- Where necessary, correct incorrect references to visitor-serving zoning/golf suites in Area O (e.g. p. 56).

- Page 64, Change reference to Area B in second full paragraph to Area C.

Fill/Storage Area at Signal Hill Dunes

On staff report page 53, it indicates that there have been no coastal permits authorizing fill/storage activities at the top of the Signal Hill Dunes. It is noted here that the Commission approved development of the Casa Palmero adjunct to the Pebble Beach Lodge in 1997 (CDP A-3- MCO-97-037), including the excavation of soil for a subsurface garage. In that approval, the Commission acknowledged that 26,000 cubic yards of material would "be deposited in the old spyglass quarry pit." Pending thorough review of the original application file, it is not clear in what manner the fill/storage area was represented in the application as a disposal area versus a degraded dune; staff is continuing to investigate this issue. It does appear that no new coverage of dunes was part of that 1997 project, but rather that the fill was placed on top of existing fill. Discussion in the staff report regarding this fill area should, where necessary, be modified to reflect the Casa Palmero CDP and ongoing evaluation of it with respect to the question of authorization for fill.

Dune Graphics

Staff report page 53 discusses, and staff report Figure 5 identifies, areas of dune delineated by the County in Area MNOUV. This area is shown on Figure 5 as "Dune, County Delineation" It is noted here that the polygon shown on staff report Figure 5 maps only those dune areas identified by the County *within Area MNOUV*, and doesn't show those areas outside of MNOUV that were also delineated by the County. The reason for this is that the dune delineation GIS data that was provided to the Commission in support of Measure A clipped the dune delineation at the edge of Areas M and N, whereas the County's dune delineation with respect to the Pebble Beach Company's project extended to the west of Areas M and N. It is noted here that the County's dune delineation in and around Areas M and N that was developed as part of their review of the Pebble Beach Company's shows additional area to the west of Areas M and N as dune, and that this additional area to the west is similar to Commission staff's delineation shown on staff report Figure 5 in this respect. In sum, the main difference in dune delineation (between County and Commission staff) is predominantly along the eastern boundary of the dune delineation (as shown on staff report Figure 5).

Wetland Graphics Illustrative

The areas shown as "Potential Wetlands (Coastal Commission)" in staff report Figure 5 indicate general areas where wetland indicators may occur outside delineated boundaries and are illustrative only. As indicated on staff report page 54, Commission staff fieldwork (in January 2005 and February 2006) was focused on spot-checking some of the margins of the County's wetland delineation (shown on staff report Figure 5 as Potential Wetlands, Coastal Commission) and a subset of specific areas that appeared to have at least some of the requisite indicators of wetland plants, soils, or hydrology. The boundaries of the area shown as potential wetlands on staff report Figure 5 are meant only to indicate that some non-delineated areas within those boundaries included wetland indicators, particularly standing water or a water table within 12 inches of the surface on January 21, 2005 and/or on February 15, 2006. "Potential Wetlands" simply indicate areas where additional fieldwork during the rainy season appears necessary.

Monterey Pine Legend

The legend for native Monterey pine was inadvertently omitted for all but staff report Figures 5, 6, and 7. The same native Monterey pine legend shown on Figures 5, 6, and 7 can be used for Figures 8-13 (adjusted slightly for the grosser level scale).

Species' Listing Status

The federal and state listing status have been omitted in certain places in the staff report. The following chart includes the listing status for a subset of the plant species identified in the staff report and/or the staff report figures where the species name is followed by its listing status (Federal/State/CNPS):[6]

Beach layia	E/E/1B
Gowen cypress	T/--/1B
Hickman's onion	--/--/1B
Hickman's potentilla (or cinquefoil)	E/E/1B
Hooker's manzanita	--/--/1B
Menzies' Wallflower	E/E/1B
Monterey clover	E/E/1B
Monterey pine	--/--/1B
Monterey spineflower	T/--/1B
Pacific Grove clover	--/R/1B
Sand gilia	E/T/1B
Sandmat manzanita	--/--/1B
Tidestrom's lupine	E/E/1B
Yadon's piperia	E/--/1B

In addition, the staff report figures inadvertently omit the listing status of the California red-legged frog (CRLF). It is noted here that CRLF have been listed as a federally threatened species and a state species of special concern.

[6] E = Endangered; T = Threatened; R = Rare; 1B = Rare, Threatened or Endangered in California and Elsewhere.

Information Regarding Map Sources and Data

Monterey County Local Coastal Program Major Amendment Number 1-05

A. Data Sources

Data used to generate the staff report figures was obtained primarily from the Pebble Beach Company (and their consultants, primarily WWD Corporation) and from Monterey County. These datasets included land use and zoning data (including for Del Monte Forest lettered planning units), biological and other resource data, Pebble Beach Company proposed project data (from February 2004), and high resolution natural color imagery (2001). In addition, certain datasets developed by Coastal Commission staff, including some previously developed (e.g., data layers from the Monterey County periodic LCP review) and some new datasets (e.g., Huckleberry Hill Natural Habitat Area boundary) were also used.

B. Positional Accuracy of Planning Unit and Natural Resource Data

Planning Unit polygons and natural resource data sets are from the Del Monte Forest Land Use Plan's Land Use Maps, and were received in digital form from the Pebble Beach Company. These data were used without manipulation or alteration.

Positional accuracy errors associated with these datasets may result from a combination of factors including digitizing, scale, map projection, and/or orientation errors, and may also be attributable to reproduction distortions and/or drafting errors in the original hand-drawn maps which are the official documents approved by the County Board of Supervisors and certified by the Coastal Commission.

Any apparent errors in positional accuracy of features and/or boundaries shown in Figures 1 through 14 are presented as is, and without correction. Errors in source data or overlay process may account for apparent offset and inconsistencies between datasets. The resource boundary data presented in these figures is derived from surveys performed by professionally surveyors under contract to the Pebble Beach Company.

C. Disclaimer

The Coastal Commission makes no representations or warranties regarding the accuracy or completeness of the map and boundary data presented or the data from which it was derived. The maps and boundary or feature information depicted in Figures 1 through 14 are merely representational, and not binding on the Commission. The information presented on the maps may be revised at any time in the future. All locations are approximate, and the information is intended for illustrative purposes only.

D. Additional Legend Information

Listing Status

The figures include species listing status in parenthesis following species names using the

following abbreviations:

FE: Federal Endangered Species
FT: Federal Threatened Species
SE: State Endangered Species
ST: State Threatened Species
SR: State Rare Species
1B: California Native Plant Society (CNPS) List 1B (Rare, Threatened or Endangered in California and Elsewhere)

Sensitive Dune Species

The category of "Sensitive Dune Species" shown on the figures includes some combination of the following sensitive species, where the species name is followed by its listing status:

Beach layia	FE/SE/1B
Hickman's potentilla (or cinquefoil)	FE/SE/1B
Menzies' Wallflower	FE/SE/1B
Monterey spineflower	FT/--- /1B
Sand gilia	FE/ST/1B
Tidestrom's lupine	--- /--- /1B

E. Additional Dune and Wetland Information

Dune Mapping

Figure 5 identifies areas of dune identified by the County ("Dune, County Delineation") and by Commission staff "Apparent Dune (Coastal Commission)" in and around Area MNOUV. There are two things to note for these two mapped dune areas.

First, the Commission staff polygon maps the dune area that was identified by Commission staff fieldwork and mapping follow-up in February 2006.

Second, the County dune polygon maps only those dune areas identified by the County within Area MNOUV, and doesn't show those areas outside of MNOUV that were also delineated by the County as dune. The reason for this is that the dune mapping that was provided to the Commission in support of Measure A clipped the County's dune delineation at the edge of Areas M and N, whereas the County's dune delineation with respect to the Pebble Beach Company's project extends to the west of Areas M and N. In fact, to the west of Areas M and N, the dune areas mapped by Commission and County staff are similar, and the main difference in mapped dune area (between County and Commission staff) is predominantly along the eastern boundary of the respective dune delineations and not, as appears to be the case on the figure, the area to the west.

Wetland Graphics Illustrative

The areas shown as "Potential Wetlands (Coastal Commission)" in Figure 5 indicate general areas where wetland indicators may occur outside delineated boundaries and are illustrative only. As indicated on staff report page 54, Commission staff fieldwork (in January 2005 and February 2006) was focused on spot-checking some of the margins of the County's wetland delineation

and a subset of specific areas that appeared to have at least some of the requisite indicators of wetland plants, soils, or hydrology. The boundaries of the area shown as potential wetlands on Figure 5 are meant only to indicate that some non-delineated areas within those boundaries included wetland indicators, particularly standing water or a water table within 12 inches of the surface on January 21, 2005 and/or on February 15, 2006. “Potential Wetlands” simply indicates areas where additional fieldwork during the rainy season appears necessary.

DISCLOSURE OF EX PARTE COMMUNICATIONS

RECEIVED
MAR 03 2006
CALIFORNIA COASTAL COMMISSION
RECEIVED
MAR 06 2006
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Name or description of project: Monterey County LCPA No. 1-05 (Measure A in Del Monte Forest)

Date and time of receipt of communication: February 25, 2006

Location of communication: Santa Barbara Airport

Type of communication: Meeting

Person(s) in attendance at time of communication: Susan McCabe, Tony Lombardo, John Arriega

Person(s) receiving communication: Dan Secord

Detailed substantive description of the content of communication:
(Attach a copy of the complete text of any written material received.)

The applicant's representatives discussed the history of Measure A, a local ballot initiative that would change zoning in the Del Monte Forest primarily from residential to zoning that would allow construction of a golf course, and construction of a driving range, employee housing and additional hotel rooms. They explained that the applicant will preserve approximately 200 acres of Monterey Pine Forest both within and outside of DMF. They also discussed the upcoming field trip and hearing at the Commission and explained that the LCPA would not be voted on at the March hearing.

Date: 3-2-06

Signature of Commissioner: [signature]

CCC Exhibit 2
(page 1 **of** 21 **pages)**

RECEIVED
MAR 0 3 2006
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Received at Commission Meeting
FEB - 8 2006
From:

Name or description of project, LCP, etc.: Pebble Beach Expansion -

Date and time of receipt of communication: 2/3/06 - 6 PM

Location of communication: Forestville CA

Type of communication (letter, facsimile, etc.) Phone Call

Person(s) initiating communication: Mark Stillwell

Person(s) receiving communication: Mike Reilly

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

Pebble Beach rep concerned that staff not prepared with full report by March but wants to conduct a hearing anyway. Feels it would be prejudicial to their project. Wants to have full staff report before Commission so they can address areas of disagreement. Monterey County LCP amendment.

2/6/06
Date

Mike Reilly
Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

Received at Commission Meeting

NOV 16 2005

From: _____

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LCP, etc.: Pebble Beach Co. Expansion

Date and time of receipt of communication: 11/11/05 930 AM

Location of communication: Forestville CA

Type of communication (letter, facsimile, etc.) Phone Call

Person(s) initiating communication: Susan McCabe

Person(s) receiving communication: Mike Reilly

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

Discussed problems with Pebble Beach pending application – removal of Monterey Cypress trees for new golf course + driving range; conservation easement on proposed Equestrian Center, etc. Also discussed discrepancies between staff + applicant estimates of how many residential units would be retired by applicant's project.

RECEIVED

DEC 01 2005

CALIFORNIA COASTAL COMMISSION CENTRAL COAST AREA

11/13/05 — Mike Reilly

Date — Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

FOR YOUR INFORMATION

To: ~~S.F.~~ Coastal Commission Santa Cruz

Fax number: 1 415 357-3839

RECEIVED
JAN 18 2006
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

From:

Fax number:

Home phone:

Business phone:

Date & Time: 1/10/2006 9:56:48 AM

Pages sent: 3

Re: ex-parte

Attn: Vanessa Miller

RECEIVED
JAN 10 2006
CALIFORNIA
COASTAL COMMISSION

FORM FOR DISCLOSURE OF
EX-PARTE COMMUNICATIONS

RECEIVED
JAN 18 2006
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Name or description of the project:	Pebble Beach Golf Course
Time/Date of communication:	3 pm-1/9/06
Location of communication:	22350 Carbon Mesa Rd, Malibu
Person(s) initiating communication:	Sara Wan
Person(s) receiving communication:	Annie Notthoff
Type of communication:	phone call

I called Annie to talk with her about a number of matters and the Pebble Beach project came up. We mostly discussed the process but in addition we discussed some of the issues regarding the project

1- That there was a contention being made that this project was better than the alternative, i.e. the area is zoned for 890 homes, but in fact the County has recognized only 21 lots or so and to get to 890 would require subdivision which, given the fact that this is ESHA, would mean they are NOT entitled to. Son in fact, given the location in Monterey pine forest which is sensitive habitat, the maximum they could get would be 21 homes. In fact, they might even only be entitled to less than that once a legal constitutional analysis were done (for example, lots held in only one ownership, etc.) and the homes could be sited towards existing roads, etc. So the benefits of a trade-off between the golf course and homes is not a real one and the existing situation is far better from a resource protection perspective

2- In order to undertake the project they need to move the equestrian center to an area of sensitive habitat that was put into a conservation easement as a mitigation for the Spanish Bay golf course many years ago. This is inappropriate

3- The plan involves taking out 17000 + trees, the heart of the remaining forest. There are only 4 remaining stands of native Monterey pine left in the world, 3 in the US, one in Baja. The other three are very small. The other 2 in the US are in San Luis Obispo County and also under attack from development. The one in Baja has no protection. All 3 US stands are currently severely fragmented and heavily impacted by development and development pressures. The area proposed to be removed is the last really large relatively intact stand. If it is removed, the

remaining patches of forest will be subject to all sorts of stresses that include, among other things edge effects. The forest is currently showing signs of recovery from pitch canker disease, but it's ability to do so requires a large enough gene pool and healthy forest areas. Fragmenting it this way will put the existence of this forest and the species in jeopardy.

Date: 1/10/06

Sara Wan

Dan Carl

From: Charles Lester
Sent: Tuesday, December 06, 2005 11:43 AM
To: Dan Carl
Subject: FW: Please Stop Pebble Beach Company Forest Destruction Project

For the file...

Charles Lester
Deputy Director
North Central/Central Coast Districts
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060
831-427-4863

-----Original Message-----
From: Meg Caldwell [mailto:megc@stanford.edu]
Sent: Tuesday, December 06, 2005 11:39 AM
To: Charles Lester
Subject: Fwd: Please Stop Pebble Beach Company Forest Destruction Project

X-Sieve: CMU Sieve 2.2
X-Originating-IP: [68.35.61.33]
X-Originating-Email: [donnan_sutherland@hotmail.com]
X-Sender: donnan_sutherland@hotmail.com
From: "donnan sutherland" <donnan_sutherland@hotmail.com>
To: <dcarl@coastal.ca.gov>
Cc: <megcoastal@law.stanford.edu>, <pkruer@monarchgroup.com>
Subject: Please Stop Pebble Beach Company Forest Destruction Project
Date: Tue, 6 Dec 2005 10:55:47 -0700
X-Mailer: Microsoft Outlook Express 6.00.2900.2180
X-OriginalArrivalTime: 06 Dec 2005 17:55:51.0847 (UTC) FILETIME=
[4C11EB70:01C5FA8E]
X-MIMETrack: Itemize by SMTP Server on lawmail1/stanford(Release 5.0.12 |February 13, 2003) at
12/06/2005 09:55:54 AM,
Serialize by Router on lawmail1/stanford(Release 5.0.12 |February 13, 2003) at
12/06/2005 09:55:56 AM,
Serialize complete at 12/06/2005 09:55:56 AM

Dear Commissioners Meg Caldwell, William A. Burke, Steven Kram, Patrick Kruer, Bonnie Neeley, David Potter, Mike Reilly, Dan Secord M.D., Mary Shallenberger, and Sara Wan,

I respectfully urge you to reject and deny the proposed Pebble Beach Company golf course project because it would permanently destroy large areas of the vital native Monterey pine forest ecosystem.

CCC Exhibit 2
(page 7 of 21 pages)

This project would kill more than 17,000 mature, healthy, living Monterey pines and could potentially drive the species to extinction. It would also kill untold numbers of imperiled California red-legged frogs - the creature that made Mark Twain famous with his 'Celebrated Jumping Frog of Calaveras County' story. It would also kill as much as 25 percent of the few remaining endangered Yadon's Rein orchids.

The project should also be denied due to water shortages and traffic congestion.

Please put me on your interested parties list and send me all notices of available documents, meetings and hearings.

Thank you for your efforts on behalf of the Del Monte Forest.

Sincerely,

Donnan Sutherland
donnan_sutherland@hotmail.com

Meg Caldwell, J.D.
Senior Lecturer and Director,
Environmental and Natural Resources Law
and Policy Program
Stanford Law School
559 Nathan Abbott Way, Room 243
Stanford, CA 94305-8610
phone: 650/723-4057
fax: 650/725-2190
http://casestudies.stanford.edu/
http://naturalresourceslaw.stanford.edu

Meeting

JUN 1 0 2005

From: _____

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LCP, etc.: Pebble Beach golf course & equestrian center

Date and time of receipt of communication: 5/19/05 10 AM

Location of communication: phone

Type of communication (letter, facsimile, etc.) phone

Person(s) initiating communication: Clint Eastwood

Person(s) receiving communication: Mary Shallenberger

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

Mr Eastwood's ~~had~~ main concern was that staff in general, and Ex Director Douglas in particular, are running "a campaign" against his project. He asserted that he believed Mr Douglas's opposition is based his personal background. Mr Eastwood expressed frustration that he had moved the equestrian center in his proposal from the upland to an area that was protected as mitigation for the already developed Spanish Bay project at the request of the Sierra Club. Now, they object to it's location. Finally, Mr Eastwood asserted that he has a long standing reputation as an environmentalist. He said this golf course will be world class and should be approved.

I told Mr Eastwood that in my limited experience the Commission did not necessarily accept the staff recommendation; ~~rather~~, that, the Commission often ~~adopts~~ makes changes to the staff proposal to reflect what they hear in public hg. Second, I said that the only knowledge I had of his project was what I had read in the media & testimony before the Comaission. I expressed my thought that it is not O.K. to develop in an area that has been protected as mitigation for anothe development, as it would be a net loss of natural resources.

Approximately a week later I recieved the attached in the mail from Mr. Eastwood's L.A. office

6/9/05
Date

Mary K Shallenberger
Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

Del Monte Forest Preservation and Developmen
Monterey Pine Forest (MPF) Preservation
SUMMARY

these are being delivered quietly to various Commissioners
-CE

HISTORY OF DEL MONTE FOREST PLAN

1994 Plan: Proposed to remove 57,000 trees and to develop 415
295 acres of MPF.

1997 Plan: Proposed to remove 34,220 trees and to develop 278
484 acres of MPF.

2002 New Ownership Plan (Current DMF/PDP): Proposed to r
develop 99 MPF acres and to preserve an additional 820 acres of MPF and 150,000+ trees.

- US Fish & Wildlife Service (USFWS), NOAA National Marine Fisheries Services (NMFS), and California Department of Fish & Game (CDFG) have accepted that the 2002 Plan (current DMF/PDP) mitigates all impacts to the environment.
- Final EIR for the 2002 Plan, certified and approved by Monterey County, concludes that all impacts to the environment are fully mitigated.

PROTECTION OF MONTEREY PINE ON THE MONTEREY PENINSULA

1994: 2,520 acres of Monterey pine forest (MPF) permanently protected.
2002: 3,000 acres of MPF permanently protected (other projects in Monterey County).
2005: New Owners of Pebble Beach Company (PBC) proposes to permanently protect over 1000 acres of intact MPF, which includes 362 acres outside of the DMF (owned by PBC), and 658 acres of MPF within the DMF (which includes pre-mitigation of 200 acres of MPF in Huckleberry Hill). If accepted, total MPF protected acres in Monterey County would increase to 3,820 acres.

HISTORY OF RESIDENTIAL DEVELOPMENT PROPOSALS

Local Coastal Plan allowable number of lots on PBC lands: 891 residential lots.
1994 Plan: Proposed 403 lots and a golf course in Pescadero Canyon, within 245 acres of intact MPF that is contiguous to additional intact tracts of forested areas.
1997 Plan: Proposed 364 lots and a golf course in the area of the existing Equestrian Center.
2002 New Ownership Plan (Current DMF/PDP): Proposes 33 new lots (extinguishes over 40 existing lots of record), a golf course in the area of the existing Equestrian Center, 173 new hotel rooms in existing developed areas (at the Lodge and at Spanish Bay resorts), a new driving range and an Equestrian Center (Sawmill site), along with large preservation areas. The 2002 Plan represents a 95% decrease in the number of lots allowed by the current LCP.

Note:
Monterey pine forest on the golf course site is currently fragmented by existing roadways (5.5 acres to be removed) trails (to be relocated), a 4 acre former quarry on the north, 48 acres of the existing disturbed Equestrian Center/Collins Field and Driving Range on the South and North, residential development on the east and west, and golf course development on the north (Cypress course and Spyglass). The design for the proposed golf course will retain more than 55 forested acres containing over 8,000 trees.

Del Monte Forest Preservation and Development Plan (DMF/PDP)
Monterey Pine Forest (MPF) Preservation and Impacts
SUMMARY

HISTORY OF DEL MONTE FOREST PLAN

1994 Plan: Proposed to remove 57,000 trees and to develop 415 MPF acres and to preserve 295 acres of MPF.

1997 Plan: Proposed to remove 34,220 trees and to develop 278 MPF acres and to preserve 484 acres of MPF.

2002 New Ownership Plan (Current DMF/PDP): Proposed to remove 17,969 trees and to develop 99 MPF acres and to preserve an additional 820 acres of MPF and 150,000+ trees.

- US Fish & Wildlife Service (USFWS), NOAA National Marine Fisheries Services (NMFS), and California Department of Fish & Game (CDFG) have accepted that the 2002 Plan (current DMF/PDP) mitigates all impacts to the environment.
- Final EIR for the 2002 Plan, certified and approved by Monterey County, concludes that all impacts to the environment are fully mitigated.

PROTECTION OF MONTEREY PINE ON THE MONTEREY PENINSULA

1994: 2,520 acres of Monterey pine forest (MPF) permanently protected.
2002: 3,000 acres of MPF permanently protected (other projects in Monterey County).
2005: New Owners of Pebble Beach Company (PBC) proposes to permanently protect over 1000 acres of intact MPF, which includes 362 acres outside of the DMF (owned by PBC), and 658 acres of MPF within the DMF (which includes pre-mitigation of 200 acres of MPF in Huckleberry Hill). If accepted, total MPF protected acres in Monterey County would increase to 3,820 acres.

HISTORY OF RESIDENTIAL DEVELOPMENT PROPOSALS

Local Coastal Plan allowable number of lots on PBC lands: 891 residential lots.
1994 Plan: Proposed 403 lots and a golf course in Pescadero Canyon, within 245 acres of intact MPF that is contiguous to additional intact tracts of forested areas.
1997 Plan: Proposed 364 lots and a golf course in the area of the existing Equestrian Center.
2002 New Ownership Plan (Current DMF/PDP): Proposes 33 new lots (extinguishes over 40 existing lots of record), a golf course in the area of the existing Equestrian Center, 173 new hotel rooms in existing developed areas (at the Lodge and at Spanish Bay resorts), a new driving range and an Equestrian Center (Sawmill site), along with large preservation areas. The 2002 Plan represents a 95% decrease in the number of lots allowed by the current LCP.

Note:
Monterey pine forest on the golf course site is currently fragmented by existing roadways (5.5 acres to be removed) trails (to be relocated), a 4 acre former quarry on the north, 48 acres of the existing disturbed Equestrian Center/Collins Field and Driving Range on the South and North, residential development on the east and west, and golf course development on the north (Cypress course and Spyglass). The design for the proposed golf course will retain more than 55 forested acres containing over 8,000 trees.

Editorial: Hypocritical newspapers also get their facts wrong

Published: April 29, 2005

A MARCH 19 editorial in the Salinas Californian, in justifying the paper's hope that the coastal commission "will put a stop" to plans for new development in Del Monte Forest, complained that the Pebble Beach Company's proposed new golf course, hotel rooms and employee housing had been "fast-tracked" through the county permit process.

A few weeks later, a British newspaper reported that the Monterey pine is a "rare" species that grows in "very few places on the planet."

And at about the same time, USA Today unquestioningly quoted a Sierra Club rep's opinion that what the P.B. Co. wants to do with a small portion of its undeveloped land amounts to the "largest project" proposed for the California coast "in decades."

These blatantly erroneous assertions — and dozens more like them — have been represented as the gospel truth in newspaper across the country and around the world during the last few weeks.

Reporters and editors, it seems, are outraged at the idea of removing 100 acres of trees to make way for a golf course. Their umbrage has been expressed in editorials and news stories so similarly indignant it's hard to tell which is which.

As a threshold question, one might ask whether they can actually be unaware that their beloved industry — printing newspapers — is one of the biggest tree-killers in history. The slaughter of old-growth trees to produce millions of copies of stimulating features ("Your Daily Horoscope"), can't-miss news items ("Special pullout on the NFL draft"), and highly detailed descriptions of weekend discounts at the local retailer ("Kmart will be open 'til midnight!"), has been going on for decades and continues today. And the people who benefit most from the worldwide logging that makes their livelihoods possible blithely pretend that only a scoundrel would cut down a Monterey pine.

So certain are they that it's a bad idea to clear a small forest to make way for fairways and sandtraps, they see no need to get their facts straight as they condemn the idea. In some cases, they didn't even bother to make their stories internally consistent:

- On the Californian's website, right next to the paper's complaint that the P.B. Co.'s latest plan has been "fast-tracked," a caption below a photo showing Clint Eastwood announcing the plan almost five years ago describes it as "one of the Peninsula's longest running land-use battles." Huh?

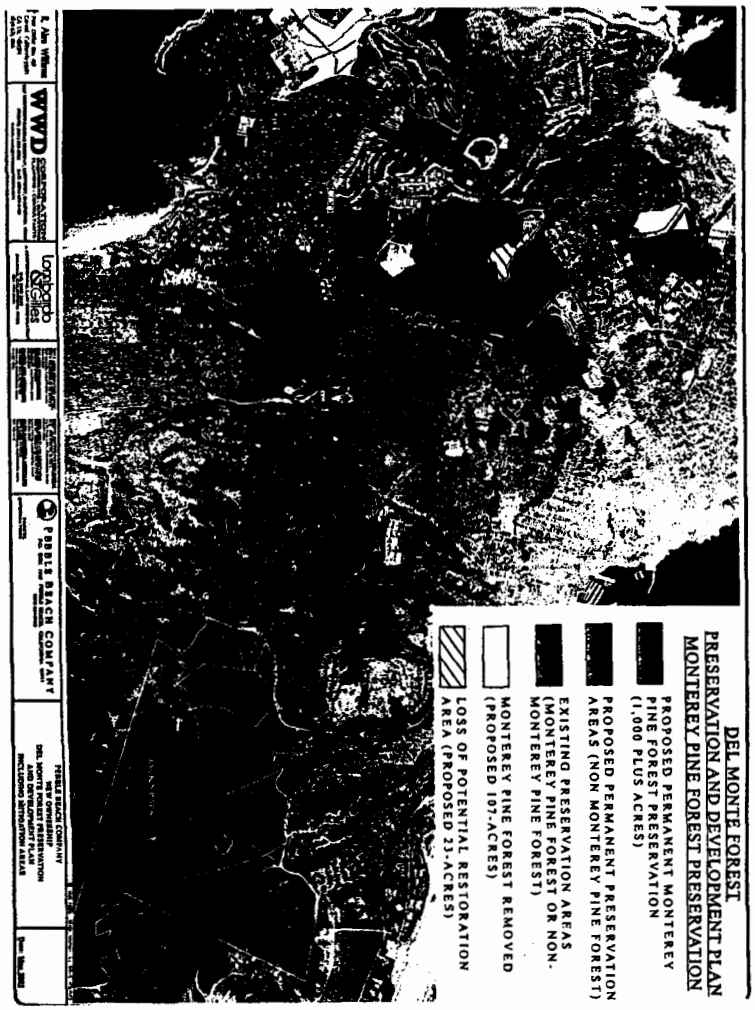
- In USA Today, just a few paragraphs below the Sierra Club spokesman's description of the plan as "the biggest in decades," another recent project was detailed: In 1999, the paper reported, the coastal commission approved 3,400 homes on 1,600 acres of "undeveloped wetlands and coastal mesas in Orange County." Isn't that just a wee bit bigger than what the Pebble Beach Company is up to?

The British newspaper's story at least didn't contradict itself. But if the reporter had no idea the Monterey pine not only isn't rare, it's one of the most common trees in the world, he at least could have done a wee bit of investigating and discovered that Clint Eastwood doesn't live in Carmel; there is no water rationing in Carmel Valley every summer, and David Dilworth doesn't represent a group. He just represents himself.

Almost all these stories make the mistake of exaggerating opposition to the Pebble Beach project. Not having taken the time to get familiar with local circumstances, the reporters invoked a journalistic cliché: "Developers" try to ruin things; "environmentalists" and "the public" try to thwart them.

But in this case, a majority of the people of the Monterey Peninsula clearly support what the P.B. Co. is doing. The November 2000 vote on Measure A showed this, and so has public testimony at numerous hearings in the years since. In fact, most people around here actually appreciate the drastic reduction in potential development and the vast increase in protected open space the P.B. project represents.

We urge the coastal commission to take due notice of these facts and approve the P.B. plan with minimal changes. No matter what all those other newspapers say.



YADON'S PIPERIA

Yadon's piperia is an endangered species of orchid with habitat ranging from Prunedale in Northern Monterey County to Palo Colorado Canyon in the Big Sur area, with significant occurrences within the Del Monte Forest.

The US Fish & Wildlife Service proposed Yadon's piperia for listing as an endangered species in 1995. At that time just over 2,000 plants were known to exist. Recent surveys completed in 2004 and 2005 increase the known population to over 200,000. The proposed project will preserve over 108,984 plants. Over 80% of the identified Yadon's Piperia on PBC property is being permanently preserved and protected.

PROTECTION OF SENSITIVE COASTAL RESOURCES

The Del Monte Forest LUP requires the maintenance of contiguous areas of undisturbed open space for the purpose of protecting ESHA's identified in Appendix A and its associated map in the LUP. For this reason PBC proposed to permanently preserve and ecologically manage 117 additional undisturbed acres of natural forest contiguous to the Huckleberry Hill Natural Preserve area. For this same reason 233 acres of the connected Pescadero watershed are proposed for preservation. The project will add 820 acres of new open space, resulting in preservation and management of over 1500 acres.

ESHA (Environmentally Sensitive Habitat Areas)

The DMF/PDP has avoided any development in the areas that are listed as ESHA in the Del Monte Forest LUP. There are two small wetlands that are designated as ESHA on the golfcourse site that have been preserved. The Final EIR, certified and approved by the County of Monterey for the project, concludes that the proposed development avoids all ESHA.

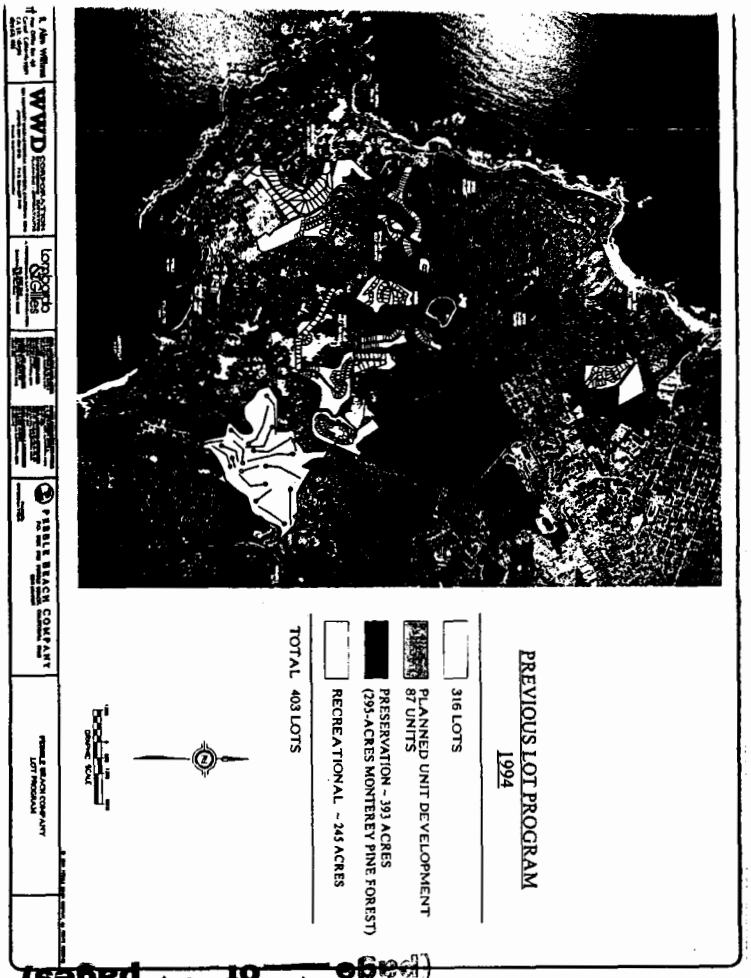
EQUESTRIAN CENTER

Conditions of approval from both the County and the California Coastal Commission regulate the use of this 45 acre area formerly used as a sand mine. Prior to mining activities, both the lower and the upper areas of the Sawmill site were mostly devoid of vegetation. Permit conditions for the Spanish Bay resort required revegetation of the Sawmill site with native plants. Conservation easements apply to the upper and lower areas of the site.
The Final EIR of the current DMF/PDP requires PBC to mitigate for the loss of this acreage, for the proposed equestrian center, by setting aside additional high quality forest on lands owned by PBC. Therefore, 184 acres of additional intact MPF are included within the total proposed MPF open space dedication areas, as mitigation for the loss of the 23 acres of potential restoration area in the Sawmill site.

WATER SUPPLY

Phase I of the reclamation project sponsored by PBC has saved approximately 650 acre-feet per year (AFY) from the Carmel River aquifer. PBC may sell up to 150 acre feet of its unused 355 AFY entitlement to finance additional reclamation project improvements that will save an additional 300 AFY of reclaimed water, for total average savings of 950 acre feet of potable water per year. On average, the project will use 91 acre feet of potable water, plus any water sold to residents.

CCC Exhibit 2
(page 10 of 21 pages)



RECEIVED
JUN 2 3 2005
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Meeting

JUN 1 0 2005

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

From: _____

Name or description of project, LCP, etc.: Pebble Beach golf course & equestrian center

Date and time of receipt of communication: 5/10/05 10 AM

Location of communication: phone

Type of communication (letter, facsimile, etc.) phone

Person(s) initiating communication: Clint Eastwood

Person(s) receiving communication: Mary Shallenberger

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

Mr Eastwood's ~~bad~~ main concern was that staff in general, and Ex Director Douglas in particular, are running "a campaign" against his project. He asserted that he believed Mr Douglas's opposition is based his personal background. Mr Eastwood expressed frustration that he had moved the equestrian center in his proposal from the upland to area that →

6/9/05
Date

Mary K Shallenberger
Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

was protected as mitigation for the already developed Spanish Bay project at the request of the Sierra Club. Now, they object to it's location. Finally, Mr Eastwood asserted that he has a long standing reputation as an environmentalist. He said this golf course will be world class and should be approved.

I told Mr Eastwood that in my limited experience the Commission did not necessarily accept the staff recommendation; ~~rather~~, that, the Commission often ~~adopts~~ makes changes to the staff proposal to reflect what they hear in public hrg. Second, I said that the only knowledge I had of his project was what I had read in the media & testimony before the Commission. I expressed my thought that it is not O.K. to develop in an area that has been protected as mitigation for another development, as it would be a net loss of natural resources.

Approximatedly a week later I recieved the attached in the mail from Mr. Eastwood's L.A. office

these are being delivered quietly to various Commissioners

-CE

Del Monte Forest Preservation and Develc
Monterey Pine Forest (MPF) Preser
SUMMARY

HISTORY OF DEL MONTE FOREST PLAN

1994 Plan: Proposed to remove 57,000 trees and to deve
295 acres of MPF.

1997 Plan: Proposed to remove 34,220 trees and to dev
484 acres of MPF.

2002 New Ownership Plan (Current DMF/PDP): Prop
develop 99 MPF acres and to preserve an additional 820 acres of MPF and 150,000+ trees.

- US Fish & Wildlife Service (USFWS), NOAA National Marine Fisheries Services (NMFS), and California Department of Fish & Game (CDFG) have accepted that the 2002 Plan (current DMF/PDP) mitigates all impacts to the environment.
- Final EIR for the 2002 Plan, certified and approved by Monterey County, concludes that all impacts to the environment are fully mitigated.

PROTECTION OF MONTEREY PINE ON THE MONTEREY PENINSULA

1994: 2,520 acres of Monterey pine forest (MPF) permanently protected.
2002: 3,000 acres of MPF permanently protected (other projects in Monterey County).
2005: New Owners of Pebble Beach Company (PBC) proposes to permanently protect over 1000 acres of intact MPF, which includes 362 acres outside of the DMF (owned by PBC), and 658 acres of MPF within the DMF (which includes pre-mitigation of 200 acres of MPF in Huckleberry Hill). If accepted, total MPF protected acres in Monterey County would increase to 3,820 acres.

HISTORY OF RESIDENTIAL DEVELOPMENT PROPOSALS

Local Coastal Plan allowable number of lots on PBC lands: 891 residential lots.
1994 Plan: Proposed 403 lots and a golf course in Pescadero Canyon, within 245 acres of intact MPF that is contiguous to additional intact tracts of forested areas.
1997 Plan: Proposed 364 lots and a golf course in the area of the existing Equestrian Center.
2002 New Ownership Plan (Current DMF/PDP): Proposes 33 new lots (extinguishes over 40 existing lots of record), a golf course in the area of the existing Equestrian Center, 173 new hotel rooms in existing developed areas (at the Lodge and at Spanish Bay resorts), a new driving range and an Equestrian Center (Sawmill site), along with large preservation areas. The 2002 Plan represents a 95% decrease in the number of lots allowed by the current LCP.

Note:
Monterey pine forest on the golf course site is currently fragmented by existing roadways (5.5 acres to be removed) trails (to be relocated), a 4 acre former quarry on the north, 48 acres of the existing disturbed Equestrian Center/Collins Field and Driving Range on the South and North, residential development on the east and west, and golf course development on the north (Cypress course and Spyglass). The design for the proposed golf course will retain more than 55 forested acres containing over 8,000 trees.

Del Monte Forest Preservation and Development Plan (DMF/PDP)
Monterey Pine Forest (MPF) Preservation and Impacts
SUMMARY

HISTORY OF DEL MONTE FOREST PLAN

1994 Plan: Proposed to remove 57,000 trees and to develop 415 MPF acres and to preserve 295 acres of MPF.

1997 Plan: Proposed to remove 34,220 trees and to develop 278 MPF acres and to preserve 484 acres of MPF.

2002 New Ownership Plan (Current DMF/PDP): Proposed to remove 17,969 trees and to develop 99 MPF acres and to preserve an additional 820 acres of MPF and 150,000+ trees.

- US Fish & Wildlife Service (USFWS), NOAA National Marine Fisheries Services (NMFS), and California Department of Fish & Game (CDFG) have accepted that the 2002 Plan (current DMF/PDP) mitigates all impacts to the environment.
- Final EIR for the 2002 Plan, certified and approved by Monterey County, concludes that all impacts to the environment are fully mitigated.

PROTECTION OF MONTEREY PINE ON THE MONTEREY PENINSULA

1994: 2,520 acres of Monterey pine forest (MPF) permanently protected.
2002: 3,000 acres of MPF permanently protected (other projects in Monterey County).
2005: New Owners of Pebble Beach Company (PBC) proposes to permanently protect over 1000 acres of intact MPF, which includes 362 acres outside of the DMF (owned by PBC), and 658 acres of MPF within the DMF (which includes pre-mitigation of 200 acres of MPF in Huckleberry Hill). If accepted, total MPF protected acres in Monterey County would increase to 3,820 acres.

HISTORY OF RESIDENTIAL DEVELOPMENT PROPOSALS

Local Coastal Plan allowable number of lots on PBC lands: 891 residential lots.
1994 Plan: Proposed 403 lots and a golf course in Pescadero Canyon, within 245 acres of intact MPF that is contiguous to additional intact tracts of forested areas.
1997 Plan: Proposed 364 lots and a golf course in the area of the existing Equestrian Center.
2002 New Ownership Plan (Current DMF/PDP): Proposes 33 new lots (extinguishes over 40 existing lots of record), a golf course in the area of the existing Equestrian Center, 173 new hotel rooms in existing developed areas (at the Lodge and at Spanish Bay resorts), a new driving range and an Equestrian Center (Sawmill site), along with large preservation areas. The 2002 Plan represents a 95% decrease in the number of lots allowed by the current LCP.

Note:
Monterey pine forest on the golf course site is currently fragmented by existing roadways (5.5 acres to be removed) trails (to be relocated), a 4 acre former quarry on the north, 48 acres of the existing disturbed Equestrian Center/Collins Field and Driving Range on the South and North, residential development on the east and west, and golf course development on the north (Cypress course and Spyglass). The design for the proposed golf course will retain more than 55 forested acres containing over 8,000 trees.

YADON'S PIPERIA

Yadon's piperia is an endangered species of orchid with habitat ranging from Prunedale in Northern Monterey County to Palo Colorado Canyon in the Big Sur area, with significant occurrences within the Del Monte Forest.
The US Fish & Wildlife Service proposed Yadon's piperia for listing as an endangered species in 1995. At that time just over 2,000 plants were known to exist. Recent surveys completed in 2004 and 2005 increase the known population to over 200,000. The proposed project will preserve over 108,984 plants. Over 80% of the identified Yadon's Piperia on PBC property is being permanently preserved and protected.

PROTECTION OF SENSITIVE COASTAL RESOURCES

The Del Monte Forest LUP requires the maintenance of contiguous areas of undisturbed open space for the purpose of protecting ESHA's identified in Appendix A and its associated map in the LUP. For this reason PBC proposed to permanently preserve and ecologically manage 117 additional unfragmented acres of natural forest contiguous to the Huckleberry Hill Natural Preserve area. For this same reason 233 acres of the connected Pescadero watershed are proposed for preservation. The project will add 820 acres of new open space, resulting in preservation and management of over 1500 acres.

ESHA (Environmentally Sensitive Habitat Areas)

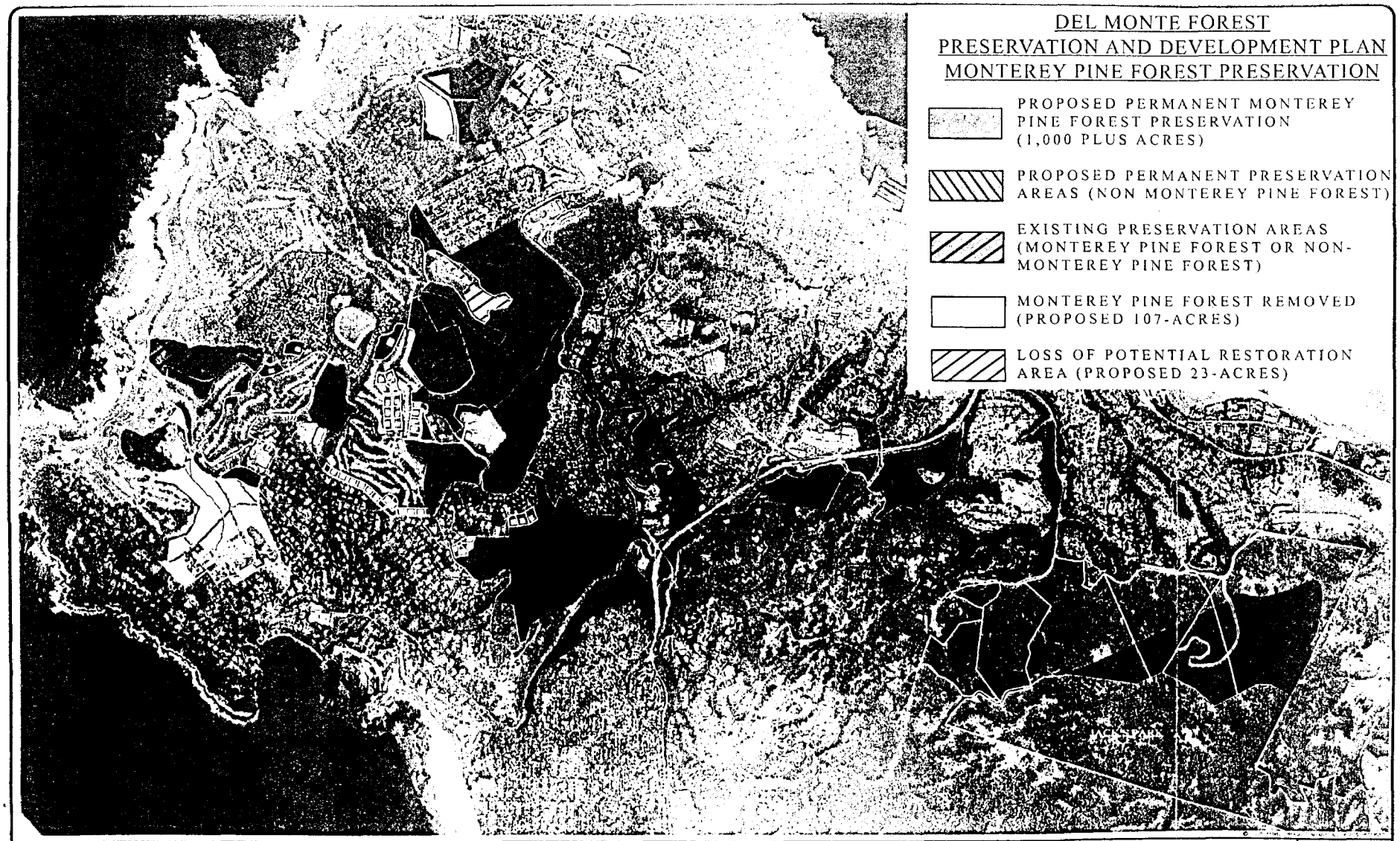
The DMF/PDP has avoided any development in the areas that are listed as ESHA in the Del Monte Forest LUP. There are two small wetlands that are designated as ESHA on the golfcourse site that have been preserved. The Final EIR, certified and approved by the County of Monterey for the project, concludes that the proposed development avoids all ESHA.

EQUESTRIAN CENTER

Conditions of approval from both the County and the California Coastal Commission regulate the use of this 45 acre area formerly used as a sand mine. Prior to mining activities, both the lower and the upper areas of the Sawmill site were mostly devoid of vegetation. Permit conditions for the Spanish Bay resort required revegetation of the Sawmill site with native plants. Conservation easements apply to the upper and lower areas of the site.
The Final EIR of the current DMF/PDP requires PBC to mitigate for the loss of this acreage, for the proposed equestrian center, by setting aside additional high quality forest on lands owned by PBC. Therefore, 184 acres of additional intact MPF are included within the total proposed MPF open space dedication areas, as mitigation for the loss of the 23 acres of potential restoration area in the Sawmill site.

WATER SUPPLY

Phase I of the reclamation project sponsored by PBC has saved approximately 650 acre-feet per year (AFY) from the Carmel River aquifer. PBC may sell up to 150 acre feet of its unused 355 AFY entitlement to finance additional reclamation project improvements that will save an additional 300 AFY of reclaimed water, for total average savings of 950 acre feet of potable water per year. On average, the project will use 91 acre feet of potable water, plus any water sold to residents.



Carmel Development Company

R. Alan Williams

WWD CORPORATION

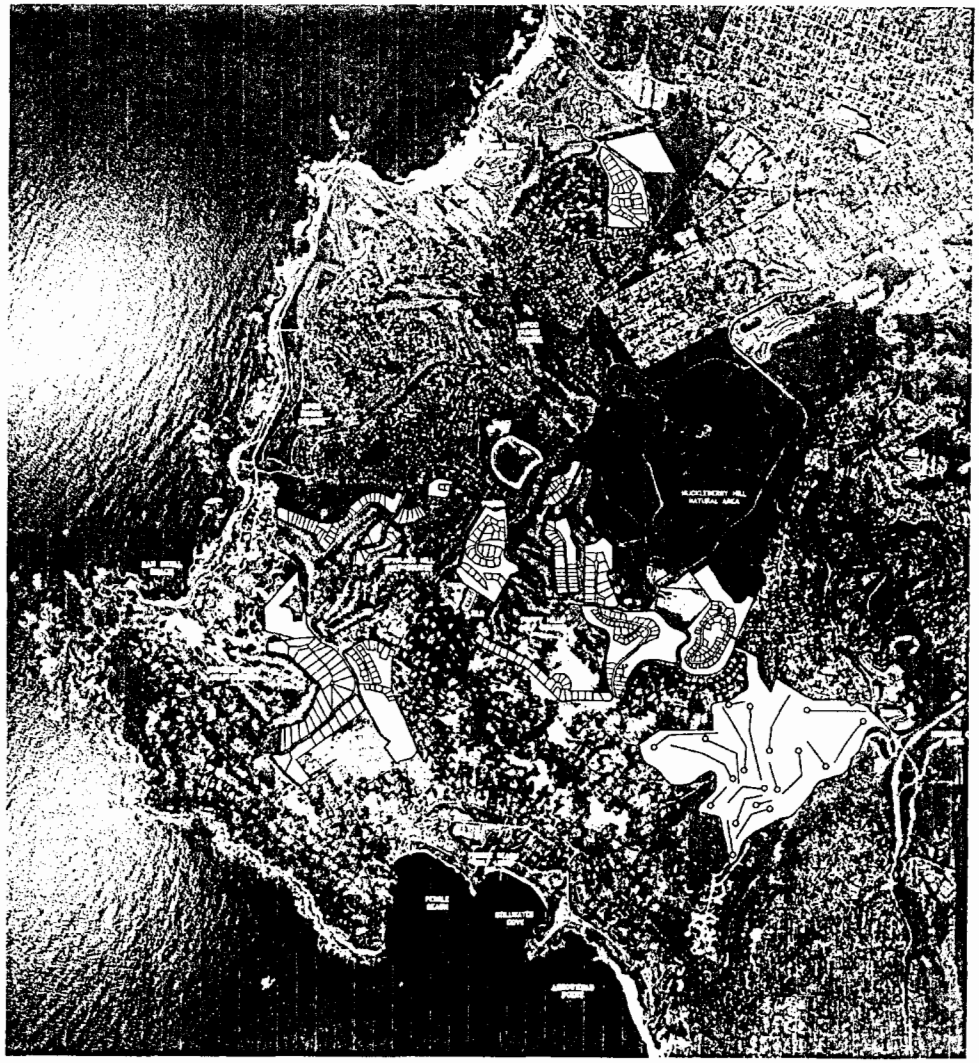
Lombardo & Gilles

PEBBLE BEACH COMPANY

PEBBLE BEACH COMPANY
NEW OWNERSHIP
DEL MONTE FOREST PRESERVATION
AND DEVELOPMENT PLAN
INCLUDING MITIGATION AREAS

Date: May 2005

Attachment 2
16 of 21



PREVIOUS LOT PROGRAM
1994

- 316 LOTS
- PLANNED UNIT DEVELOPMENT 87 UNITS
- PRESERVATION ~ 393 ACRES (295-ACRES MONTEREY PINE FOREST)
- RECREATIONAL ~ 245 ACRES

TOTAL 403 LOTS

N

1200 0 600 1200 2400
GRAPHIC SCALE

© 2000 PEBBLE BEACH COMPANY ALL RIGHTS RESERVED

Carmel Development Company
R. Alan Williams
Post Office Box 4[illegible]
Carmel, California 93921
CA LIC #[illegible]
(831) 625-1[illegible]

WWD CORPORATION
ENGINEERING · SURVEYING
PLANNING · CONSULTANTS
[illegible] MONTEREY-SALINAS HIGHWAY, MONTEREY, CALIFORNIA [illegible]
PHONE: (831) [illegible] FAX: (831) [illegible]
E-MAIL: [illegible]

Lombardo & Gilles
A PROFESSIONAL LAW CORPORATION
P.O. Box [illegible]
SALINAS, CALIFORNIA [illegible]
(831) [illegible]

RECLAMATION PLANNING ASSOC.
[illegible]

PACIFIC NORTHWEST MANAGEMENT
[illegible]

[illegible] ASSOCIATES
[illegible]

TIBBITS FIBBS ASSOCIATES
[illegible]

[illegible] ASSOCIATES
[illegible]

PEBBLE BEACH COMPANY
P.O. BOX 1767 PEBBLE BEACH, CALIFORNIA 93953
(831) 624-8000
PARKS
ENTERTAINMENT
RESORTS

PEBBLE BEACH COMPANY
LOT PROGRAM

Attachment 2
Page 12 of 21

The Carmel Pine Cone
YOUR SOURCE FOR LOCAL NEWS, ARTS AND OPINION SINCE 1915

Editorial: Hypocritical newspapers also get their facts wrong

Published: April 29, 2005

A MARCH 19 editorial in the Salinas Californian, in justifying the paper's hope that the coastal commission "will put a stop" to plans for new development in Del Monte Forest, complained that the Pebble Beach Company's proposed new golf course, hotel rooms and employee housing had been "fast-tracked" through the county permit process.

A few weeks later, a British newspaper reported that the Monterey pine is a "rare" species that grows in "very few places on the planet."

And at about the same time, USA Today unquestioningly quoted a Sierra Club rep's opinion that what the P.B. Co. wants to do with a small portion of its undeveloped land amounts to the "largest project" proposed for the California coast "in decades."

These blatantly erroneous assertions — and dozens more like them — have been represented as the gospel truth in newspaper across the country and around the world during the last few weeks.

Reporters and editors, it seems, are outraged at the idea of removing 100 acres of trees to make way for a golf course. Their umbrage has been expressed in editorials and news stories so similarly indignant it's hard to tell which is which.

As a threshold question, one might ask whether they can actually be unaware that their beloved industry — printing newspapers — is one of the biggest tree-killers in history. The slaughter of old-growth trees to produce millions of copies of stimulating features ("Your Daily Horoscope"), can't-miss news items ("Special pullout on the NFL draft"), and highly detailed descriptions of weekend discounts at the local retailer ("Kmart will be open 'til midnight!"), has been going on for decades and continues today. And the people who benefit most from the worldwide logging that makes their livelihoods possible blithely pretend that only a scoundrel would cut down a Monterey pine.

So certain are they that it's a bad idea to clear a small forest to make way for fairways and sandtraps, they see no need to get their facts straight as they condemn the idea. In some cases, they didn't even bother to make their stories internally consistent:

- On the Californian's website, right next to the paper's complaint that the P.B. Co.'s latest plan has been "fast-tracked," a caption below a photo showing Clint Eastwood announcing the plan almost five years ago describes it as "one of the Peninsula's longest running land-use battles." Huh?

- In USA Today, just a few paragraphs below the Sierra Club spokesman's description of the plan as "the biggest in decades," another recent project was detailed: In 1999, the paper reported, the coastal commission approved 3,400 homes on 1,600 acres of "undeveloped wetlands and coastal mesas in Orange County." Isn't that just a wee bit bigger than what the Pebble Beach Company is up to?

The British newspaper's story at least didn't contradict itself. But if the reporter had no idea the Monterey pine not only isn't rare, it's one of the most common trees in the world, he at least could have done a wee bit of investigating and discovered that Clint Eastwood doesn't live in Carmel; there is no water rationing in Carmel Valley every summer, and David Dilworth doesn't represent a group. He just represents himself.

Almost all these stories make the mistake of exaggerating opposition to the Pebble Beach project. Not having taken the time to get familiar with local circumstances, the reporters invoked a journalistic cliché: "Developers" try to ruin things; "environmentalists" and "the public" try to thwart them.

But in this case, a majority of the people of the Monterey Peninsula clearly support what the P.B. Co. is doing. The November 2000 vote on Measure A showed this, and so has public testimony at numerous hearings in the years since. In fact, most people around here actually appreciate the drastic reduction in potential development and the vast increase in protected open space the P.B. project represents.

We urge the coastal commission to take due notice of these facts and approve the P.B. plan with minimal changes. No matter what all those other newspapers say.

Dan Carl

From: Charles Lester
Sent: Tuesday, June 07, 2005 6:40 AM
To: Dan Carl
Subject: FW: No to Eastwood Golf Course

for the file; this is an ex parte
-----Original Message-----
From: Meg Caldwell [mailto:megc@stanford.edu]
Sent: Tuesday, May 31, 2005 9:52 AM
To: Charles Lester
Subject: Fwd: No to Eastwood Golf Course

X-Sieve: CMU Sieve 2.2
User-Agent: Microsoft-Outlook-Express-Macintosh-Edition/5.02.2022
Date: Tue, 05 Apr 2005 15:39:06 -0700
Subject: No to Eastwood Golf Course
From: Andrew Reed <andrewjpr@earthlink.net>
To: <megcoastal@law.stanford.edu>
X-MIMETrack: Itemize by SMTP Server on lawmail1/stanford(Release 5.0.12 |February 13, 2003) at
04/05/2005 03:25:58 PM,
Serialize by Router on lawmail1/stanford(Release 5.0.12 |February 13, 2003) at
04/05/2005 03:25:59 PM,
Serialize complete at 04/05/2005 03:25:59 PM

Dear Meg Caldwell:

I ask that you and your fellow commissioners at the CCC preserve the Monterrey Pines that would be lost if Mr. Eastwood builds his proposed golf course.

It seems wasteful to add another golf course to the Carmel area. Such destruction of habitat becomes even more tragic when one sees how little natural habitat we currently enjoy.

Please protect what is left of the coast and say no to the above-mentioned proposal when it comes before you.

Thank you for your time and consideration.

Sincerely,

A. Reed
Kensington, CA

Meg Caldwell, J.D.
Director and Lecturer on Law
Environmental and Natural Resources Law
and Policy Program
559 Nathan Abbott Way

Exhibit 2
(page 19 of 21 pages)

Stanford Law School, Owen House Room 7
Stanford, CA 94305-8610
phone: 650/723-4057
fax: 650/725-8509
http://casestudies.stanford.edu/
http://naturalresourceslaw.stanford.edu

Received at Commission Meeting

APR 13 2005

From: _____

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LCP, etc.: Pebble Beach Expansion

Date and time of receipt of communication: 2/28/05 1PM

Location of communication: Santa Rosa CA

Type of communication (letter, facsimile, etc.) Meeting

Person(s) initiating communication: Richard Nichols/ Mark Massara/ Peter Ashcroft

Person(s) receiving communication: Mike Reilly

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

Sierra Club objections to Pebble Beach EIR which allegedly destroys sensitive habitat + violates existing conservation easements

RECEIVED

APR 20 2005

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

4/10/05
Date

Mike Reilly
Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.