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Via Facsimile and U.S. Mail

California Coastal Commission
Central Coast District Office
Attn: Dan Carl
725 Front Street, Suite 300
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FAX (831) 427-4877

RE: Sierra Club's Appeal of Monterey County's Approval of Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN010254, PLN010341, and PLN040160)

Dear Mr. Carl:

This office represents the Ventana Chapter of the Sierra Club ("Sierra Club") regarding the above referenced appeal. On March 29, 2005, the Sierra Club filed an appeal of Monterey County's approval of the Pebble Beach Company's Del Monte Forest Preservation and Development Plan (PLN010254, PLN010341, and PLN040160)(hereinafter referred to as the "Pebble Beach Project") with the Commission's Central Coast District Office in Santa Cruz.¹ That appeal cited the fact that the Pebble Beach Project violated both the existing Monterey County Local Coastal Program ("LCP") and the proposed LCP as modified by the passage of Measure A. The Sierra Club strongly believes that the existing LCP must be used to determine the Pebble Beach Project's consistency with the LCP for purposes of this appeal as it was the operative LCP at the time the Project was approved by the County.² Nonetheless, even if the Measure A modified LCP is certified by the

¹ Attached hereto as Exhibit 1 is the Sierra Club's formal authorization naming the Law Offices of Thomas N. Lippe as its representative in all matters concerning this appeal. Please add this amended page 4 to the Sierra Club's previously filed Commission Appeal Form and send all further notices and correspondence relating to this appeal to our office at the above address.

² Because the LCP as modified by the passage of Measure A has yet to be reviewed, let alone certified by the Commission, it has no legal effect. *See* Pub. Res. Code § 30514(a)(e); 14 Cal. Code Regs. § 13537(b). Actions by the local government that authorize "a use other than that designated in the LCP as a permitted use ... require certification by the Commission" *Yost v. Thomas* (1984) 36 Cal.3d 561, 573, fn. 9, *accord Conway v. City of Imperial Beach*

Commission without change **and** retroactively applied to analyze the Project's consistency with the LCP, the Project continues to violate the LCP. The purpose of this letter is to amend, by clarifying and expanding upon, the bases of the Sierra Club's previously filed appeal.

I. The Pebble Beach Project's Inconsistency with Monterey County LCP

On March 15, 2005, Monterey County approved the Pebble Beach Project by adopting Resolutions 05-061, 05-062, and 05-063, which approved the combined development permits PLN010254, PLN010341, and PLN040160 for the Project. Together, those resolutions and permits authorize the following project elements:

PLN010254:

Proposed New Golf Course (Area MNOUV): Demolition of the existing Equestrian Center, a single-family home and two cottages; and the construction of an 18 hole golf course including underground maintenance building, clubhouse, 11 free standing visitor-serving suites (24 rooms), two on-course restrooms, expansion of driving range and construction of golf equipment building (including restroom, storage, and parking).

New Equestrian Center (Sawmill Borrow Site): Construction of new Equestrian Center including a one-story equestrian clubhouse building with locker rooms, offices, and lounge; a two-story dormitory building complete with kitchen and common area to be used for overnight equestrian camps for children and adults; a covered arena and stall barn; four one-story stall barns and two covered tie-stall barns; a hay barn; a vehicle storage building; two one-story single family residences; one two-story four family staff residential structure; a covered lunge ring; covered horse corral shelters; fenced training rings; corrals entry wall; and expansion area for equestrian events.

Spanish Bay Resort: Construction of two three-story visitor-serving buildings of 40 and 46 units; the remodel of existing office space to allow 5 additional guest units; an addition to the existing Inn facility to create an additional 14,042 sq. ft. of meeting room space; demolition of existing tennis courts and pro shop; construction of a 443-space underground parking garage; reconstruction of tennis courts and pro shop and addition of 1,800 sq ft of locker space to the existing main clubhouse building; circulation and parking improvements.

Spanish Bay Driving Range: Construction of new golf driving range and golf teaching facility of approximately 3,000 sq. ft. and parking.

Spanish Bay Employee Housing: Construction of 12 new units of employee housing.

Lodge at Pebble Beach: Addition of approximately 500 sq. ft. of meeting space and the remodel of existing meeting facilities (total meeting space: 5,500 sq. ft.), plus 3,250 sq. ft. of circulation, support areas, restrooms and accessibility improvements; removal of five existing visitor-serving rooms and construction of a new structure with 43 new visitor-serving units ("Fairway One" building) with underground parking spaces, private dining room and banquet kitchen; construction of a new structure with 20 new visitor-serving units and support facilities ("Colton Building"); construction of a new 224 space surface (one level) and underground (one level) parking facility, and 23 new spaces of surface parking in the upper bank parking area; Lot Line Adjustment to reconfigure 11 lots to establish 7 lots (plus one roadway parcel).

Residential Subdivisions: Approval of several vesting tentative subdivision and parcel maps to create 10 parcels in Area F-2; 4 parcels in Area F-3; 11 parcels in Area I-2; 1 parcel in Area K; and 7 parcels in Area PQR.

Highway 1/ Highway 68/ 17-mile Drive Improvements: Construct improvements to the intersection of Highway 68, Highway 1, and the 17 Mile Drive, including improvements to widen off-ramp of southbound Highway 1 for a left-turn lane; reconfigure the southbound Highway 1 on-ramp to provide a dedicated and signalized Pebble Beach entrance; provide a right turn merge lane to Highway 1 on-ramp; redesign entry-gates; and provide a second eastbound lane along Highway 68 from east of the Scenic Drive overcrossing to the intersection with Highway 1.

Preservation and Conservation Areas: Granting of scenic and conservation easements and initiation of ongoing resource management activities within 492 acres within the following sites: 20.3 acres in Area B; 17.1 acres in Area D; 47.9 acres in Area G; 53.8 acres in Area H; 38.2 acres in Area I-1; 0.8 acre in Area J; 18.2 acres in Area L; 233.1 acres in Area PQR; 6.9 acres in Corporate Yard area; 39.9 acres in Signal Dunes and Bristol Curve area of proposed new golf course; 3.3 acres in Area C; 8.6 acres in Area F-3; and 3.9 acres in Area K.

PLN010342:

Corporation Yard Area: Approval of (a) vesting tentative parcel map to create three parcels (a 20.65-acre site for the existing Pebble Beach Company corporation yard; a 13.87-acre site for the proposed Corporation Yard Employee Housing project; and a 45.48-acre site for the proposed New Equestrian Center) and a remainder parcel (a 392.1-acre site for the existing Huckleberry Hill Natural Area site); and (b) construction of eight buildings with 48 employee housing units at Corporate Yard Area.

PLN040160:

Sawmill Borrow Site: Amend Use Permit (PC-5040) for the Sawmill Borrow Site deleting

conditions of approval number 8, 9, and 10, relating to grading, seeding, and vegetation of the site; and deleting condition of approval number 13(s) and 13(t) relating to restoration and utilization of the sawmill borrow site.

When compared against the applicable LCP policies contained within Monterey County's Del Monte Forest Land Use Plan ("LUP"), Coastal Implementation Plan ("CIP"), and Coastal Implementation Plan/Zoning Ordinance ("IP"), the Project's inconsistency with the LCP is clear. These inconsistencies render the County's approval of the project illegal, because both the Coastal Act and the LCP require all projects needing a coastal development permit to be consistent with the applicable LCP at the time of project approval. Pub. Res. Code § 30604(b); IP 20.02.060(A), 20.70.050(B)(3). Those inconsistencies include the following:

(A) Water and Marine Resources

The project proposes massive amounts of land alteration and grading activities in areas with soils containing moderate to high erosion potential including 318,000 cubic yards ("cy") of cut and 377,000 cy of fill at the proposed new golf course; 26,850 cy of cut and 41,354 cy of fill at the proposed new equestrian center at the Sawmill Borrow Site; 44,252 cy of cut at the Spanish Bay Resort (for new underground parking facility); 12,293 cy of cut and 31,977 cy of fill at the proposed new golf driving range at Spanish Bay; 26,929 cy of cut and 5,030 cy of fill at the Lodge at Pebble Beach (for new underground parking facility); and 38,577 cy of cut and 25,019 cy of fill for the proposed new employee housing facility at the Corporation Yard. Despite these staggering numbers, the County has not restricted such grading such that it does not occur during the rainy season (October 15-April 15) in violation of LUP Policy 3 and 35, and CIP 20.147.030(A)(2).

The County claims that its "policy" allows controlled grading during the rainy season if there is an approved Storm Water Pollution Prevention Plan ("SWPPP"). To the extent that the LCP's prohibition of such grading during the rainy season conflicts with other County policies, the LCP clearly states that Coastal Act and LCP policies shall prevail. IP 20.02.060(D).

(B) Environmentally Sensitive Habitat Areas ("ESHA")

The Project proposes development in significant areas of undeveloped land containing large tracts of native Monterey pine forest, wetlands, riparian areas and dunes. Together, these biologically sensitive areas provide habitat for a number of rare and/or endangered species such as the federally-listed endangered Yadon's piperia and the federally-listed threatened California red-legged frog, among others. Indeed, the Project proposes to convert upwards of 150 acres of Monterey pine forest to urban use, remove approximately 15,000 individual Monterey pine trees, and remove approximately 36,000 individual Yadon's piperia plants, which amounts to a loss of 21% of the total known population of Yadon's piperia. Under any fair reading of the Coastal Act

and the LCP, these areas qualify as ESHA.³ Nonetheless, relying on a strict, but erroneous, interpretation that ESHA is only those areas containing the habitats and species listed in Appendix A to its 1984 LUP, the County failed to identify large areas of these habitats as ESHA. In doing so, the County violated the Coastal Act as well as its own LCP policies regarding the identification and protection of ESHA.

Both the Coastal Act and the LCP require that ESHA be identified, avoided, and buffered. Pub. Res. Code § 30240; LUP Chapter 2; CIP 20.147.040. Indeed, ESHA is to be protected from any significant disruption of habitat value, such that development directly within ESHA is limited to uses that are dependant on ESHA resources and development adjacent to ESHA is compatible with its long term maintenance. Pub. Res. Code § 30240; LUP Policy 8; CIP 20.147.040(B).

The County's interpretation that ESHA is only those areas containing the habitats and species listed in Appendix A to its 1984 LUP is contrary to the Coastal Act and its own LCP policies, and ignores the common understanding that the resources present on the ground at the time of project review are to be used to determine the existence and protection of ESHA under the Coastal Act. Those policies require that when identifying the existence and extent of ESHA, biological surveys completed at the time of the proposed development must be used *together* with previously recognized ESHA to determine the presence or absence of ESHA for coastal development permit review and approval purposes. LUP Policy 12 and 17; CIP 20.147.040(A). If the biological surveys indicate that an area in which plant or animal life or their habitat is rare or especially valuable *today*, those species and habitat must be treated as ESHA as the facts on the ground take priority over dated inventories and maps. The County's LCP expressly recognizes this point by noting that its ESHA maps are simply "background resource material" that "are not definitive and may contain errors or may be incomplete." LUP, p. 6. Further recognizing that its ESHA maps are less than comprehensive, the LCP notes that "there is no substitute for careful field checking by qualified persons to verify the location of coastal resources" and encourages challenges to the accuracy of the maps. *Id.*

For sure, much has changed since the County developed its 1984 LCP and associated ESHA figures and maps. Indeed, several new sensitive species have been discovered and listed as threatened or endangered (e.g. Yadon's piperia, listed as federal endangered species), other species have become more endangered and given new listing status (e.g. Tidestrom's lupine, state and federal endangered species), and yet others have been recognized as threatened due to factors that

³ Indeed, CIP 20.147.020(H) recognizes that Monterey pine forests are environmentally sensitive within its ESHA definition by noting that "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."

did not exist in 1984 (e.g. pitch canker threatens 90% of native Monterey pine stock in Del Monte Forest and as such, is now listed by the California Native Plant Society as seriously endangered in California). All told, a total of nineteen plant species known to exist in the Project area are considered to be rare or endangered, seven of which are state and/or federally listed as such. Despite the significance of these facts and changes, the County has not updated its LCP to reflect them. The County's failure to do so, however, does not mean that the Monterey pine forest or its threatened and endangered species do not currently qualify as ESHA or deserve the protections provided therefore.

In addition to violating the LCP's policies in Chapter 2 regarding the identification and prohibition against non-resource dependent development in ESHA, the Project also violates LCP policies prohibiting subdivisions in ESHA and requiring 100-foot buffers (minimum) around all ESHA, including dunes,⁴ riparian corridors and wetlands. LUP Policy 10, CIP 20.147.040(A)(1) (subdivisions in ESHA); CIP 20.147.040(B) (ESHA buffer); LUP Policy 24 and 27 (riparian/wetland buffer). By failing to identify all areas qualifying as ESHA as explained above, the Project fails to avoid or adequately buffer all areas that qualify as ESHA.

Finally, the Project's failure to comply with the LCP's ESHA policies frustrates several of the LCP's fundamental policies. For example, at page 10 the LUP states:

The environmentally sensitive habitat areas of the Del Monte Forest Area are unique, limited, and fragile resources, which are important to the enrichment of residents and visitors alike. Accordingly, they shall be protected, maintained, and, where possible, enhanced and restored in accordance with the policies of this LUP and the associated policies and maintenance standards of the OSAC Plan. **All categories of land uses, both public and private, shall be subordinate to the protection of these areas.**

LUP, p. 10 (emphasis added). Further, at page 11 and 26, the LUP states:

The natural beauty of the Del Monte Forest is one of its chief assets. The forest resource, in addition to its role in the areas natural environment, is a principal constituent of the scenic attractiveness of the area, which should be preserved for the benefit of both residents and visitors. The Forest is more than an aggregate of trees. It is home to the area wildlife and serves to moderate climatic extremes. Therefore, **long-term preservation of the Forest resource is a paramount concern.**

LUP, pp. 11, 26 (emphasis added). Unfortunately, by violating the LCP's ESHA policies, the

⁴ Similarly, by proposing a new golf course within areas of native sand dunes, the Project also violates LUP Policies 16 and 18, which require that native sand dune habitat be preserved through easements and limit uses therein to low-intensity scientific, educational, or recreational activities *dependant on the resource*.

County has elevated certain land uses above the preservation of the Del Monte Forest and its associated environmentally sensitive species and habitat in violation of its LCP.

(C) Forestry and Soil Resources

The County's LUP policies regarding forest resources (policies 31-39) provide strong protections aimed at preserving the natural forested character of the Del Monte Forest. These policies include requirements (1) that the natural forest and soil cover be retained to the maximum extent feasible; (2) that when policies conflict, preference should go to the long-term protection of the forest resources; and (3) that in reviewing requests for tree removal, land clearing and other development, preservation of the forest's scenic resources shall be the primary objective. LUP Policies 31-35. In failing to recognize the Monterey pine forest as ESHA and apply the LCP's ESHA policies prohibiting non-resource dependant uses therein, the County has violated these LUP policies.

LUP policy 32 underscores the importance that the LCP puts on the preservation of the area's forest resources. There, the LUP prohibits the removal of any Monterey cypress, Gowen cypress or Bishop pine tree except when the tree threatens life, property or access, or is diseased and determined to represent a serious infection hazard to the rest of the forest, and requires the retention and protection of significant Monterey pine trees (living tree > than 12-inches in diameter). Despite authorizing the removal of 536 Gowen cypress trees, 273 Bishop pine trees, 48 Monterey cypress trees and 15,000 Monterey pine trees, the County claims to have complied with this policy because Monterey/Gowen cypress and Bishop pine trees were planted as opposed to existing naturally, and do not qualify for the protections of LUP Policy 32. However, the policy does not limit its protection of native Gowen cypress, Bishop pine and Monterey cypress trees to unplanted trees as the County claims. Instead, the policy protects any and all such trees existing within their indigenous range. By authorizing the removal of these trees from their indigenous range, the County has failed to comply with LUP Policy 32.

Ultimately, the County claims that by requiring the preservation of 702 acres of existing Monterey pine forest and proscribing management plans for the remaining forest resources, the Project's impacts to forest resources, including the loss of 15,000 Monterey pine trees, are mitigated. While the effort to mitigate forest impacts is a positive step as well as a requirement under the California Environmental Quality Act, it does not satisfy the Coastal Act and LCP policies requiring *avoidance* of ESHA and the retention and preservation of the Del Monte Forest to the maximum extent feasible. Indeed, while the preservation of forest resources through negative easements is sound in concept, in this particular case, it presents an illusory benefit as significant portions of the forest to be "preserved" as mitigation qualify as ESHA, and as such, are already protected by the LCP's policies prohibiting non-resource dependant development therein. Moreover, as discussed in the California Department of Fish and Game's March 23, 2004 comment letter on the Project EIR, the County's failure to identify and analyze the ecological subtypes of Monterey pine forest, some of which have extremely limited distribution, undermines the County's contention that the

“preserved” forest areas truly compensate for the forest areas to be displaced and eliminated by the Project.⁵

(D) Land Use Designations/Zoning

The Project is inconsistent with a number of the existing LCP land use designations and zoning standards. The proposed new Equestrian Center at the Sawmill Borrow Site, which is currently designated as Open Space Forest and zoned for Resource Conservation, is inconsistent with the LCP because under these standards, only low intensity day use recreation is permitted. Similarly, the 149 new visitor-serving units at Spanish Bay (91) and the Lodge at Pebble Beach (58) is inconsistent with the LCP because those resorts have already developed all of their allotted visitor-serving units pursuant to Table A of Chapter 3 of the LUP. Also, the 11 new golf course cottages/suites proposed in Areas M and N at the proposed golf course are inconsistent with the LCP because the Lodge at Pebble Beach has already developed all of its allotted visitor-serving units pursuant to Table A of Chapter 3 of the LUP and also because the visitor-serving use is inconsistent with the existing Residential land use designation for Areas M and N. Finally, the portion of the new golf course proposed in Area O is inconsistent with the LCP because Area O is designated Open Space Forest and zoned for Resource Conservation, which only allow low-intensity day use recreation.⁶

In addition, at all of the Project's proposed development sites except development of the new Equestrian Center at the Sawmill Borrow Site and at the Lodge at Pebble Beach, all new development is strictly prohibited by the resource constraints overlay designation pursuant to LUP Policy 113 which prohibits all development until the existing water, sewer and traffic constraints are resolved and the LCP is amended to remove the resource constraints overlay. By approving the Project prior to the Commission's certification of an LCP amendment removing the resource constraints overlay, the County has violated LUP Policy 113.

(E) Public Access

The Project is inconsistent with LUP Policy 124 as the new proposed golf course and

⁵ In its comment letter to the County on the adequacy of its EIR, the Sierra Club expanded on these concerns noting the County's failure to recognize the Monterey pine forest as ESHA or consider the health, threats, or biological diversity of the forest ecosystem in identifying impacts and designing mitigation. That letter was included as an attachment to the Sierra Club's previously filed appeal, which is attached hereto as Exhibit 1.

⁶ The portions of the proposed golf course that are currently designated for residential use may be permitted in such areas pursuant to LUP Policy 86, but would require a reduction in the number of residential units permitted in proportion to the number of acres committed to golf course use.

residential development in Area F-2 will encroach upon and displace existing designated trail routes. The County recognizes this inconsistency, but claims that it is resolved by the fact that the Project proposes 3.6 miles of new trails and will realign the trail displaced by the new golf course such that it connects with the existing trail system. These facts, however, do not resolve the inconsistency because LUP Policy 124 only permits such encroachment and realignment of existing trails when development entirely outside the existing trail route is not feasible due to habitat or safety constraints. No such habitat or safety constraints have been identified as the reason why trail realignment is permissible here, but rather, the relocation of existing trail segments is deemed "necessary" to accommodate the golf course and residential development in Area F-2. Pursuant to LUP Policy 124, the need for a golf course or additional residential development is not recognized as justification for allowing development to encroach upon and displace existing trails.

Additionally, the Project is inconsistent with public access and ESHA policies such as LUP Policies 69 and 79. By relocating the Equestrian Center to the Sawmill Borrow Site, the Project will introduce and encourage new and increased high intensity recreation uses within the adjacent Huckleberry Hill Natural Area ("HHNA") (i.e. horseback riding and pedestrian hiking). The HHNA contains Monterey pygmy forest, Monterey pine forest, Bishop pine forest, special-status plants, wetlands, and riparian areas. Accordingly, the HHNA is recognized as ESHA in its entirety. The introduction of intensive recreation uses into the HHNA such as horseback riding and hiking is contrary to LUP Policy 69 which requires that ESHA shall be protected from both direct and indirect adverse impacts of development and LUP Policy 79 which requires that recreation in ESHA shall be limited to passive, low-intensity recreational uses dependent on and compatible with the sensitive resources.

II. The Pebble Beach Project's Inconsistency with Monterey County LCP as Modified by Measure A

As discussed above, the existing LCP must be used to determine the Pebble Beach Project's consistency with the LCP for purposes of this appeal as it was the operative LCP at the time the Project was approved by the County. While Measure A may have been passed by the voters, the success of the measure at the ballot box does not make the LCP amendments achieved thereby part of the certified LCP as an LCP amendment is not valid until certified by the Commission. Pub. Res. Code § 30514(a). To date, the County has yet to submit all the required information to enable the Commission to adequately review the Measure A modified LCP and consider its certification. As such, the Sierra Club submits that it is improper to consider the Project's consistency with the Measure A modified LCP. Instead, the Project must be analyzed pursuant to its compliance with the existing certified LCP, which as shown above, it fails to comply with on a number of fronts.

Even if the Measure A modified LCP is certified by the Commission without change *and* retroactively applied for the purpose of analyzing the Project's consistency with the LCP, the Project

continues to violate the LCP.⁷ With the exception of the Project's inconsistency with the land use designation, zoning, and resource constraint overlay policies discussed above in section I.D. (which would be cured by certification of the Measure A modified LCP), the Measure A modified LCP does not make any changes to the LCP that would cure any of the other inconsistencies addressed herein, most notably, the Project's inconsistency with the LCP's ESHA policies. As such, the Project is illegal due to significant violations of the LCP, no matter if the existing LCP or the Measure A modified LCP is used as the benchmark for a consistency analysis.

III. The Project's Relocation of the Equestrian Center to the Sawmill Borrow Site is inconsistent with the LCP and the Commission's 1985 Coastal Development Permit for the Spanish Bay Project

As discussed above in section II.D., the proposed new Equestrian Center at the Sawmill Borrow Site, which is currently designated as Open Space Forest and zoned for Resource Conservation, is inconsistent with the LCP because under those standards, only low intensity day use recreation is permitted. Clearly, a sprawling equestrian center including numerous buildings, barns, stables, and other structures will be anything but low intensity recreation. Similarly, the relocation of such intensive recreation directly in and adjacent to ESHA (e.g. HHNA) is inconsistent with LCP policies requiring that recreational uses in ESHA be limited to passive low intensity recreation that is dependent on and compatible with the sensitive resources. For these reasons alone, the Project is ill conceived and contrary to the LCP. More troubling, however, is the fact that the Sawmill Borrow Site was required to be restored and preserved in perpetuity as mitigation for significant impacts to coastal resources from past projects. In essence, the County has sanctioned the revocation of required mitigation for one project (original Spanish Bay Resort development) as mitigation for another (this Project). In doing so, the County has ignored its own LCP which expressly encourages conservation, scenic, and negative easements because they are "powerful tools in **ensuring long-term protection** of natural resource values." LUP, p. 116.

In 1985, the Commission approved several coastal development permits for the construction of the Spanish Bay Resort and golf course. However, those approvals were conditioned on a number of mitigation measures, including a requirement that both the upper and lower portions of the Sawmill Gulch site (Sawmill Borrow Site) be restored and protected in *perpetuity* through the dedication of conservation easements. Those easements were agreed to and implemented. Indeed, the Sawmill Borrow Site's current land use and zoning designations - Open Space Forest/Resource Conservation - reflect these past and ongoing efforts to protect the site as such designations are designed to "protect, preserve, enhance, and restore sensitive resource areas in the County of

⁷ The Sierra Club does not sanction any such retroactive application here, and in fact, strongly believes that doing so would be patently illegal. See Sierra Club March 22, 2004 legal comment letter on the EIR, attached to original appeal and hereto Exhibit 1, pp. 4-11. Instead, the Sierra Club contends that the Project would remain out of compliance with the LCP even assuming *arguendo* that such retroactive application of the Measure A modified LCP was legal.

Monterey." IP 20.36.010.

The County's approval of the Project, specifically its willingness to overlook and revoke those previous mitigation measures is disingenuous, deeply troubling, and illegal. It is disingenuous and troubling because it calls into question the validity of all of the mitigation measures the County has imposed on the current Project, including negative easements to preserve hundreds of acres of Monterey pine forest to mitigate for the Project's removal of 15,000 pine trees, if those measures can simply be eliminated to facilitate future development proposals. More importantly, it is illegal because the County has no authority to amend the previous Spanish Bay permits to revoke the prior protective measures as those permits can only be amended by the Commission. In order to legally approve the current Project, the County and the applicant are required to apply for and receive Commission approval to amend the Spanish Bay permits *prior* to proposing and approving inconsistent development and land uses at the Sawmill Borrow Site. 14 CCR §§ 13164, 13166. Even if the applicant and the County were to apply for such an amendment, the Commission would be required to deny the request under 14 CCR §13166(a) and (c) because the intensive development required to relocate the Equestrian Center to the Sawmill Borrow Site would contravene the restoration and conservation goals of the previous conditions, violate existing LCP land use policies, and exacerbate impacts to the site.

Thank you for your attention to this.

Very Truly Yours,

Stephen E. Velyvis
Attorney for Appellant Sierra Club

cc: Tony Lombardo (via mail only with copy of original March 29, 2005 Appeal)
Efren Iglesia (via mail only with copy of original March 29, 2005 Appeal)