



MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

ALEX HINDS, DIRECTOR

March 18, 2008

Board of Supervisors
County of Marin
3501 Civic Center Drive
San Rafael, CA 94903

RE: Certification of the Lawson's Landing Master Plan, Coastal Permit and Tidelands Permit Final Environmental Impact Report (Final EIR).

Dear Board Members:

RECOMMENDATION:

1. Staff recommends that the Board of Supervisors, review and consider the Final EIR documents and the EIR administrative record, conduct a public hearing on the adequacy of the Final EIR for certification, and
2. Move to approve the attached Resolution to certify the Lawson's Landing Final EIR as adequate and complete pursuant to CEQA, the State EIR Guidelines and the Marin County Environmental Review Guidelines and Procedures. (Draft Board Resolution included as staff report attachment No. 1).
3. After certification of the EIR, consider a separate administrative action to establish a timeframe for submittal by the applicant of project changes and scheduled action by the Planning Commission and Board of Supervisors for consideration of the merits of the project for approval or disapproval.

On January 28, 2008, the Planning Commission voted unanimously to recommend by Resolution No. PC 08-002 that the Board of Supervisors certify the Final EIR for the Lawson's Landing Master Plan, Coastal Permit and Tidelands Permit for the approximately 940-acre property known as Lawson's Landing located south of the community of Dillon Beach and bordered by Tomales Bay on the south and the Pacific Ocean on the west.

After certification of the Final EIR by the Board of Supervisors, the applicants intend to submit a substantially revised Master Plan based on the Mitigated and Reduced Alternatives evaluated in the Final EIR and incorporating all of the mitigations for the project identified in the EIR. Consequently, the Board is requested to take action on March 18th only to certify the Final EIR and establish a timeframe for consideration of the merits of the project. Following certification of the EIR, the revised project Master Plan, Coastal Permit and Tidelands Permit applications will be submitted and scheduled for hearing by the Planning Commission to consider their recommendation to the Board on the merits of the project for approval or disapproval and then subsequently scheduled for final action on the project at a separate later

hearing by the Board. The Planning Commission hearing for project merits recommendation is tentatively scheduled for a Commission meeting in April 2008, followed by Board of Supervisors tentative hearing for final action on the project by the end of June 2008.

The Planning Commission has submitted a letter to your Board recommending that after the Board of Supervisors has certified the Final EIR, you establish a timeframe for consideration of the project merits for approval or disapproval by the Planning Commission and Board based on a deadline for submission by the applicant of a revised Master Plan, Coastal Permit and Tidelands Permit application. (See Planning Commission letter to the Board dated March 10, 2008 included in this staff report as attachment No. 2).

PROJECT OVERVIEW:

Master Plan and Coastal Permit Proposal

The applicants, the Vogler and Lawson families, are seeking approval of the Lawson's Landing Master Plan, Coastal Permit, and Tidelands Permit which includes a land use and development plan and a resource management plan for existing and proposed uses on the project site.

The property consists of beaches, coastal sand dunes, various types of wetlands, and hillside lands. The primary uses on the property are the existing recreational uses and facilities located on approximately 180 acres in the southwestern corner of the property. The existing recreational uses include a 233-space travel trailer and recreational vehicle park, a 1,000-vehicle campground, recreational day use limited to 200 vehicles per day, a boat house, pier and boat mooring areas in Tomales Bay, restroom and laundromat and other associated services, facilities, and activities related to the recreational use.

Proposed changes to the recreation-related facilities and activities in the Master Plan include modifications to the existing water storage and distribution facilities, new leachfield and sewage disposal facilities, remodeling and replacing structures and other facilities on the property, circulation changes on and to the property, and modifications to various recreational activities and programs, including: fishing, clamming, boating (including a boat rentals and a boat launch), a small commercial boathouse, hiking, designation of formal trails through the beach for dunes, beachcombing, environmental education and enhancement, and an RV dump station. There are no changes proposed to the level of existing recreational activities offered at the project site.

The Master Plan includes the existing agricultural (grazing) use occurring over a majority of the property, (approximately 889 acres) and six existing residences and two proposed new residences on the property. Minor changes are also proposed for the existing agricultural use, including a new 1,000 square foot shop attached to the existing barn, new water troughs, reconstruction of the existing barrier fence along the sand dunes of the south ranch and implementation of an agricultural management plan. The Master Plan identifies a sand quarry (allowed by permit since 1971 on approximately 39 acres of the site) which was discontinued by the project sponsors in 2006 (except for required reclamation activities to restore the former quarry area pursuant to an approved reclamation plan).

The existing recreational use and related recreation facilities, as well as the agricultural and residential uses of the property were incorporated into the proposed Master Plan at the County's request so that upon review and possible approval of the Master Plan, there will be one complete record of all the property's entitlements and land use as approved.

Zoning on the property is C-RCR (Coastal, Resort and Commercial Recreation), and C-APZ-60 (Coastal, Agricultural, Production Zone, one unit per 60 acres). Under the C-RCR zoning, a Master Plan is required for the ultimate development of the site. The purpose of C-RCR zoning is to create and protect areas within the coastal zone for resort and visitor serving facilities, with an emphasis on public access to recreation areas.

The proposed Lawson's Landing Master Plan was submitted pursuant to Chapter 22.45 of the Marin County Zoning Code, which describes the procedures for processing master plans and precise development plans in the County. Among the purposes of the master plan procedures are to allow for phased development, provide general direction on site design development, and land uses, as well as protect natural resources, scenic quality, and environmentally sensitive areas. The intent of the procedures is to allow a master plan to lay out the general parameters of a proposed development and its resource protection features, and rely on a subsequent precise development plan or other improvement plans to define the precise details of location, design, and engineering related to construction of the development and its supporting facilities, in a manner that is consistent with the general guidance of the master plan.

BACKGROUND:

Project History and Land Use Review

The Lawson's Landing property was acquired by the Lawson family in the 1920's, with ownership passing to subsequent generations of the Lawson families up to the present. Historic land uses of the site were primarily for agriculture, although recreational activities have taken place on portions of the property for decades. Marin County has exercised varying degrees of regulatory authority and land use reviews for the site since the 1930's and the County and the project applicant have been engaged in a long and complex process to develop a master plan and grant the necessary permits for activities at Lawson's Landing.

The County has sought to gain increased regulatory control over the use of the site since the 1960's. However, in the ensuing years (decades), the County has also acknowledged that the task of determining the extent to which the existing land uses at Lawson's Landing are authorized or unauthorized would be extremely difficult to prove with legal certainty. Such a process would require detailed historical accountings and documentation of activities from the time the property was acquired, through its development history, and throughout the approximately 50 year period the County assumed various levels of jurisdiction over land uses in the area of the County that included Lawson's Landing. (Data to clearly document legal or illegal uses over the entire history of Lawson's Landing is not available. County file records, particularly for the earlier periods of site development are not very conclusive, complete or consistent).

In 1970 County Counsel advised the Planning Director, among other considerations for regulation of the site, that the extent to which the existing use is legal non-conforming is uncertain, but it appeared that a "sizeable portion" may not be legal non-conforming. However, he further advised that it would be difficult to determine the extent of potential legal non-conforming use and recommended, in conformance with previous direction from the Board of Supervisors on the matter, that the Planning Commission require the property owner to submit a Master Plan with upgrades to the existing development to bring the entire operation, both potentially illegal and legal non-conforming uses up to appropriate standards, rather than pursue a zoning violation enforcement action. (County Counsel's 1970 opinion is included in the 10/10/05 staff report to the Planning Commission on the Draft EIR, as attachment #2).

Since that time the County has consistently pursued this regulatory approach to secure a comprehensive Master Plan for all of the uses on the site, rather than enforcement action that could potentially lead to a long protracted legal battle and associated uncertainties, including a potentially less desirable or successful outcome. Master Plan approval would effectively provide for necessary modification of existing uses without resorting to an enforcement process.

A chronology summarizing the County's land use regulation and review for the Lawson's Landing was prepared in the year 2000 by staff in conjunction with an Initial Study prepared for the current Master Plan application. (A copy of this chronology is attached to the 9/12/05 staff report to the Planning Commission on the Draft EIR, as Attachment #1.)

Initial Study and EIR Requirement:

In 2000 John Roberto Associates, a consultant retained by the County at the applicant's expense, completed an Initial Study/Mitigated Negative Declaration for the current project Master Plan and Coastal Permit application. The Initial Study evaluated impacts of the Master Plan based on the assumption that current authorized uses on the property were part of the existing setting baseline and thus not considered in evaluating the potential effects of the proposed Master Plan. This assumption was based in part on the fact that the existing 233 recreational trailers and 1000 vehicle campsites had been previously authorized by the California Department of Housing and Community Development (HCD) via a "permit to Operate" first issued in 1992 long after these uses had been established. Prior to proceeding on this assumption the matter was discussed among staff, the Planning Director, County Counsel and the environmental consultant. The issuance of the HCD "Permit to Operate" was never challenged under CEQA. It was determined that it would not be possible or practical for the County's environmental review to determine the nature or extent of any environmental resources that may have already been impacted by the existing uses permitted by HCD or what previously existing resources were supplanted by existing uses on the site over the years. After detailed review of the historical record (see land use chronology cited above) it was further concluded that this approach was consistent with prior determinations of the Board of Supervisors, Planning Commission and Counsel opinion to proceed with a Master Plan to bring the entire operation up to appropriate standards. Again, there would be substantial uncertainty in the outcome of a code enforcement approach to determine which existing uses were potentially legal non-conforming uses under local County authority, were previously permitted by the County or which might be treated as illegal uses.

In October 2000, the current project application Initial Study and Negative Declaration was circulated to agencies, the public and interested parties for a 30-day review and comment period. Comments were received from several agencies and the public commenting on the need for an EIR for the project. Objections to the Negative Declaration principally included the use of the baseline for existing uses noted above, project impacts related to the proposed leachfield, sand dunes, rare and endangered species, wetland habitat, traffic and access. The County Environmental Coordinator determined based on the comments received that a full scope EIR was required for the project. In consultation with the County, the project applicants subsequently agreed to preparation of the EIR on their Master Plan.

Several commenters on the Initial Study, including an attorney representing environmental groups had questioned the inclusion of the existing site uses in the baseline and legality of the baseline analysis under CEQA. The attorney for the project sponsors had also commented on the baseline, questioning why existing day use was not included and opining that inclusion of existing uses was legal under CEQA. To address this issue in the EIR, the County, with agreement of both attorneys sought a legal opinion from Remy, Thomas, Moose, Manly, a Law firm specializing in CEQA law, regarding the appropriate baseline in this case. Based on this opinion, the County determined to proceed with the Draft EIR utilizing an environmental baseline that included all uses on the project site with use levels at the time the NOP was

published. It was again concluded that this approach was consistent with prior determinations of the County to proceed with a Master Plan process.

Draft EIR process

In 2002, the County independently selected and contracted with the environmental consultant firm, EDAW, to prepare the EIR at the applicant's expense.

In September 2002, a Notice of Preparation (NOP) was distributed to members of the Planning Commission, Board of Supervisors, State Clearinghouse, Federal, State and local agencies and special districts, surrounding property owners, and other interested groups and individuals. The NOP was published in a newspaper of general circulation for a 30-day comment period. A public scoping session was conducted at an evening meeting in the community on December 5, 2002, to further identify environmental issues and concerns of the public for evaluation in the EIR. (Comments received on the NOP and scoping were included in the appendix of the Draft EIR).

Following the NOP and scoping process, the time period for completion of the Draft EIR was subsequently suspended while awaiting additional project and environmental information from the project sponsors concerning the proposed leachfield design, site hydrology issues and other issues developed between 2002 and 2005.

The Draft EIR was completed in July 2005. On July 22, 2005, copies of the Draft EIR, and a notice of the date and place of the public hearing on the adequacy of the Draft EIR were distributed to members of the Planning Commission, Board of Supervisors, State Clearinghouse, Federal, State and local agencies and special districts, surrounding property owners, and other interested groups and individuals. A Notice of Completion was published in a newspaper of general circulation to begin an extended fifty-seven (57) day public review and comment period, which concluded on September 16, 2005.

The Planning Commission held a public hearing on the Draft EIR on September 12, 2005. At that hearing, the Planning Commission received testimony from public agency representatives and members of the public on the analysis provided in the Draft EIR. In some cases, comments were also received on the merits of the project. During the public hearing, a number of comments were received on the development of the environmental baseline for the Draft EIR including comments from Commissioners. After the hearing and after considering the comments received, the Planning Commission decided to continue the public hearing on the Draft EIR to a future meeting. This hearing was subsequently scheduled for October 10, 2005, effectively extending the Draft EIR comment period an additional twenty-four (24) days, from September 16, 2005 to October 10, 2005 and resulting in a total 81-day Draft EIR review and comment period.

On October 10, 2005 the Planning Commission held the continued meeting on the Draft EIR for the Lawson's Landing Master Plan. One of the primary topics under consideration by the Planning Commission at this meeting was whether to recommend that the Draft EIR be revised to incorporate an alternate environmental baseline based on previous comments received and discussed during the September 12, 2005 meeting. After considering the staff report and testimony provided by Marin County Community Development staff regarding the analysis, case law and data used in developing the current environmental baseline, written comments received up to the date of the hearing and public testimony presented at the hearing, the Planning Commission determined that the environmental baseline presented in the Draft EIR did not need to change; therefore, recirculation of the Draft EIR would not be required.

Appeal of the Draft EIR

On October 17, 2005, The Environmental Action Committee, (EAC) and Marin Sierra Club appealed the Planning Commission's October 10, 2005 determination not to revise the Draft EIR baseline or recirculate the Draft EIR. The appeal on the baseline issue was tentatively scheduled for the Board of Supervisors regular meeting on November 22, 2005.

On November 7, 2005 the Environmental Coordinator sent a letter to the EAC and Sierra Club addressing the data used in compiling the baseline use figures used in the Lawson's Landing EIR. The letter included a substantial number of documents confirming existing use figures used in the Draft EIR derived from gate count records during peak season weekends and related file documents going back to the 1970's verifying the existing conditions at the Landing.

On November 15, 2005 the EAC and Sierra Club submitted a letter to the County withdrawing their appeal. In a letter to the EAC and Sierra Club dated November 21, 2005, the Environmental Coordinator confirmed withdrawal of the appeal, again noting that at their October 10, 2005 meeting the Commission accepted the Draft EIR baseline with the use levels identified in the Draft EIR and determined not to revise the baseline or recirculate the Draft EIR.

Intervening Coastal Commission Process

After the withdrawal of the appeal on the Draft EIR, the County initiated preparation of the Final EIR Response to Comments. While in the process of preparing the Final EIR, the California Coastal Commission (CCC) notified the County and project applicant in November 2005 of the CCC's intent to proceed with a Coastal Act violation regarding the existing (baseline) uses on the property. The CCC subsequently issued a letter dated February 21, 2006 alleging that the project applicants had a Coastal Act violation regarding alleged existing unpermitted development at the project site and that enforcement actions were being sought against the project applicant.

In response to this letter, Marin County suspended preparation of the Final EIR to consult further with the CCC. Subsequent discussions were held between County and CCC staff to address potential resolution of the issues raised in the letter. It was agreed that CCC issues regarding alleged unpermitted development at the site were primarily related to the merits of the existing uses of the project site that were to be considered in the County's action on the merits of the Master Plan for approval and not the EIR or EIR existing uses baseline. It was also agreed that the County should have the opportunity to complete in a timely manner its Master Plan and Coastal Permit merits process before any action by the CCC is taken. To inform these merits decisions, as well as provide additional information to implement EIR mitigation regarding the location of facilities proposed to support existing uses, it was determined that additional biological studies including a Coastal Act wetland delineation and more precise identification of environmentally sensitive habitat areas should be done.

In consideration of this, the CCC determined to suspend their enforcement action against the project applicants pending the timely completion of the additional biological studies and completion of Marin County's environmental review and local permitting process. The project applicants were required to submit a formal Coastal Development Permit application to the CCC for review and consideration which would include the additional requested biological studies.

On June 29, 2006, Marin County staff, the EIR consultants, the project applicants and their consultants, and CCC staff met at Lawson's Landing to discuss the protocol and requirements for conducting the additional biological studies that would help determine which uses at Lawson's Landing are potentially proposed or existing in coastal wetlands.

Completion of the project applicant's CCC application submittal and additional studies was delayed, prompting the CCC to issue a Notification of Intent to Commence Cease and Desist Order. In response to this notification, the applicant submitted a project application and entered into a Consent Cease and Desist Order (No CCC-06-CD-15), which reflects the project applicant's agreement to work with the CCC to address existing development on the property through the Marin County and CCC permitting processes. The CCC approved the Consent Order on December 14, 2006.

In February 2007, Marin County and the CCC received copies from the project sponsors of the additional biological studies and a detailed engineering analysis confirming the adequacy of the alternate leachfield site recommended as mitigation in the EIR. On February 27, 2007, Marin County authorized its environmental consultants to peer-review the project applicant's additional studies for inclusion in the Final EIR and resume preparation of the Final EIR for the Lawson's Landing Master Plan.

Final EIR Process

The Final EIR Response to Comments was completed in September 2007. During the total 81-day public review period for the Draft EIR, 113 comment letters were received in addition to testimony received at the hearings on the Draft EIR. Comments received primarily addressed concerns with the programmatic nature of the EIR, Master Plan and project level of detail, existing uses baseline, wastewater system, hydrology, alternate wastewater system location, sand dunes, sensitive species and habitat, wetlands, traffic and access.

The Final EIR provides written responses to all of the written comments, public testimony and comments and concerns of the Planning Commission on the Draft EIR. Text changes resulting from comments and their accompanying responses have been incorporated as track changes Final Draft EIR text. The Final EIR consists of four volumes: Volume IA, Final Draft EIR; Volume IB, Final EIR Response to Comments; Volume IIA Technical Appendix A through L and Volume IIB, Technical Appendix J through N.

On September 28, 2007, copies of the Final EIR documents were distributed to members of the Planning Commission, Board of Supervisors, State Clearinghouse, Federal, State and local agencies and special districts, surrounding property owners, and other interested groups and individuals. A Notice of Availability of the Final EIR was published in a newspaper of general circulation to begin a two week (14-day) public review and comment period on the adequacy of the Final EIR Responses to the earlier comments on the Draft EIR, pursuant to Marin County EIR Guideline procedures. The review period concluded on October 12, 2007.

Final EIR Amendment Process

A total of 23 comment letters were received on the Final EIR during the public comment period. Many of comments reiterate the same comments submitted on the Draft EIR. These principally involved the programmatic nature of the EIR, Master Plan and project level of detail, existing uses baseline, wastewater system, hydrology, alternate wastewater system location, sand dunes, sensitive species and habitat, wetlands, traffic and access. In some cases the responses to comments received on the Final EIR resulted in changes to the text of the Final EIR. Where changes are made to the Final EIR, they are noted in the specific response and shown with track changes in Section 4, "Corrections and Revisions to the EIR," of the FEIR Amendment document. (These track changes are not shown in the Volume IA Final EIR text).

The Final EIR Amendment was completed in January 2008 and incorporates additional responses to comments received during the Final EIR review and comment period. This document is part of the Final EIR for consideration with the Final EIR Volumes IA, IB, IIA and IIB.

On January 4, 2008, copies of the Final EIR Amendment were distributed to members of the Planning Commission, Board of Supervisors, State Clearinghouse, Federal, State and local agencies and special districts, surrounding property owners, and other interested groups and individuals. A Notice of Availability of the Final EIR Amendment was published in a newspaper of general circulation to commence a 24-day public review period prior to the Planning Commission hearing to consider recommendation to the Board of Supervisors (BOS) for certification of the Final EIR as adequate and complete. The 24-day review period was provided as a courtesy to allow interested parties additional time to review and understand responses provided in the Final EIR Amendment prior to the Commission's action for recommendation on certification of the Final EIR.

SUMMARY OF THE MAJOR CONCLUSIONS IN FINAL EIR

Program EIR

The Lawson's Landing Master Plan EIR serves as a program EIR as provided in the State CEQA Guidelines Section 15168. As such, its purpose is to consider the environmental effects of the whole of the proposed Master Plan, consider alternatives to the entire Master Plan, and examine cumulative impacts of the collection of proposed facilities and resource management actions that make up the proposed Master Plan. A program EIR is typically prepared on a series of actions that can be characterized as one large project. A program EIR can be used with plans or other general criteria (such as in this case, a Master Plan for use of the property), to govern the conduct of an ongoing program.

A program EIR can also be used as a first tier EIR that covers the general impacts of a plan or program. As provided in State CEQA Guidelines Section 15152, the level of detail in this type of EIR need not be greater than the detail of the plan or program being analyzed. When the development of detailed, site-specific information may not be feasible in this more general first-tier, program-level analysis, it may be deferred until a more detailed site-specific project is proposed which may require further environmental documentation at that time; as long as an adequate environmental review of the overall plan is provided in the first tier of review.

Environmental Setting Baseline for the Final EIR

The Final EIR evaluates how environmental conditions would be expected to change as a result of implementation of the Lawson's Landing Master Plan. The EIR addresses both the impacts resulting from construction of proposed new facilities to support continuation of existing (baseline) camping and related recreational uses of the site and a cumulative evaluation of the project's contribution to the environmental impacts from existing on-site uses and other projects within the region.

The baseline environmental setting used in the Final EIR, against which environmental effects are evaluated, is the physical environmental conditions that existed in the vicinity of the project at the time the Notice of Preparation was published and the EIR initiated.

The baseline conditions included the existing ranching and agricultural operations, sand quarrying, (since terminated), and the residential uses on the property that are authorized or have been permitted under relevant County zoning regulations as legal uses. The baseline also included the existing recreational uses, such as the 233 space trailer park, 1000 vehicle camp ground and 200 vehicle day use that may or may not have been granted prior County authorization or permit approvals. As discussed earlier, this is because the long and convoluted history of these uses make it neither practical or possible for the EIR to

determine which of these uses or portions of them are legal non-conforming and should be considered part of the existing environment, and which are not legally authorized or permitted uses and therefore not considered part of the existing environment. It is equally infeasible for the EIR to speculate on the environment that may have previously existed in the absence of any unauthorized uses, since existing uses in some cases may extend back for decades.

As previously noted, the County long ago determined that the central purpose of the Master Plan application would be to establish a comprehensive County entitlement for the permissible recreational uses and activities on the site combined with all of the existing permitted agricultural, and residential uses. The baseline for the EIR furthers those objectives.

As discussed in detail in the October 10, 2005 staff report to the Planning Commission, the baseline approach used in this instance was also approved by independent expert CEQA legal review and is in compliance with State EIR Guideline provisions and relevant case law. The EIR is not the appropriate forum for determining the nature and consequences of prior conduct of a project applicant and an EIR is not required to develop a baseline that accounts for alleged prior misuse. Further, use of a baseline that differs from current conditions could interfere, conflict with, or unfairly amplify any separate enforcement action that might otherwise occur. As stated before, the Planning Commission approved the baseline used in the EIR in 2005 and no appeal of that determination succeeded.

It should be understood that including the existing uses, or level of use, in the Final EIR baseline does not confer any County authorization or approval of these uses to Lawson's Landing and does not "grandfather" the uses in the proposed Master Plan. Nor will any findings or conclusions in the Final EIR prevent the County from applying all relevant plan policies and development standards and taking any action it deems appropriate on the proposed Master Plan and other County entitlements. The Planning Commission can recommend decisions on this project ranging from approval with conditions to disapproval of uses or levels of use that do not comply with applicable regulations.

Impacts Identified in the Final EIR

The Final EIR identified 29 significant or potentially significant impacts of the project and 5 cumulative impacts. Mitigation measures have been identified in the Final EIR to reduce all significant project impacts to less than significant, except 3 unavoidable cumulative impacts in conjunction with adverse baseline conditions. The 3 significant unavoidable adverse cumulative impacts involve cumulative geologic impacts for activities in fault and tsunami hazard areas, sand dune degradation impacts, and impacts to sensitive habitats and coastal wetlands. Because these impacts are associated with adverse baseline conditions, CEQA mitigation is not feasible.

Plan Consistency:

The Final EIR found the proposed project was inconsistent with several relevant policies of the Dillon Beach Community Plan, Marin Countywide Plan, Local Coastal Plan Unit II and County Zoning Code. These policy conflicts were related to physical changes that resulted in potential significant CEQA impacts, but were found to be mitigated to less than significant levels, such that the project with mitigation would be consistent with all of the relevant plans and policies and result in less than significant CEQA impacts.

Alternatives

A number of alternatives to the proposed project were considered in the Final EIR, including a No Project Alternative for continued existing conditions and uses for the foreseeable future on the site. A modified No Project Alternative assumes that existing conditions and uses would continue status quo, except that enforcement actions would be taken to remove any and all illegal non-conforming uses and activities.

Other alternatives evaluated include: a reduced scale alternative to reduce the number of facilities and recreational activities on site by one-third; a reconfigured alternative to relocate and reconfigure facilities and uses on site to avoid sensitive and hazardous areas; a mixed use alternative that would change the existing recreational uses to allow differing amounts of activities and use and introduce new or different uses outside of sensitive or hazardous areas; a mitigated alternative that would include all existing and proposed uses and activities with all mitigation identified in the EIR and reduce camping by one-quarter to avoid camping in sensitive coastal wetland and hazardous areas; and an off-site alternative consistent with current CEQA case law.

The mitigated alternative is identified as environmentally superior to the project that would meet project objectives, but would not fully avoid cumulative impacts associated with existing adverse baseline conditions. The reduced alternative is identified as environmentally superior to the project and all other alternatives because it would meet most (but not all) of the project objectives and avoid the project cumulative impacts.

Revised Master Plan Proposal

It should be noted that during preparation of the Final EIR Marin County staff had discussions with the project applicants to review comments made by the Planning Commissioners and commenters on the Draft EIR. County staff strongly encouraged the applicants to consider substantial modification to their proposed project design, particularly the existing recreational uses and location of facilities in relation to sensitive resources and habitat areas. The applicants subsequently notified the County that after certification of the Final EIR by the Board of Supervisors and before Planning Commission consideration of the Master Plan on the merits for approval, they intended to submit a revised Master Plan that would comply with the mitigation identified in the EIR, including changes to the proposed leachfield location and scope and location of the existing recreational camping and trailer uses that would be based on the Mitigated and Reduced Alternatives evaluated in the Final EIR and the additional biological studies.

Information added to the FEIR and FEIR Amendment

The following information was added to the Final EIR (Volume II, Appendix L), after circulation of the Draft EIR for review and comment and before circulation of the Final EIR for review:

Vegetation Communities and Update on Special-Status Species Issues, Lawson's Landing Dillon Beach, Marin County, California prepared by Monk & Associates dated September 12, 2006 and amended October 30, 2006.

Investigation, Presence, and Geographic Extent of Wetlands as Defined by the California Coastal Act, Lawson's Landing, Marin County, California prepared by Monk & Associates dated February 2007.

Lawson's Landing – Alternative Wastewater Disposal Site Evaluation prepared by Questa Engineering dated June 25, 2007.

Additional information was also added to the FEIR Amendment after circulation of the Final EIR for review and comment and before circulation of the Final EIR Amendment:

Marin Countywide Plan Update 2005, Adopted by the Board of Supervisors November 2007. A summary of the new Countywide Plan policies that are relevant to the proposed project is provided (Final EIR Amendment Appendix A) along with analysis of the project's consistency with each policy.

In general, many of the policies identified in the new Countywide Plan that are relevant to the project are similar to previously adopted policies. As identified in the policy summary the project is consistent with all new policies and no changes to the EIR are required as a result of the new policies.

Recirculation of the Final EIR Not Required

State CEQA Guidelines (Section 15088.5), provides that an agency is required to recirculate information in an EIR when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for review. New information added to an EIR is not significant unless the changes deprive the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or feasible way to mitigate or avoid such an effect that the project proponent has declined to implement. Significant new information requiring recirculation can include changes to the project or environmental setting, a new significant environmental impact that would result from the project or from a new mitigation measure proposed to be implemented, or a substantial increase in the severity of a significant impact identified in the Draft EIR, unless mitigation measures are adopted to reduce the effect to insignificance.

Information added to the Lawson's Landing Final EIR and Final EIR Amendment is not significant under this provision of CEQA. Substantial changes to the project or environmental setting have not occurred and no new significant environmental impacts nor substantial increase in the severity of an identified significant impact were identified. Therefore, there is no need to recirculate the Final EIR.

CONCLUSION:

State CEQA Guidelines Section 15151 "Standards for Adequacy of an EIR" provides that an EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision that intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The Courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.

In furtherance of this the State Appellate Court has held that "analysis must be specific enough to permit informed decision making and public participation. The need for thorough discussion and analysis is not to be construed unreasonably, however, to serve as an easy way of defeating projects. What is required is the production of information sufficient to understand the environmental impacts of the proposed project and to permit a reasonable choice of alternatives so far as environmental aspects are concerned."

An EIR is not inadequate for example, when it provides a program level of analysis commensurate with the underlying detail of the project application, or uses an environmental setting baseline that incorporates existing on-site uses. Nor is it inadequate if it doesn't resolve differences of opinion on impact conclusions in the EIR or resolve all matters related to the decision on the merits of the project for

approval or disapproval. An EIR is not required to consider in detail each and every conceivable variation of the alternatives stated; nor is it required to evaluate alternatives to components of a project.

The State Supreme Court has stated that “the purpose of CEQA is to compel government at all levels to make decisions with environmental consequences in mind. CEQA does not, indeed cannot, guarantee that these decisions will always be those which favor environmental considerations, nor does it require absolute perfection in an EIR”.

The Lawson’s Landing project site has been subject to an exhaustive number of technical environmental studies, CEQA EIRs, Negative Declarations, Initial Studies and environmental assessments and land use reviews going back 50+ years. The Final EIR for the current Master Plan has undergone rigorous preparation and processing in full compliance with CEQA, State EIR Guidelines, and County Environmental Review Procedures. Substantial opportunity for public participation in the EIR process and review and comment on the EIR documents has been provided which meets and exceeds the requirements of CEQA and County Environmental Review Procedures. The Lawson’s Landing Final EIR provides thorough discussion and analysis of impacts and alternatives consistent with what is reasonably feasible, and is now adequate and complete to be acceptable for certification as the environmental review for the project. The Final EIR provides sufficient information to make an informed decision on the environmental effects, project mitigations and alternatives, and to proceed to reviewing the merits of the project Master Plan.

On January 28, 2008, the Marin County Planning Commission conducted a public hearing to consider their recommendation to certify the Final EIR and voted unanimously to recommend that the Board of Supervisors certify the Final EIR for the Lawson’s Landing Project.

As previously stated, following the Board’s certification of the Final EIR it has also been recommended that the Board take an administrative action consistent with the Planning Commission letter to the Board dated March 10, 2008 to establish a timeframe for submittal by the applicant of project changes and scheduled action by the Planning Commission and Board of Supervisors for consideration of the merits of the project for approval or disapproval.

- Attachments:
1. Draft Resolution recommending certification of Final EIR.
 2. Planning Commission Letter of March 5, 2008 recommending establishment of a timeframe for merits action and Master Plan revision.
 3. Memo from Tom Lai dated March 18, 2008 to the Board regarding the Proposed Hearing Schedule for Lawson’s Landing Permits
 4. Final EIR Volumes IA, IB, IIA and IIB and Final EIR Amendment and EIR administrative record (copies previously distributed with staff memo of 2/27/08. Additional copies available on request)
 5. Final EIR Errata Sheet