

Appeal of local CDP decision

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1. Appellant information¹

Name: Phillip Seitzer
Mailing address: 6 Seacliff Ave, Daly City, CA
Phone number: 5132651568
Email address: phillipseitzer@gmail.com

How did you participate in the local CDP application and decision-making process?

Did not participate Submitted comment Testified at hearing Other

Describe: I am a concerned citizen who learned of this permit in late 2020.
I have communicated information about this permit and the decision-making process to many other fellow San Mateo County residents.
I believe that this permit is inconsistent with local and state laws.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: _____

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: I contacted the Daly City government regarding local appeal, and they indicated that they believed an appeal would be inappropriate for this permit. No local appeals process was made available to me.

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

3. Identification of interested persons

Formatting example:

First_Name Last_Name <email>

Annie Ellicott <annie@leapup.com>,
Lisa Dunmeyer <lisadun@mindspring.com>,
Hannah (Mae) Blair <hannahblair@gmail.com>,
Phillip Seitzer <phillipseitzer@gmail.com>,
Marie Seitzer <galomarie@gmail.com>,
Holly Prohaska <hollypro@hotmail.com>,
David Allen Ingram <daibuilders@yahoo.com>,
Miles Brooks <miles@grassrootsecology.org>,
john wood <johnwood415@gmail.com>,
Brenda Ingram <bkingram@yahoo.com>,
Antoinette Mogannam <tm626@hotmail.com>

4. Grounds for this appeal

This permit, UPR-09-20-014692, is itself associated with a geotechnical survey, and does not itself propose new development.

However, the act of conducting the test resembles development in several important ways. This is particularly true in the context of Daly City LCP laws designed to mitigate, regulate, and manage disruption and destruction of the coast and surrounding area that may occur during construction.

The initial project proposes to create six vertical borings, five test pits, and a trench. There is expected to be approximately 350 cubic yards of cut from trench and test pits. The machinery necessary to produce these borings is expected to generate noise roughly comparable to an idling semi truck.

Daly City LCP p. 40 item 2 states

“The development and use of Mussel Rock Park, Daisaku Ikeda Canyon, and Thornton State Beach shall include measures to protect and mitigate existing plant and animal communities.”

(underlines mine)

The proposed test site is directly adjacent to Thornton State Beach. The noise, dust, and debris kicked up in the boring process may disturb local plants and animal communities. No measures have been proposed by the permit applicants addressing this statute.

Additionally, **LCP p. 42 Item 4** states

Development of remaining vacant parcels along the bluffs shall be prohibited, unless geologic and seismic constraints and public safety requirements can be mitigated (Goal 3 and Section 30253)

The act of boring the large holes proposed in this geotechnical survey may itself destabilize the cliffs, increasing the chances of landslide or otherwise cause or enhance coastal erosion. The displaced material would directly affect adjacent (and downhill) Thornton State Beach. No measures have been proposed to demonstrate that the boring and trench-digging process would not cause such an event.

In order to safely assess the geologic and seismic constraints and public safety requirements, there should be assurances that the boring of the large holes and digging of trenches will not cause undue stress or damage to the land in and around the proposed test site. At a minimum, an additional (preferably noninvasive) test should be conducted to determine if the digging and boring proposed in CDP UPR-09-20-014692 can be safely performed.

It's worth mentioning that this and surrounding areas have historically suffered a high degree of coastal erosion and landslides. Previous surveys (including one conducted as recently as 2019) of the area have found it to be unsuitable for construction. The documented history of instability, in my view, elevates the importance of proceeding cautiously, and delaying or disallowing this test to occur (if appropriate).

In fact, the Daly City legislature recognized the fragility of the area, and codified this concern in the **Daly City Resource Protection (-RP) Combining District of the Zoning Ordinance**. Pursuant of this ordinance,

“grading or filling operations except for those required as drainage and erosion control measures, and requires permanent vista corridors of at least five feet or 15 percent of the lot, whichever is greater, for any development which occurs within the district.”

The testing site itself is also in violation of the **Daly City Resource Protection (-RP) Combining District of the Zoning Ordinance**:

“construction within 50 feet of the bluff top, on a slope greater than thirty percent, or where the vertical relief is ten feet or greater.”

The above Daly City LCP statutes directly address concerns associated with the geotechnical survey test.

Other Statutes in the Daly City LCP associated with development on the proposed test site may be less relevant for CDP UPR-09-20-014692, however, it is worth including them here both so that (1) this permit may be understood as one of a series of permits (ultimately concluding in a permit requesting development of a large commercial property), and that (2) the ethos of the relevant Daly City LCP statutes may be communicated (a theme of caution, limited development, and community benefit and buy-in will emerge).

The current **Daly City LCP p. 20, item 30222 (Visitor-serving commercial recreational facilities)** protects use of private land for visitor-serving recreation:

“The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.”

Construction on coastal bluffs is specifically addressed, requires extensive assurances of safety, and community approval and buy-in:

From **Daly City LCP p. 42**:

“

1. *City review and approval of all new development shall insure that the rights and privacy allowed by law of existing residents are protected, and that existing and proposed recreational uses are protected and, where feasible, enhanced. (Goal 1 and Sections 30240(b), 30250(a), and 30253)*

 2. *Development of the vacant privately-owned and state-owned properties on the blufftop overlooking Thornton State Beach shall be reserved for recreation and visitor-serving uses. (Goal 1 and Section 30222)*
- ”

The filers of this permit asserted that they were granted an exemption under CEQA. The specific exemption was not communicated to the general public. This unconditional CEQA waiver is inappropriate under **Daly City LCP p. 42a:**

“A resource protection zone shall be established between the sea and the first public road paralleling the sea. All development within this zone shall be subject to strict environmental review. (Goal 4 and Section 30253)”

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5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Phillip Seitzer

Print name _____



Signature

01/07/2021

Date of Signature _____

5. Representative authorizations

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

⁵ If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

⁶ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

CALIFORNIA COASTAL COMMISSION

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SAN FRANCISCO, CA 94105-2219
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**DISCLOSURE OF REPRESENTATIVES**

If you intend to have anyone communicate on your behalf to the California Coastal Commission, individual Commissioners, and/or Commission staff regarding your coastal development permit (CDP) application (including if your project has been appealed to the Commission from a local government decision) or your appeal, then you are required to identify the name and contact information for all such persons prior to any such communication occurring (see Public Resources Code, Section 30319). The law provides that failure to comply with this disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment and may lead to denial of an application or rejection of an appeal.

To meet this important disclosure requirement, please list below all representatives who will communicate on your behalf or on the behalf of your business and submit the list to the appropriate Commission office. This list could include a wide variety of people such as attorneys, architects, biologists, engineers, etc. If you identify more than one such representative, please identify a lead representative for ease of coordination and communication. You must submit an updated list anytime your list of representatives changes. You must submit the disclosure list before any communication by your representative to the Commission or staff occurs.

Your Name Phillip Seitzer

CDP Application or Appeal Number _____

Lead Representative

Name _____

Title _____

Street Address. _____

City _____

State, Zip _____

Email Address _____

Daytime Phone _____

Your Signature _____

Date of Signature _____

Additional Representatives (as necessary)

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Your Signature _____

Date of Signature _____