#### CALIFORNIA COASTAL COMMISSION

Filing Information (STAFF ONLY)

NORTH CENTRAL COAST DISTRICT OFFICE 455 MARKET ST., SUITE 228 SAN FRANCISCO, CA 94105-2420 (415) 904-5260 NORTHCENTRALCOAST@COASTAL.CA.GOV



#### APPEAL FORM

Appeal of Local Government Coastal Development Permit

District Office: North Central Coast	
Appeal Number:	
Date Filed:	
Appellant Name(s):	

#### **APPELLANTS**

**IMPORTANT.** Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review the appeal information sheet. The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's contact page at https://coastal.ca.gov/contact/#/).

Note regarding emailed appeals. Please note that emailed appeals are accepted ONLY at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the North Central Coast district office, the email address is <a href="MorthCentralCoast@coastal.ca.gov">NorthCentralCoast@coastal.ca.gov</a>. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's <a href="contact-page">contact page</a> at <a href="https://coastal.ca.gov/contact/#/).

ormation <sub>1</sub>
Phillip Seitzer
6 Seacliff Ave, Daly City, CA
5132651568
phillipseitzer@gmail.com
ipate in the local CDP application and decision-making process?
te Submitted comment Testified at hearing Other
a concerned citizen who learned of this permit in late 2020.
communicated information about this permit and the decision-
g process to many other fellow San Mateo County residents.
ve that this permit is inconsistent with local and state laws.
cipate in the local CDP application and decision-making process, y you should be allowed to appeal anyway (e.g., if you did not e you were not properly noticed).
w you exhausted all LCP CDP appeal processes or otherwise identify allowed to appeal (e.g., if the local government did not follow proper earing procedures, or it charges a fee for local appellate CDP acted the Daly City government regarding local appeal, and they
ted that they believed an appeal would be inappropriate for this
that they believed an appear weard be mappropriate for this
t. No local appeals process was made available to me.

<sup>&</sup>lt;sup>1</sup> If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

2. Local C	DP decision being appealed:	
Local gover	nment name:	Daly City
Local gover	nment approval body:	Planning Commission and City Council
	nment CDP application number:	UPR-09-20-014692
J	nment CDP decision:	CDP approval CDP denial3
Date of local government CDP decision:		December 14, 2020
Date of look	ii government obi "decicion.	
		f the development that was approved or
denied by the Describe:	ne local government. Geotechnical subsurface investi	gation to characterize and evaluate
	geotechnical hazards on the property s	situated at 2152 Olympic Way, Daly City, CA
	(a ~4.27 acre site)	
,		

<sup>&</sup>lt;sup>2</sup> Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

<sup>&</sup>lt;sup>3</sup> Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the <u>appeal information sheet</u> for more information.

#### 3. Identification of interested persons

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., the applicant, other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

Interested persons identified and provided on a separate attached sheet

### 4. Grounds for this appeal4

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

Describe:	Please see attached document.

<sup>4</sup> Attach additional sheets as necessary to fully describe the grounds for appeal.

### 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 <u>use</u> of Mussel Rock Park, Daisaku Ikeda Canyon, and <u>Thornton State</u> <u>Beach</u> shall include measures to protect and mitigate existing plant and animal communities."

(underlines mine)

The proposed test side 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 blufftops 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 statues 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)"

### 5. Appellant certification5

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

Phillip Seitzer
Print name
phillip Sitse
Signature
01/07/2021
Date of Signature
5. Representative authorization <sub>6</sub>
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.

<sup>&</sup>lt;sup>5</sup> If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

<sup>&</sup>lt;sup>6</sup> 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

45 FREMONT, SUITE 2000 SAN FRANCISCO, CA 94105-2219 VOICE (415) 904-5200 FAX (415) 904-5400



### **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 P	nillip Seitzer
CDP Application	or Appeal Number
Lead Rep	presentative
Name	
Title	
Street Ac	ldress.
City	<u> </u>
State, Zip	
Email Ad	dress
Daytime	Phone
Your Signature	
Date of Signatu	re

## Additional Representatives (as necessary)

Name	
Title	
City	
State, ZIP	
Email Address	 
Daytime Phone	
<b>すい</b>	
City	
State Zin	
Fmail Address	—
Daytime Phone	
Daytime Fhone	
Name	
City	
State, Zip	
Email Address	
Daytime Phone	
Name	
Tille	
Street Address.	
City	
State, ZIP	
Email Address	
Daytime Phone	
Your Signature	
-	
Date of Signature	