



2565 Puesta Del Sol Road #3
Santa Barbara, CA 93105
(805) 682-2065
storrer.john@verizon.net

Nicole Lieu
County of Santa Barbara
Planning & Development Department
Environmental Review Division
123 E. Anapamu Street
Santa Barbara, CA 93101

December 23, 2013

Re: Response to Comments Made in Letter of Appeal by Gaviota Coast Conservancy (GCC) and Surfrider Foundation – Paradiso Del Mare Residential Development Project EIR

Dear Ms. Lieu:

As you requested, I have reviewed comments submitted in support of the appeal filed by GCC and Surfrider Foundation regarding the Santa Barbara Planning Commission's recent approval of the Paradiso Del Mare project. As directed, I have focused on the comments relating to white-tailed kites. I have also provided some response to the comments concerning the EIR analysis of impacts to harbor seals. Also as requested, I've attached a vitae and summary of my qualifications relevant to marine mammals.

Many of the comments are redundant with those made previously on the EIR, most of which were reiterated in public testimony at the two Planning Commission Hearings. Where possible, I've tried to expand on my previous responses in hopes of providing new insight.

Note that I have paraphrased the comments as they appear in the letter and then added a response to each.

White-tailed Kites

Comment: The development setback from the nest tree observed in spring of 2013 is inadequate and is inconsistent with LCP policy.

Site context must be taken into account when considering compliance with applicable CLUP policies. These factors should also be considered: 1/ there are many suitable nest trees on the subject property; 2/ the species demonstrates a weak tendency toward nest site fidelity; and 3/ the proposed project design includes over 100 acres of open space that would be managed in part to sustain breeding and foraging habitat for the white-tailed kites. Assuming that the intent of the policy is to ensure long-term utilization of the site for nesting by white-tailed kites, then I would argue that preservation and management of a large, contiguous tract of land specifically for that purpose is more essential and constitutes better mitigation than preservation of a single tree that has been used for nesting on one occasion.

Comment: Development of the Ocean Estate will discourage kites from using the nest tree in the future.

I think that's true. Given the availability of other suitable nest trees proximate to good foraging habitat and that fact that the species does not typically nest in the same tree from year-to-year, I think that kites will chose a location more distant from human habitation.

Comment: The observation of six (6) fledglings produced from a single nest on the property in 2013 indicates that this is an extraordinary site in terms of its capacity to support white-tailed kites. Further study is needed to explore the habitat characteristics and (perhaps) dietary preferences that enable such prolific breeding before the site is developed.

Production of six (6) young from a single nest is apparently unprecedented and is accurately termed "extraordinary". But the implications of this single event are vastly overstated. The assertion that this site has a unique ability to support white-tailed kites ignores the following facts:

- Successful nesting has been documented only twice in 11 years since surveys for white-tailed kites have been conducted on the property. Systematic surveys for white-tailed kites covering both the breeding and non-breeding season have been performed by professional biologists in at least six years: 2002; 2005; 2006; 2007; 2011; and 2013 over that 11-year span. During that period, successful nesting has been documented twice, in 2002 and 2013. In each of those two years, second pairs of kites attempted to breed, but were unsuccessful. Compare this with "traditional" coastal kite territories such as Ellwood Mesa and More Mesa where breeding by at least one pair of kites has occurred almost, if not every year during that same period.
- In 2002, a single nest produced five (5) fledglings, which is also considered unusual, if not extraordinary. Since then, kites were not documented nesting anywhere on the property until 2013, in a different tree than the one occupied in 2002.
- Failure of the second nest in both 2002 and 2013 suggests that perhaps factors other than prey availability or accessibility were responsible for the unusually high production of the two successful nests. I believe it is more likely that individual fitness or experience of individual adult pairs of kites was responsible for successful reproduction.

While it would perhaps be interesting or even useful to be able to investigate the factors influencing reproductive success or failure for this particular site, the scope of such studies would be well beyond the level of detail required for CEQA analysis. White-tailed kite use of the site was thoroughly researched given the best available information. The research included a comprehensive literature review and field surveys. This information indicates that the site has been used for foraging on a year-round basis in most years, with an increase in foraging activity near the end of the nesting season by both mature and immature birds. Nesting has occurred on an occasional basis. Nighttime communal roosting has not been documented.

The EIR offers the following summation of white-tailed kite activity on the Paradiso property:

“The resulting information indicates that the site has been used for foraging on a year-round basis in most, if not all years and that nesting has occurred in some, but not all years. Observations also suggest that the site is used for foraging post-breeding, by adult and juvenile kites that may have nested on adjacent properties.”

This characterization is both accurate and supported by the best available evidence.

Comment: Without any explanation why the kite nest in the Ocean Estate tree was more successful than any previously documented kite nest, and during an exceptionally bad year for kite breeding success, it would be reckless to “sacrifice” by developing in such close proximity and relying on the explanation that these kites will simply find another comparable habitat assemblage.

See previous response to explanation as to possible (and more plausible) explanation of 2013 nesting success. Reference to “sacrificing”, though dramatic, is taken out of context from my previous correspondence with County staff. The term was not intended to suggest ritual or ceremonial execution. “Close proximity” is a redundant use of terminology. It’s like saying “round circle”.

Comment: The record demonstrates that the 75-100 ft. buffer was devised because it was the largest possible buffer that would still enable development of the Ocean Estate in its current location, not because it is the distance adequate to protect the kite nest tree.

That statement is partially true. The Ocean Estate development envelope was sited in consideration of several physical and environmental resource constraints, including biological (wetlands), geological (bluff setback), and archaeological.

It is reasonable to adjust setbacks based on site context and (in this case) characteristics of a particular nest site. Kites are known to nest in proximity to occupied dwellings (i.e. within 50-100 feet). However, it is acknowledged that setbacks of 75 feet for the driveway and 100 feet for the residence are the minimum that could be considered reasonable.

Harbor Seal Rookery

Comment: The baseline information with respect to the Naples Harbor Seal Rookery does not comply with CEQA. Additionally, it appears that no marine mammal expert participated in the preparation of the EIR.

The discussion of the Naples harbor seal rookery in the DEIR was expanded in consideration of Mr. Howorth's comments on this subject. The text was revised to include a description of regional context, regulatory status, and (most importantly) data collected during a year-long study of the Naples haulout site completed under the supervision of Dr. Charles Woodhouse, former curator of Vertebrate Zoology and Marine Mammalogy at the Santa Barbara Museum of Natural History. This information was used as a basis for the impact analysis and development of mitigation measures. The baseline information, impact analysis, and compensatory mitigation do in fact comply with CEQA guidelines.

The expanded analysis was completed largely by John Storrer, a professional biologist with 37 years of collection, necropsy, survey, census, capture and tagging, and instructional experience with marine mammals. A copy of Mr. Storrer's resume and summary of qualifications are attached to this correspondence.

Comment: The EIR fails to analyze whether construction and occupancy of the Ocean Estate will result in impacts to the seal rookery.

The issue of noise, vibration, lighting, and visual disturbance generated by construction and occupancy of the Ocean Estate dwelling and its potential for impacts on the harbor seal haulout were adequately analyzed in response to Mr. Howorth's comments. That information was presented at both Planning Commission Hearings and has been made available to the public.

Comment: The EIR fails to discuss visibility from the ocean and the potential for construction activity and occupancy of the dwelling to affect haulout patterns.

Although Mr. Howorth disputed this point during his testimony at the second Planning Commission Hearing, the Naples site has been and is currently used primarily, though perhaps not exclusively, as a nighttime haul-out. This was evident during the study done by UCSB/SBMNH in the mid-1970s when 49 visits to the site were made during a five-month period (late October to mid-April). The haul-out pattern was established through (8) visits during nighttime hours, 13 visits during daytime hours, and 28 visits from dawn until sunrise. One can speculate as to the reasons for this pattern, but it more than likely results from daytime use of the beach for recreation. It is perhaps relevant that the Carpinteria harbor seal haulout was used primarily during nighttime hours prior to controlling public access. Construction will occur during daytime hours only and the related effects of noise, vibration and visual disturbance will be less than significant as has been demonstrated.

It is obvious that the dwelling will be visible from several points from the water. The question is whether the presence of the structure and associated lighting will deter harbor seals from approaching the haul-out, from which point visual analysis has demonstrated that the dwelling will not be visible. Consider that harbor seals are not particularly averse to lighting or human activity while in the water. They are commonly observed in Santa Barbara Harbor for example.

Harbor seals at the Carpinteria haul-out have increased their use of the site in recent years despite the presence of an industrial pier and parking lot with associated lighting and human activity on the adjacent bluff. It seems unlikely that harbor seals will abandon the Naples haulout, which has been used for decades, because of the presence of a single residence.

Comment: It is apparent that no bona fide expert on marine mammals participated in the preparation of the Revised EIR.

See previous response and attachments regarding qualifications of John Storrer.

Please call me if you wish to discuss any of my responses to comments.

Sincerely,

A handwritten signature in black ink, appearing to read "John Storrer", with a stylized, cursive script.

John Storrer
Storrer Environmental Services

attachments: curriculum vitae, John Storrer
summary of qualifications, John Storrer