

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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(562) 590-5071

**FILE COPY**

1/18/2012

Schmitz & Associates, Inc.
Attn: Don Schmitz & Donna Tripp
5234 Chesebro Rd, Ste. 200
Agoura Hills, CA 91301

Re: **NOTICE OF INCOMPLETE APPLICATION**
Application No. 5-11-302 (Sunset Ridge Park)
Site Address: 4850 West Coast Highway, Newport Beach, Orange County

Dear Mr. Schmitz and Ms. Donna Tripp:

On December 19, 2011, our office received the subject coastal development permit application. The proposed project is the construction of an active recreational park. We have reviewed all of the materials you have submitted and have concluded that additional information needs to be submitted in order to complete your application and schedule it for a public hearing. Please accept this letter as notification that your application is incomplete pending receipt of additional information necessary for a thorough analysis of your project by Commission staff. In order to complete your application please submit the following:

- **Buffers.** Much of the discussion in the staff report and hearing for Permit 5-10-168 concerned the width of buffers on the site. Although the revised application, which was just submitted, has eliminated much of the interface between development and Environmentally Sensitive Habitat Area (ESHA) through the elimination of the access road, the project still involves development adjacent to ESHA.

The width of buffers to ESHA varies depending on the proposed intensity of development and the sensitivity of the adjacent resource, but has typically required a minimum of 100 feet between development and gnatcatcher occupied ESHA. The biological memorandum by Dr. Jonna Engel for permit application 5-10-168 also recommends a buffer distance of 100 feet for areas on the western boundary of the City property. These buffers may also be required to be vegetated with appropriate native vegetation where necessary to protect habitat. In certain cases these buffers have been reduced to accommodate unusual circumstances on the project site; however it should be stressed that these reductions in buffers have been exceptions to the typically applied distance. In order to assure adequate protection to ESHA, projects should maximize the buffer width, and only request a reduction in buffer width where the maximum cannot be provided and where the buffer proposed will be amply protective of the resource.

The current project includes buffers between approximately 0 and 11 feet. Please submit an alternative plan showing a 100 foot buffer between ESHA areas and all development, including grading. The alternative plan should be consistent with requirements within the City of Newport Beach Land Use Plan. Please also submit a description of the effects on the proposed project that would result from usage of the alternative plan utilizing a 100 foot buffer on the subject site.

- **Preliminary Habitat Management Plan.** The project site includes areas of ESHA occupied by gnatcatchers and areas adjacent to gnatcatcher occupied ESHA. As described in the biological memorandum for Coastal Development Permit 5-10-168, development of a park at the project site may have impacts on adjacent ESHA. Therefore, please submit a preliminary Habitat Maintenance and Management Plan outlining the

procedures that will be taken to ensure that native habitat stays healthy and robust in perpetuity for the preserved or restored areas on the site.

- **Proposed maintenance access road.** The project proposes to allow emergency and maintenance vehicles to access the park site through the NOV area on the lower portion of the subject site. The access road then continues north, and eventually reaches the boundary of the Newport Crest condominium complex. Please answer the following questions regarding the maintenance access road:
 - a. The NOV areas were declared as ESHA as a result of previous Commission action. What steps will be taken to ensure that maintenance and emergency vehicles do not result in impacts to ESHA? Please indicate such measures on the project plans.
 - b. Are any improvements proposed to the existing maintenance road between the NOV areas on the western boundary of the park site? What materials will compose the maintenance road there and at elsewhere on the site?
 - c. What is the purpose of the planned linkage between the Newport Crest condominium complex and the access road? Could the required emergency and maintenance vehicle access be handled through this proposed linkage instead of through the NOV area?

- **Fencing.** The submitted plans indicate that fencing is proposed on the western portion of the project site. Please submit a fencing plan indicating the proposed fencing design, whether measures are proposed to allow the crossing of wildlife to the park site, and an analysis by a qualified biologist on the effect that the proposed fencing plan will have on the circulation of wildlife in the area.

- **Landscaping.** Thank you for the submittal of the proposed landscaping plan. Please provide the following information required for a complete review of the proposed project:
 - a. The Commission has typically required that landscaping consist of native plants and/or non-native plants provided they are drought tolerant and non-invasive. The submitted plans include landscaping categories, but it is unclear what specific species are proposed for each landscaping area. Please provide a list of species for each landscaping category, and identify whether the species are: non-invasive, native, or drought tolerant.
 - b. On page 24 of the biological memo for permit application 5-10-168, the Commission's staff ecologist writes that irrigation practices can lead to the proliferation of invasive species, such as the Argentinian ant, a species that has been documented to predate gnatcatcher chicks. Please submit a written description of proposed irrigation practices, including proposed irrigation measures (such as sprinklers or driplines), frequency of irrigation, and measures that are proposed to ensure that only the required irrigation amounts are delivered.
 - c. The proposed landscaping plan would result in the elimination of areas composed of disturbed native habitat on the edges of the park site and their replacement with what appears to be ornamental vegetation. The California Coastal Gnatcatcher has been identified in some of these areas, and the areas likely provide foraging habitat for the gnatcatcher. Replacement of areas of disturbed native scrub vegetation with other non-scrub vegetation may result in a reduction of available foraging habitat for the gnatcatcher. Additionally, the development of the proposed project would result in an intensification of use at the site which may result in other impacts to ESHA areas. Therefore, please submit an alternative landscaping plan which provides

expanded habitat suitable for use by gnatcatchers. Where possible, these areas should be contiguous with areas of ESHA.

Please note that the following is a comment that is advisory in nature, and is not a filing requirement: In the creation of the alternative landscaping plan, the City may wish to consider including the slopes along West Coast Highway and/or the slopes along Superior Avenue into the expanded habitat areas. The factors that staff views are in favor of expansion of habitat in this area include: expansion would not disturb the active recreational components of the park project, expansion would seem to fit with the more passive recreational opportunities provided by the proposed access paths to the park site, and expansion here would provide habitat contiguous with existing ESHA which would maximize habitat value.

- d. The proposed landscaping plan includes areas designated as 'not to be disturbed.' Please provide additional information regarding these areas. Specifically, please clarify the extent of activities proposed within these areas, what would be required to restore these areas, and the reasons these areas have been designated as 'not to be disturbed'.
 - e. Please describe the purpose of the 'water infiltration area,' and state what substrate and vegetation species are planned in this area.
- **Biological Surveys.** A total of three years have passed since focused (protocol) surveys for California gnatcatcher and burrowing owls were last conducted on the project site. The site supports habitat suitable for both of these sensitive species that is immediately adjacent to or near identified environmentally sensitive habitat. Additionally, the site supports habitat suitable for raptor foraging, and a number of raptor species, including Cooper's Hawks, a species on the CDFG's watch list, were observed on the proposed project site in 2009. Therefore, please submit new focused, protocol, 2012 survey reports for California gnatcatcher and burrowing owls, and a 2012 raptor foraging survey report. Raptor foraging surveys must consist of a minimum of three sampling days that are designed (timing and duration) to best assess the foraging patterns/behavior of the raptor species known and expected to utilize the proposed project site.
 - **Water Quality.** What are the proposed water quality measures for the proposed project and where would they be located? What changes are necessary for the preliminary water quality management plan submitted in the EIR? Have the water quality measures for the proposed site been adequately sized to address the impacts associated with construction of the park project?
 - **Geologic Stability.** Please submit a letter by a qualified professional answering the following questions: a) Has the geologic stability of constructed slopes on the site been addressed? b) Do the constructed slopes meet the standard factor of safety? If not, why not?
 - **Parking/Access.** The EIR for the project estimates a parking requirement of 96 spaces. The submitted application states that 64 spaces will be provided at the existing parking lot at Superior Avenue. Does the proposed project include adequate parking? Are shuttles or other parking management features proposed? What measures are proposed to ensure that the proposed use of the Superior Avenue does not conflict with visitors using the lot to access the beach during the peak summer period? What measures are proposed to improve pedestrian accessibility to the site from the Superior Avenue parking lot? Does the City wish to incorporate these improvements into the CDP application?

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- **Mowing Activities.** Commission staff is still reviewing the submitted information regarding vegetation clearing/mowing activities on the subject site and may have additional questions on this issue in the future.
- **Noticing.** Significant numbers of hearing notices were returned to the Commission's office for hearings for permit number 5-10-168. Some of the notices indicated that they were returned because the one year forwarding service with the US Postal Service has expired. To ensure that all interested parties, including owners and current occupants, receive notice of the project, please review the submitted mailing list to ensure that the mailing list is up to date.

Please do not limit your submittal to the above mentioned items. You may submit any information which you feel may help Commission staff gain a clear understanding of the scope of your project. Upon receipt of the requested materials we will proceed with determining the completeness of your application.

Thank you for your attention to these matters. If you wish to discuss the requirements above, I can be contacted at (562) 590-5071.

Sincerely,



John Del Arroz
Coastal Program Analyst

cc: Dave Webb and Andy Tran, City of Newport Beach