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Staff Report: December 20, 2001
Hearing Date: January 9, 2002

STAFF REPORT – APPEAL
SUBSTANTIAL ISSUE

APPEAL NO.: **A-2-SMC-01-032**

APPLICANT: **Thomas Da Rosa**

LOCAL GOVERNMENT: **San Mateo County**

ACTION: **Approved with Conditions**

PROJECT LOCATION: Coronado Avenue, Miramar, San Mateo County. APN 048-013-570

PROJECT DESCRIPTION: Construction of a 36-foot-high, 3-story 1,800-square-foot, single-family residence, an attached 440-square-foot garage, tandem parking arrangement and three test wells for domestic use.

APPELLANTS: Committee for Green Foothills, Barbara K. Mauz, Robert La Mar, Steve Marzano, Ric Lohman, and Larry Kay

SUBSTANTIVE FILE DOCUMENTS: Kleinfelder, INC 1989a. "Draft Montara-Moss Beach Water Well EIR," prepared for the County of San Mateo, Department of Environmental Management, Planning and Development Division.

1.0 EXECUTIVE SUMMARY

The approved development is a 1,800-square-foot, 36-foot tall single-family residence and a domestic well with up to three test wells on a vacant 4,400-square-foot parcel. The Commission received four appeals of the County's approval of the proposed development. The full text of the

appellants' contentions as submitted to the Commission is included in Exhibits 5-8. Many of the contentions are repeated in somewhat different form in the various referenced documents. For purposes of the analysis, staff has consolidated the contentions into general categories as discussed below.

The contentions allege inconsistency with San Mateo County LCP policies regarding (1) density, lot-size, setback and parking standards; (2) the protection of environmentally sensitive habitat areas; (3) water resources; (4) coastal hazards / flooding; (5) visual resources; and (6) traffic congestion. The appellants also contend that the approved development violates the California Environmental Quality Act (CEQA), the public notice provisions of California State Government Code, and that the project site is not a legal lot.

Staff recommends that the Commission find that the appeals of the development approved by San Mateo County raise substantial issues regarding the conformity of the approved development to the sensitive habitat and groundwater resource policies of the San Mateo LCP. Staff also recommends that the Commission further find that the appeals do not raise substantial issues concerning scenic coastal resources, density / lot size, set-back and parking standards, traffic congestion, and coastal hazards / flooding policies of the San Mateo Local Coastal Program. Furthermore, staff recommends that the Commission find that the contentions regarding violation of CEQA and inadequate public notice are invalid grounds for appeal.

2.0 STAFF RECOMMENDATION

Substantial Issue

The staff recommends that the Commission determine that substantial issue exists with respect to the grounds on which the appeal has been filed.

Motion

I move that the Commission determine that Appeal No. A-2-SMC-01-032 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

Staff Recommendation

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution to Find Substantial Issue

The Commission hereby finds that Appeal No. A-2-SMC-01-032 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency of the approved development with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

3.0 PROJECT SETTING AND DESCRIPTION

3.1 Project Location and Site Description

The approved development is located on a substandard 4,400-square-foot lot located on Coronado Avenue, in the unincorporated Miramar area of San Mateo County. The property is zoned R-1/S-94 (Single Family Residential/10,000 square-foot minimum parcel size, 50-foot minimum parcel width), DR (Design Review), and CD (Coastal Development); the Combining District designation was "S-9" at the time of application, which requires 50 ft. width and 10,000 sq. ft. lot area. The site is located approximately 287 feet from the bluff top overlooking Miramar beach in an existing residential neighborhood (Exhibits 1 and 2). The parcel consists of Lot 20, Block 7, of the Shore Acres Subdivision recorded in 1905. The parcel is located on Coronado Avenue, southwest of State Route 1 (Cabrillo Highway) and the raised bed of the former Ocean Shore Railroad right-of-way, fronting on Coronado Avenue at the north in the unincorporated community of Miramar. The Miramar area of unincorporated San Mateo County is located on a coastal bluff west of Half Moon Bay Airport. The parcel lies on the narrow, relatively flat and level coastal terrace between the coastal hills and the beach at Half Moon Bay. The ocean cliff, riprap seawall, and beach are approximately 164 ft. southwest of the project site on the far side of Mirada Rd.; perennial Arroyo de en Medio Creek lies approximately 574 ft. to the southeast. Properties to the west are developed with single-family residences and commercial recreation uses. The properties directly adjacent to the parcel on the west, east and north sides are vacant. Many of the surrounding parcels have been merged to form building sites which are more conforming to the S-9 standards but do not meet the 10,000 sq. ft. minimum lot size. The parcel is relatively flat.

3.2 Project Description

The approved development consists of a 2,870 sq. ft., 3-story, 36-foot-high single-family residence consisting of 1,800 sq. ft. of livable space, a 440 sq. ft. garage, and 630 sq. ft of uninhabitable space on the ground floor. The development is on a nonconforming lot (size 4400 sq. ft.) with a minimum lot size of 10,000 sq. ft. The residence will have four bedrooms and 2.5 bathrooms; the permit includes provisions for three test wells leading to construction of a domestic well in the north corner of the parcel (Exhibit 3). As a condition of its approval, the County required that in the event that a public water supply becomes available, the applicant shall switch to this alternative. The County also required the applicant to obtain a well permit and construct a well in accordance with the quality and quantity standards of the Environmental Health Division prior to submitting any building permit application (Exhibit 4).

4.0 APPEAL PROCESS

4.1 Local Government Action

On August 3, 2000, the San Mateo Zoning Hearing Officer conditionally approved with modifications a coastal development permit for the construction of a single-family residence with four bedrooms, 2.5 bathrooms, an off-street parking variance, and a domestic well, requiring that the domestic well meet quality and quantity standards.

On August 11, 2000, Barbara Mauz on behalf of herself filed an appeal of this approval with the San Mateo County Planning Commission.

On August 14, 2000 Robert La Mar on behalf of himself filed an appeal of this approval with the San Mateo County Planning Commission.

On August 15, 2000 Steve Marzano on behalf of himself appealed the project without filing an appeal application.

On January 24, 2001, the Planning Commission opened and continued the item to February 28, 2001 in order to obtain additional information about the design's compliance with design review guidelines, information about the number of similar projects "grandfathered" into the revised Midcoast zoning regulations and a report from the Director of Environmental Health about the long-term viability of the proposed well in light of potential salt water intrusion.

On February 26, 2001, Councilman Dennis Coleman and Mayor Deborah Ruddock on behalf of the City of Half Moon Bay submitted a letter of appeal to the Planning Commission.

On February 28, 2001, the Planning Commission conditionally approved a coastal development permit.

On March 11, 2001 Steve Marzano on behalf of himself appealed the Planning Commission approval to the San Mateo County Board of Supervisors.

On March 12, 2001 Ric Lohman on behalf of himself appealed the Planning Commission approval to the San Mateo County Board of Supervisors.

On March 13, 2001, Robert La Mar on the behalf of himself appealed the Planning Commission approval to the San Mateo County Board of Supervisors.

On March 14, 2001 Barbara Mauz on behalf of herself appealed the Planning Commission approval to the San Mateo County Board of Supervisors.

On October 31, 2001 the San Mateo County Board of Supervisors denied the appeals, upheld the decision of the Planning Commission, and approved the Coastal Development Permit.

4.2 Filing of Appeal

On November 13, 2001, the Commission received notice of the County's final action approving a coastal development permit for the project. The Commission's appeal period commenced the day the notice of final local action was received and ran for ten working days thereafter (November 14 to 29, 2001). On November 26, 2001 the Commission received an appeal from the Committee for Green Foothills, and on November 27, 2001 the Commission received an appeal from appellants Barbara Mauz, Robert La Mar, Steve Marzano and Ric Lohman. On November 29, 2001 the Commission received a separate appeal from Richard (Ric) Lohman. On November 29, 2001, the Commission received an appeal from Larry Kay. Following receipt of each of these appeals, the Commission mailed a notification of appeal to the County and the applicant. The Commission also received late comments from Kathryn Slater Carter (Exhibit 9) dated November 30, 2001 and on December 11, 2001 received additional information from Barbara Mauz (Exhibit 10).

In accordance with Section 13112 of the California Code of Regulations, on November 26, 2001, staff notified the local government that the local permit was stayed and requested all relevant documents and materials regarding the subject permit from the County, to enable staff to analyze the appeal and prepare a recommendation as to whether a substantial issue exists. The

regulations provide that a local government has five working days from receipt of such a request from the Commission to provide the relevant documents and materials. The Commission received the local record from the County on November 30, 2001.

Pursuant to Section 30621 of the Coastal Act, an appeal hearing must be set within 49 days from the date an appeal of a locally issued coastal development permit is filed. The first appeal on the above-described decision was filed on November 26, 2001. The 49th day following receipt of this appeal is January 14, 2002. The only meetings within the 49-day period were December 11 – 14 and January 8 – 11, 2002. Because the local record was received too late to allow staff to provide hearing notice and to prepare a staff recommendation in time for the Commission's December 2001 meeting, the hearing on this appeal is scheduled for the January 8 – 11, 2002 Commission meeting.

4.3 Appeals Under the Coastal Act

After certification of Local Coastal Programs, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603).

Coastal Act Section 30603 provides, in applicable part, that an action taken by a local government on a coastal development permit application may be appealed to the Coastal Commission for certain kinds of developments, including the approval of developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within 300 feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff; or in a sensitive coastal resource area; or located within 100 feet of any wetland, estuary, or stream. Developments approved by counties may be appealed if they are not designated as the "principal permitted use" under the certified LCP. Developments that constitute a major public works or a major energy facility may also be appealed, whether they are approved or denied by the local government.

The approved development is located within 300 feet of the seaward face of a coastal bluff and thus meets the Commission's appeal criteria in Section 30603 of the Coastal Act. Pursuant to Section 30603 of the Coastal Act, an appeal for development in this location is limited to the allegation that the development does not conform to the standards set forth in the certified LCP or the public access policies set forth in the Coastal Act.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only persons eligible to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding the substantial issue question must be submitted to the Commission or the Executive Director in writing.

It takes a majority of the Commissioners present to find that no substantial issue is raised. Unless it is determined that the project raises no substantial issue, the Commission will conduct a full de novo public hearing on the merits of the project at the same or subsequent hearing. If the Commission conducts a de novo hearing on the appeal, the applicable test under Coastal Act Section 30604 would be whether the development is in conformance with the certified Local Coastal Program and the public access and recreation policies of the Coastal Act.

4.4 Standard of Review

Public Resources Code Section 30625(b) states that the Commission shall hear an appeal unless it determines:

> *With respect to appeals to the Commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.*

The term *substantial issue* is not defined in the Coastal Act or its implementing regulations. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." (Commission Regulations, Section 13115(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

If the Commission chooses not to hear an appeal, the appellant nevertheless may obtain judicial review of the local government's coastal permit decision by filing a petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5. In this case, for the reasons stated below, the Commission exercises its discretion to determine that a substantial issue exists with respect to the grounds on which the appeal has been filed.

5.0 SUBSTANTIAL ISSUE ANALYSIS

5.1 Appellant's Contentions

The Coastal Commission received four separate appeals on the approved development. The full text of the contentions submitted by the appellants are included in Exhibits 5, 6, 7, and 8. Below is a summary of the contentions.

The appeal filed by the Committee for Green Foothills includes the following contentions (Exhibit 5):

- Use of a groundwater well in this urban area is not consistent with the policies of the LCP Public Works component.
- The approved development does not conform to the groundwater resource policies of the LCP because neither the county nor the applicant conducted a safe yield study.
- The approved development may exacerbate cumulative adverse impacts on public works capacities based on erroneous buildout figures which did not account for development on substandard lots.

- The approved development does not conform to the Design Review standards for this area and will block views and coastal scenic resources.
- The approved project contains visual impacts --"three stories of lights at night" –which would be inconsistent with the Design Guidelines of the LCP.
- The approved development is not consistent with the General Plan as it is located within the LCP designated Coastal High Hazard Area.

The appeal filed by Barbara Mauz, Robert La Mar, Steve Marzano and Ric Lohman includes the following contentions (Exhibit 6 and 10):

- The approved development is inconsistent with LCP policies because the parcel is not legal and its legality must be determined through a separate Coastal Development Permit.
- The approved development violates CEQA.
- The approved development does not conform to LCP policies regarding environmentally sensitive habitat areas, ie. "wetlands in this appeal area are being destroyed."
- The approved development will block coastal scenic views and must go through a Design Review process.
- The approved development may pose adverse, cumulative impacts to wells, aquifers and groundwater.
- The approved development may adversely impact traffic congestion through the tandem parking design.
- The approved development is inconsistent with LCP policies because it violates zoning standards.
- The approved development does not conform to County and LCP policies regarding consolidation of contiguous lots.
- The approved development is "injurious to the property and improvements of the existing neighborhood."

The appeal filed by Ric Lohman includes the following contentions (Exhibit 7):

- The approved development violates zoning densities and standards.
- The approved development is out of scale and does not include adequate parking.

The appeal filed by Larry Kay includes the following contention (Exhibit 8):

- San Mateo County Board of Supervisors violated public notice guidelines when it neglected to advertise its October 30th meeting in a "newspaper of general circulation".

5.2 Appellants Contentions that Raise Substantial Issue

5.2.1 Wetlands and Environmentally Sensitive Habitat Areas

Contention

The appellants Mauz, La Mar, Marzano and Lohman contend that the approved development may cause significant adverse impacts to sensitive habitats on and adjacent to the parcel. The

contentions are primarily based on a lack of information and analysis in support of the local government's action, rather than specific evidence of project impacts to sensitive habitats. They base their claim on the following information:

- A letter from Katherine Slater Carter to the San Mateo County Board of Supervisors describing the parcel's proximity to a wetland in the southwest side of the eastern portion of the nearby Mirada Surf parcel and the northeastern side of the subdivision.
- *"The Bolsa Chica decision of April, 1999 confirms that CDP decisions must be based on facts and rationale that an ordinary person on the street would find reasonable.....No environmental investigation has taken place and the Zoning Officer's decisions had little or no factual basis presented to support them, thus making them arbitrary."*
- *"An on-site Construction Inspector for the Dept. of Public Works of San Mateo County was queried and expressed his concern since, '...all you have to do is go down four feet anywhere in that Miramar area and you hit a lot of water,'...He said that entire area is a MARSH!"*
- A letter from the City of Half Moon Bay to the Planning Commission which includes the following statements: *"The entire remaining vacant area of Half Moon Bay has been designated by our LCP revision consultants as 'Biologically Constrained' on our new LCP maps, and much of the remaining vacant land west of SR1 have been designated 'Environmentally Sensitive Habitat Area'...The general project area in this case appears to have similar beach front location, terrace features, topography, plant life, soil coloration and drainage potential as the above-mentioned land, the only difference being that the City is actually looking at and in some cases surveying vacant land before drawing its Coastal Resource maps."*

Based on the information cited above, the appellants contend that the approved development may harm sensitive habitats, inconsistent with LCP Policy 7.3. Concerning the absence of analysis on sensitive habitat areas, appellants also contend that the approved development violates LCP Policy 7.14 through 7.19.

Applicable Policies

LCP Section 7.3 states:

(a) Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas.

(b) Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats.

LCP Section 7.14 defines 'wetland' as:

> *...an area where the water table is at, near, or above the land surface long enough to bring about the formation of hydric soils or to support the growth of plants which normally are found to grow in water or wet ground.*

LCP Section 7.16 describes permitted uses in wetlands. Such uses do not include residential development.

LCP Section 7.17 describes performance standards in wetlands, in relevant part:

> *Require that development permitted in wetlands minimize adverse impacts during and after construction.*

LCP Section 7.18 establishes buffer zones, which *"shall extend a minimum of 100 feet landward from the outermost line of wetland vegetation."*

[See full text of LCP Policies in attachment A].

Discussion

As noted above, the appellants contend that the approved development is inconsistent with the LCP policies concerning protection of wetlands and other environmentally sensitive habitat areas (ESHA). In considering whether this contention raises a substantial issue, the Commission should consider the degree of factual evidence in the record supporting a finding of consistency of the approved development with the wetland and ESHA protection policies of the certified LCP. Through a review of the local record and confirmation with County Planning staff, the Commission staff has determined that no site-specific survey of biological resources and no wetland delineation have been conducted for the project site. However, since the project site is an existing small parcel in a partially developed area, the Commission should also consider whether in the absence of a site-specific biological survey or a wetland delineation the evidence in the record would support the determination that there is no potential that wetlands or other ESHA may exist on the project site. If, for example, the project site consisted of a recently graded pad on a steep slope, there might be no question concerning whether the site contains wetlands or sensitive habitats.

One potential area of sensitive habitat has been identified on the parcel. The County did not conduct a site-specific biological survey, but an archeologist noted several habitat features in his archeological reconnaissance report [Exhibit 11]. The archeological report notes the existence of a small swale running northwest/southeast down the middle of the parcel. The swale contained standing water at the time of the study. According to the archeological report, the area is covered by a mix of native and exotic vegetation; plants noted on and near the parcel include: curly dock, wild radish (*Rafanus*), wild mustards (*Brassica*), several kinds of thistles, marsh grass (*Stipa*), oxalis, mallow or cheeseweed, sweet pea vines and wild berry vines (*Rubus*) and various annual weedy grasses such as wild oats, fescue and ryegrass. Some of these plants are wetland indicators. Although this report was not prepared by a qualified biologist or wetland delineator, the reported observations of standing water and wetland plants support the appellants' contention that the site may contain wetlands.

In addition to wetlands, the appellants also contend that the site contains environmentally sensitive habitat areas (ESHA). San Mateo County is part of the California red-legged frog critical habitat Unit 14, San Mateo-Northern Santa Cruz Unit (50 CFR Part 17, March 13, 2001). Both the red-legged frog and the San Francisco garter snake are found near aquatic habitats, such as wetlands and ponds. In the past, the San Francisco garter snake has been observed in the Mirada Surf pond area to the east of the approved development (Kleinfelder 1989a). Protecting the habitats for the California red-legged frog and San Francisco garter snake is a matter of statewide importance. In the absence of any site-specific biological resource analysis, a significant question exists as to whether the site contains habitat that supports these or other sensitive species.

Conclusion

Since the only characterization of the project site would appear to support a determination that the site potentially contains wetlands, the Commission finds that a substantial issue exists with respect to the conformity of the approved project with the certified LCP because a wetland delineation is necessary to evaluate the conformity of the approved development with the wetland protection policies of the LCP.

5.2.2 Safe Yield Test

Contention

The appellants Committee for Green Foothills and Mauz, La Mar, Marzano and Lohman contend that the approved development is inconsistent with LCP Policy 2.32(d) because neither the County nor the applicant examined the geologic or hydrologic conditions of the site to determine the safe yield for the domestic well. Safe yield is the amount of water that can be withdrawn without significantly adversely impacting water dependent sensitive habitats. The appellants further contend that the County has failed to evaluate the cumulative impact of groundwater wells on sensitive habitats or groundwater supply in the Urban Mid-Coast. They site the following evidence:

- *"The approved well site is too close to the ocean and may hasten saltwater intrusion into the Miramar aquifer."*
- A letter from Acting County Geologist Jean DeMouthe which states:

  "I don't have any of the maps or building plans for the Da Rosa project, but I checked its location. They may indeed have a saltwater intrusion problem over time, depending upon the depth of the well and the producing aquifer, the amount of water taken from it, and the number of other producing wells in the immediate neighborhood."
- A letter from Kathryn Slater Carter to the Board of Supervisors which states:

  "There is a wetland in the vicinity...I repeat the request I made to the Planning Commission to you: Please follow the 13 year old, but as yet unfulfilled, recommendations from the El Granada Water Supply Investigation: install a system of monitoring wells, collect data and establish a safe yield for the area. This will protect the health and safety of the individuals and the environment –above and below ground."
- The County did not conduct a safe yield study.

Applicable Policies

LCP Policy 2.32 Groundwater Proposal in relevant part:

> *Require, if new or increased well production is proposed to increase supply, that:*
>
> *(d) Base the safe yield and pumping restriction on studies conducted by a person agreed upon by the County and the applicant which shall: (1) prior to the granting of the permit, examine the geologic and hydrologic conditions of the site to determine a preliminary safe yield which will not adversely affect a water dependent sensitive habitat; and (2)*

during the first year, monitor the impact of the well on groundwater and surface water levels and quality and plant species and animals of water dependent sensitive habitats to determine if the preliminary safe yields adequately protect the sensitive habitats and what measures should be taken if and when adverse effects occur.

Discussion

The Commission must examine whether the appellants' contention raises a substantial issue under LCP Policies 2.32(d). LCP Policy 2.32(d) requires an examination of the hydrologic and geologic qualities of the well site to determine a safe yield which will not affect water-dependent sensitive habitats. The County interprets LCP Policy 2.32(d) as only applicable to utility wells. It is unclear from the language of LCP Policy 2.32 whether it applies to the approved development. Policy 2.32 does not explicitly state that it is applicable only to wells installed by water utilities. However, Policy 2.32 is contained under the Public Works heading in the LCP along with other policies addressing sewer, water, roads, solid waste and transit. Public Works is defined to include any facility which is owned or operated by a public agency or any utility under the jurisdiction of the Public Utilities Commission. This suggests that Policy 2.32 is only applicable to public agencies or utilities because it is in the Public Works section of the LCP. Nevertheless, the applicability of this policy to private wells is unclear. The interpretation of LCP Policy 2.32 which is utilized by the permit issuing authority affects all wells permitted under the LCP in the Mid-Coast region and is therefore of regional importance requiring careful consideration. In addition, the County has recently acknowledged that a significant question exists concerning the cumulative impact of individual private wells on local groundwater resources and water-dependent sensitive habitats. In June 2001, the County Board of Supervisors directed its staff to prepare a report with recommendations addressing how the county should evaluate the cumulative impact of private wells in the Mid Coast. In September 2001, the County began the first phase of its study, in order to review available information and conduct a gap analysis in preparation for the second phase, which will undertake field research on the cumulative impacts of wells upon groundwater resources.

Conclusion

Because a significant question remains whether a safe yield test is required for the approved development, the Commission finds that the appeal raises a substantial issue regarding the conformity of the approved project with LCP Policy 2.32(d).

5.3 Appellants Contentions that Raise No Substantial Issue

5.3.1 Public Works Component

Contention

Appellants Committee for Green Foothills and Mauz, La Mar, Marzano and Lohman contend that use of a groundwater well in an urban area is inconsistent with the policies of the Public Works component of the LCP. The appellants further contend that the approved development will contribute to adverse, cumulative impacts upon groundwater supplies. Specifically, the

appellants contend that the approved development is inconsistent with LCP Policies 2.2, 2.6 and 2.10.

Applicable Policies

LCP Policy 2.2 defines "Public Works".

LCP Policy 2.6 limits the development or expansion of public works based on buildout capacity.

LCP Policy 2.10 limits building permits for the construction of non-priority uses.

Discussion

Although not part of the certified LCP, County General Plan Policy 10.10 discourages the use of wells for development in urban areas, but allows wells to serve urban uses under certain specified conditions, including: (a) no water is available from a water system, (b) the use of wells does not threaten public health, safety or welfare, and (c) the well meets county and state quality and quantity standards. In its action approving the use of a well to serve the approved development, the County found that no public water was available to serve the proposed development at the time of its action, but imposed conditions requiring the applicant to switch to public water if available in the future. The County also imposed conditions requiring the applicant to demonstrate conformity with the County Environmental Health Department's well permit standards for quality and quantity.

Among the appellants' contentions is the approved development's inconsistency with LCP Policies 2.6 and 2.10 which limit the expansion of public works based on buildout and limit building permits for the construction of non-priority uses. LCP Policy 2.6 is not applicable in the case of the approved development because a single, residential well is not considered "public works". As regards LCP Policy 2.10, a residential home on a nonconforming lot is considered a non-priority use in accordance with LCP Table 2.17 listing priority land uses and their reserved water capacity. However, this development falls within the LCP quota number of building permits allowed per year (63/125). Furthermore, there were no non-priority water hookups available from Coastside County Water District (CCWD) for the Miramar area. The San Mateo County LCP does not contain policies that either expressly permit or prohibit the use of private water wells for development in urban areas.

The appellants have not provided any evidence showing that the use of a well for the approved development threatens the public's health, safety or welfare. Thus the Commission finds that the appeals do not raise a substantial issue regarding the conformity of the approved development with LCP Policies 2.2, 2.6, or 2.10.

Conclusion

The San Mateo County LCP does not contain policies that either expressly permit or prohibit the use of private water wells for development in urban areas. The approved development is a nonpriority use, and therefore is not eligible to acquire a hookup to the CCWD. Because this development does not exceed the existing quota on non-priority use permits, the Commission finds that the appeal raises no substantial issue of conformity of the approved development with the public works policies of the certified LCP.

5.3.2 Scenic Coastal Resources

Contention

Appellants Committee for Green Foothills and Mauz, La Mar, Marzano and Lohman contend that the approved development is inconsistent with LCP policies regulating development in Scenic Coastal Corridors and viewsheds. The contentions are based on the design, setting and character of the existing neighborhood. They state:

- *"This building is virtually an elongated lighthouse. There is no possibility of this design qualifying as 'minimizing visual impact' or '...not obstructing existing views'."*
- *"...its design is not compatible with our neighborhood or the neighborhood's irreplaceable scenic value."*
- *"There are notable ocean viewsheds that would be blocked by the proposed project. The historic viewshed including the Miramar Restaurant in this area would also be blocked by this project."*
- *"The project does not conform to the Design Review standards for this area. The house is 19 feet wide, 57 feet long, and 36 feet high. The tall, skinny long house design may be appropriate as a row house in San Francisco, but it is out of character with the Miramar area."*
- *"The design of the house on this substandard lot would result in blocking of views to and along the shoreline from Highway One, due to the parcel's orientation with the long dimensions parallel to the highway."*

The appellants contend that the approved development's siting, design and character may block views in the County Scenic Corridor, inconsistent with LCP Policy 8.5

Applicable Policies

LCP Policy 8.5(a) in relevant part states:

> *Require that new development be located on a portion of a parcel where the development (1) is least visible from State and County Scenic Roads, (2) is least likely to significantly impact views from public viewpoints, and (3) is consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall. Where conflicts in complying with this requirement occur, resolve them in a manner which on balance most protects significant coastal resources on the parcel, consistent with Coastal Act Section 30007.5.*
>
> *Public viewpoints include, but are not limited to, coastal roads, roadside rests and vista points, recreation areas, trails, coastal accessways, and beaches.*

Discussion

The approved development lies within the Coastal Scenic Corridor of San Mateo County which follows Coast (Cabrillo) Highway north of Half Moon Bay city limits.

The Commission must examine whether the appellants' contention raises a substantial issue of conformity of the approved development with LCP Policy 8.5. Under LCP Policy 8.5, approved developments must conform to both the landscape and the character of the surrounding development.

The house design proposal is generally in keeping with the large, tall houses surrounding it. Its distinction lies in the fact that the parcel is a small nonconforming lot, and so the proposed house contains a 65% floor area, exceeding the local existing range of 32.7 to 61.1%. On December 7, 1999, the Board of Supervisors adopted an Urgency Interim Ordinance regulating the size of new houses within the (R-1) single family residential zoning districts requiring minimum width, site area, setbacks and site coverage which are more restrictive than the applicant's house design. In adopting these new regulations, the San Mateo County Board of Supervisors found that:

> *The existing 36-foot height limit in the R-1/S-9, R-US-10 and R-1/S-13 single-family residential zoning districts would continue to allow looming structures that: (1) are not in scale with surrounding development, (2) adversely affect a neighbor's privacy and available sunlight, and (3) may block ocean views from public viewing points."*

These standards were subsequently certified by the Commission in 2001 as part of the County's certified LCP. Because these new standards were adopted subsequent to the submittal of Da Rosa's application and the certified LCP provisions state that they are inapplicable to CDP applications that had already been submitted to the County, the newly certified provisions do not apply to this application.

Even so, the Planning Commission required a comprehensive design review analysis to be completed for its February 28th hearing. The analysis found the design to be compliant with the zoning district's required setbacks, lot coverage and height at the time of application. The analyst also noted that the house is consistent with structures in the vicinity based on varying architectural styles and that it will not obstruct existing views from the ocean looking east or from Cabrillo Highway looking towards the ocean. This finding is based on the fact that the approved development is located inland of a large, three-story, 8 room Bed and Breakfast, the Landis Shores Oceanfront Inn located at the southeast corner of Mirada Rd and Coronado Avenue which already blocks the view of the coast from the Cabrillo Highway.

Conclusion

The evidence cited in the County's findings approving the project support the County's findings that the approved development is compatible with surrounding development and will not block views of the coast. Therefore, the Commission finds that the appeal raises no substantial issue regarding the conformity of the approved project with the Coastal Scenic Corridor policies of the San Mateo County LCP.

5.3.3 Compliance with Zoning Regulations Regarding Legality of Parcel

Contention

Appellants Committee for Green Foothills, Mauz, La Mar, Marzano and Lohman contend that the approved development is inconsistent with the San Mateo County Zoning Regulations in

terms of minimum lot size, density, legality, and consolidation of contiguous lots. They site the following evidence:

- *"Area is zoned 'Medium Low Density Residential'. A 2,870 sq. ft. single family residence built on 4,400 sq. ft. of land is not a 'Medium Low Density Residential' development. It is...a Medium High Density development."*
- Committee for Green Foothills contends that a 4,400 sq. ft. lot violates lot minimum size, and thus cannot protect scenic views, noting that *"During the development of the LCP, the County consolidated the parcels in the Miramar area to a minimum size of 10,000 square feet in order to protect scenic views from Highway One."*
- *"In 1999, subsequent to Mr. DaRosa's acquisition of the parcel in question, the adjacent parcel to the east was offered for sale and in fact was sold to a willing buyer. Mr. Da Rosa obviously had an opportunity to purchase this contiguous land and create a reasonable building site..."*
- A letter from the General Counsel for the Granada Sanitary District indicating that the County has foreclosed on an adjacent parcel and it is available for sale.
- *"There has been no CDP applied for or obtained to determine the legality of APN: 048-013-570. Such a CDP IS REQUIRED by LCP Policy 1.29(d)."*

The appellants cite this development's inconsistency with LCP Policies 1.20, 1.27, 1.28, and 1.29(d).

Applicable Policies

LCP Policy 1.20 directs the consolidation of contiguous, substandard lots held in the same ownership in Miramar to protect viewsheds.

LCP Policy 1.27 requires a CDP when issuing an unconditional certificate of compliance to confirm the legality of parcels only if the land division occurred after the time that a CDP was required for land divisions and no CDP has been granted for the division.

LCP Policy 1.28 requires a CDP when 'legalizing' parcels that were illegally created without benefit of government review and approval.

LCP Policy 1.29(d) regulates the standard of review for legalizing parcels.

[See full text in Attachment A].

Discussion

The Commission notes that the County's approval did not include the creation of the subject parcel. Even if the County's approval did include the creation of the subject parcel, the County has found that the parcel in question, APN 048-013-570, was legally created as part of the Shore Acres of Half Moon Bay Subdivision recorded on December, 18, 1905. County Legal Counsel has consistently confirmed that such lots were created legally and as such, are developable upon meeting the respective and applicable zoning standards and LCP policies. As the parcel was legally created prior to any coastal permit requirements, the parcel does not require a Coastal

Development Permit. LCP Policy 1.27 requires a CDP when confirming the legality of a parcel that has received an unconditional certificate of compliance only if the land division occurred after Proposition 20 or the Coastal Act of 1976 became effective. As the division predates both effective dates, the parcel does not require a CDP.

The appellants' contention that Da Rosa must consolidate his lot with contiguous lots is based on LCP Policy 1.20, which provides for the consolidation of lots held in common ownership. As the contiguous lots are not held in common ownership, the approved development is not inconsistent with LCP 1.20.

Conclusion

As the County's approval did not create the subject parcel, the parcel in question was created legally and complies with zoning standards regarding the legality of a parcel, the Commission finds that no substantial issue exists in regard to the approved development's consistency with LCP zoning standards regarding the legality of a parcel.

5.3.4 Neighborhood Impacts and Traffic Congestion

Contention

Appellants Mauz, La Mar, Marzano and Lohman contend that the approved development will adversely impact traffic congestion through a variance for off-street parking.

Applicable Policies

LCP 2.57 minimizes the number of new road or driveway connections which do not serve recreational uses.

Discussion

The approved development included a variance to allow for a tandem parking arrangement which was advised by the Mid-Coast Community Council in its review of the approved development. The County Board of Supervisors found that this arrangement allows the development to meet the minimum parking requirement for a single-family dwelling, using less area for a paved driveway than if a 1-car garage was located at the rear of the property, while dedicating more area of the parcel to landscaping with less overall lot coverage. The appellants have not demonstrated that the approved parking variance will adversely affect traffic circulation.

Conclusion

The Commission finds that the appeal does not raise a substantial issue in regards to the conformance of the approved development to the traffic control policies of the San Mateo County Local Coastal Program.

5.3.5 Hazards

Contention

Appellant Committee for Green Foothills contends that the approved development is inconsistent with LCP Policies regulating development within the Coastal High Hazard Area, stating:

- *"Section 6825.3(d) (Coastal High Hazard Area) of the Zoning Ordinance requires that the use be consistent with the General Plan and that the use is permitted by the zoning district. In this instance, the use (residential) requires a Use Permit, due to non-conformity with the zoning standards requirements for parcel size, parcel width, and tandem parking. Therefore, the residential use on this parcel, as proposed, is only a conditionally permitted use, and does not therefore meet the requirements of 6835.3(d)[sic]."*
- *"Section 6565.7 (d) in the Design Review section of the Zoning Ordinance requires structures to be located outside Flood Zones. There is no exception provided to this requirement. Resolution of these two conflicting requirements of the Zoning Ordinance was not analyzed by the County Staff Report."*

Applicable Policies

LCP Policy 9.9 Regulation of Development in Floodplains incorporates local standards regarding Flood Hazard Areas into the certified LCP.

Zoning Ordinance Section 6825.3(d) allows for development in Coastal High Hazard Areas, based on the development's consistency with the General Plan and zoning district.

Zoning Ordinance Section 6565.7 Standards for Design in Other Areas (d) requires that development be located outside of flood zones.

Discussion

The approved development required a use permit due to the substandard parcel size and width; however, a single-family residence is a permitted use within the R-1 zoning district. However, whether the development conforms to use permit requirements does not determine if the CDP approved by the County is consistent with the certified LCP. Appellant Committee for Green Foothills contends that the provisions of Zoning Code Section 6565.7(D), which prohibits locating structures in flood zones, and LCP Policy 9.9 and Zoning Code Section 6825.3, which provide standards for construction in flood hazard areas, are in conflict, and that the County in its action approving the subject development failed to resolve this apparent policy conflict. First and foremost, an alleged inconsistency between LCP policies does not establish that the approved development is inconsistent with the provisions of the certified LCP. In addition, the Commission finds that it is appropriate to interpret these policies in harmony with each other to the extent feasible and that the policies of the LCP should not be interpreted in a manner that conflicts with consitutional provisions concerning the use of private property.

In light of these considerations, the Commission determines that the most reasonable interpretation of LCP Policy 9.9 and Zoning Code Sections 6565.7(D) and 6825.3 is that (1) when considering an application for a new subdivision of property a portion of which is located within a flood hazard area, new lots should not be created that could not be developed without locating structures in the flood hazard area, (2) when considering an application for a new development on an existing legal lot a portion of which is located within a flood hazard area,

new structures should be located to the extent feasible outside of the flood hazard area, and (3) when considering an application for new development on a legal lot located entirely within a flood hazard area, new structures must conform with the standards specified in LCP Policy 9.9 and Zoning Code Section 6825.3.

Conclusion

Because the appellant provides no evidence in support of their contention that the development does not conform to LCP standards, the Commission finds that the appeal does not raise a substantial issue regarding the conformity of the approved project to the Coastal High Hazard policies of the San Mateo County LCP.

5.4 Appellants Contentions that are Not a Valid Ground for Appeal

Section 30603(b)(1) of the Coastal Act states:

> *The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.*

As discussed below, two of the contentions raised in the appeal do not present potentially valid grounds for appeal in that it does not allege the project's inconsistency with policies and standards of the LCP.

5.4.1 CEQA Review

Contention

The appellants Mauz, La Mar, Marzano and Lohman contend an EIR is required for the approved development.

Discussion

The appellants' contention does not include an allegation that the approved development is inconsistent with the policies of the certified LCP or the Coastal Act public access policies. The adequacy of the County's review of the approved development under the California Environmental Quality Act (CEQA) is not governed by the policies of the certified LCP or by the public access policies of the Coastal Act. Therefore, the Commission finds that this contention is not a valid ground for appeal under Section 30603 of the Coastal Act because it does not contain an allegation that the approved development does not conform to the certified LCP or the public access policies of the Coastal Act.

5.4.2 Public Notice

Contention

The appellant Kay contends that the San Mateo Planning Commission did not notice their public meeting in "newspaper of general circulation". The Commission finds that this contention is not a valid ground for appeal under Section 30603 of the Coastal Act because it does not contain an allegation that the approved development does not conform to the certified LCP or the public access policies of the Coastal Act.

6.0 INFORMATION NEEDED FOR DE NOVO REVIEW

As stated above, Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed. Section 30621 of the Coastal Act instructs the Commission to provide for a de novo hearing on all appeals where it has determined that a substantial issue exists with respect to the grounds on which an appeal has been filed. If the Commission finds substantial issue as recommended above, staff also recommends that the Commission continue the de novo hearing to a subsequent date. The de novo portion of the appeal must be continued because the Commission does not have sufficient information to determine what, if any, development can be approved, consistent with the certified LCP.

Given that the project the Commission will be considering de novo has come to the Commission after an appeal of a local government action, the Commission has not previously been in the position to request information from the applicant needed to determine if the project can be found to be consistent with the certified LCP.

6.1 Impact of Approved Development on Sensitive Habitat Areas

In order for the Commission to approve a coastal development permit through any de novo review of the project, analysis of the impacts of the approved development to environmentally sensitive habitat areas including but not limited to any potential impact to wetland habitat or habitat of the San Francisco garter snake or the California red-legged frog must be evaluated through a site-specific biological resources assessment and a wetland delineation conducted in accordance with the LCP definition of wetlands. Without the above information, the Commission cannot reach a final determination concerning the approved development's consistency with the sensitive habitat and wetland delineation policies of the LCP.

6.2 Safe Yield Test to Determine Impact of Approved Development on Sensitive Habitat Areas

In order for the Commission to approve a coastal development permit through any de novo review of the project, analysis of the impacts of the approved well to water dependent environmentally sensitive habitat areas and priority land uses must be evaluated. Without the above information, the Commission cannot reach a final determination concerning the approved development's consistency with the groundwater proposal policies of the LCP.

Exhibits:

1. Location map
2. Project site location
3. Site plan and elevations
4. San Mateo County's Conditions of Approval
5. Appeal by Committee for Green Foothills
6. Appeal by Barbara Mauz, Robert La Mar, Steve Marzano and Ric Lohman plus attachments
7. Additional Appeal by Richard (Ric) Lohman

8. Appeal by Larry Kay
9. Late comments from Kathryn Slater Carter
10. Addendum to Mauz, La Mar, Marzano and Lohman appeal
11. Archeological reconnaissance report

Attachment A: Full text of cited and relevant San Mateo County Local Coastal Program Policies

[Cited LCP Policies for Section 5.2.1 – Wetlands and Environmentally Sensitive Habitat Areas]

7.3 Protection of Sensitive Habitats

(a) *Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas.*

(b) *Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats.*

7.14 Definition of Wetland in relevant part:

Define wetland as an area where the water table is at, near, or above the land surface long enough to bring about the formation of hydric soils or to support the growth of plants which normally are found to grow in water or wet ground.

In San Mateo County, wetlands typically contain the following plants: cordgrass, pickleweed, jaumea, frankenia, marsh mint, tule, bullrush, narrow-leaf cattail, broadleaf cattail, pacific silverweed, salt rush, and bog rush. To qualify, a wetland must contain at least a 50% cover of some combination of these plants, unless it is a mudflat.

7.16 Permitted Uses in Wetlands

Within wetlands, permit only the following uses: (1) nature education and research, (2) hunting, (3) fishing, (4) fish and wildlife management, (5) mosquito abatement through water management and biological controls; however, when determined to be ineffective, allow chemical controls which will not have a significant impact, (6) diking, dredging, and filling only as it serves to maintain existing dikes and an open channel at Pescadero Marsh, where such activity is necessary for the protection of pre-existing dwellings from flooding, or where such activity will enhance or restore the biological productivity of the marsh, (7) diking, dredging, and filling in any other wetland only if such activity serves to restore or enhance the biological productivity of the wetland, (8) dredging manmade reservoirs for agricultural water supply where wetlands may have formed, providing spoil disposal is planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation, and (9) incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

7.15 Performance Standards in Wetlands in relevant part:

Require that development permitted in wetlands minimize adverse impacts during and after construction.

7.18 Establishment of Buffer Zones
Buffer zones shall extend a minimum of 100 feet landward from the outermost line of wetland vegetation. This setback may be reduced to no less than 50 feet only where (1) no alternative development site or design is possible; and (2) adequacy of the alternative setback to protect wetland resources is conclusively demonstrated by a professional biologist to the satisfaction of the County and the State Department of Fish and Game. A larger setback shall be required as necessary to maintain the functional capacity of the wetland ecosystem.

[Cited LCP Policies for Section 5.2.2 – Water Resources]
2.2 Definition of Public Works in relevant part:

"Public Works" means the following:

(a) All production, storage, transmission, and recovery facilities for water sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.

2.6 Capacity Limits
Limit development or expansion of public works facilities to a capacity which does not exceed that needed to serve buildout of the Local Coastal Program.

2.10 Growth Management
After Phase I sewer and substantial water facilities have been provided, limit building permits for the construction of non-priority residential land uses in the Mid-Coast in accordance with the policies of the Locating and Planning New Development Component.

2.32 Groundwater Proposal in relevant part:

Require, if new or increased well production is proposed to increase supply, that:

(d) Base the safe yield and pumping restriction on studies conducted by a person agreed upon by the County and the applicant which shall: (1) prior to the granting of the permit, examine the geologic and hydrologic conditions of the site to determine a preliminary safe yield which will not adversely affect a water dependent sensitive habitat; and (2) during the first year, monitor the impact of the well on groundwater and surface water levels and quality and plant species and animals of water dependent sensitive habitats to determine if the preliminary safe yields adequately protect the sensitive habitats and what measures should be taken if and when adverse effects occur.

[Cited LCP Policies for Section 5.3.2 –Compliance with Zoning Regulations Regarding Legality of Parcel]

1.20 Lot Consolidation
According to the densities shown on the Land Use Plan Maps, consolidate contiguous lots, held in the same ownership, in residential subdivisions in Seal Cove to minimize risks to life and property and in Miramar to protect coastal views and scenic coastal areas.

1.27 Confirming Legality of Parcels
Require a Coastal Development Permit when issuing a Certificate of Compliance to confirm the legal existence of parcels addressed in Section 66499.35(a) of the California Government Code (e.g., lots which predated or met Subdivision Map Act and local government requirements at the time they were created), only if: (1) the land division occurred after the effective date of coastal permit requirements for such division of land (i.e., either under Proposition 20 or the Coastal Act of 1976), and (2) a coastal permit has not previously been issued for such division of land.

1.28 Legalizing Parcels
Require a Coastal Development Permit when issuing a Certificate of Compliance to legalize parcels under Section 66499.35(b) of the California Government Code (i.e., parcels that were illegally created without benefit of government review and approval).

1.29 Coastal Development Permit Standards of Review for Legalizing Parcels in relevant part:

(d) On undeveloped parcels created before Proposition 20, on lands located within 1,000 yards of the mean high tide line, or the Coastal Act of 1976, on lands shown on the official maps adopted by the Legislature, a coastal development permit shall be issued to legalize the parcel if the parcel configuration will not have any substantial adverse impacts on coastal resources, in conformance with the standards of review of the Coastal Development District regulations. Permits to legalize this type of parcel shall be conditioned to maximize consistency with Local Coastal Program resource protection policies. A separate Coastal Development Permit, subject to all applicable Local Coastal Program requirements, shall be required for any development of the parcel.

[Cited LCP Policies for section 5.3.4 Neighborhood Impacts and Traffic Congestion]

2.57 Protecting Road Capacity for Visitors Through Transportation System Management Techniques in relevant part:

(a) (3) minimize the number of new road or driveway connections to Routes 1, 92, and 84 which do not serve recreation facilities.

[Cited LCP Policies for section 5.3.5 Hazards]

9.9 Regulation of Development in Floodplains in relevant part:

(b) Development located within flood hazard areas shall employ the standards, limitations and controls contained in Chapter 35.5 of the San Mateo County Ordinance Code, Sections 8131, 8132 and 8133 of Chapter 2 and Section 8309 of Chapter 4, Division VII (Building Regulations), and applicable Subdivision Regulations.

San Mateo County Zoning Ordinance Section 6565.7 Standards for Design in Other Areas in relevant part:

(D) Structures are located outside flood zones, drainage channels and other areas subject to inundation.

Section 6825.3 Coastal High Hazard Areas in relevant part:

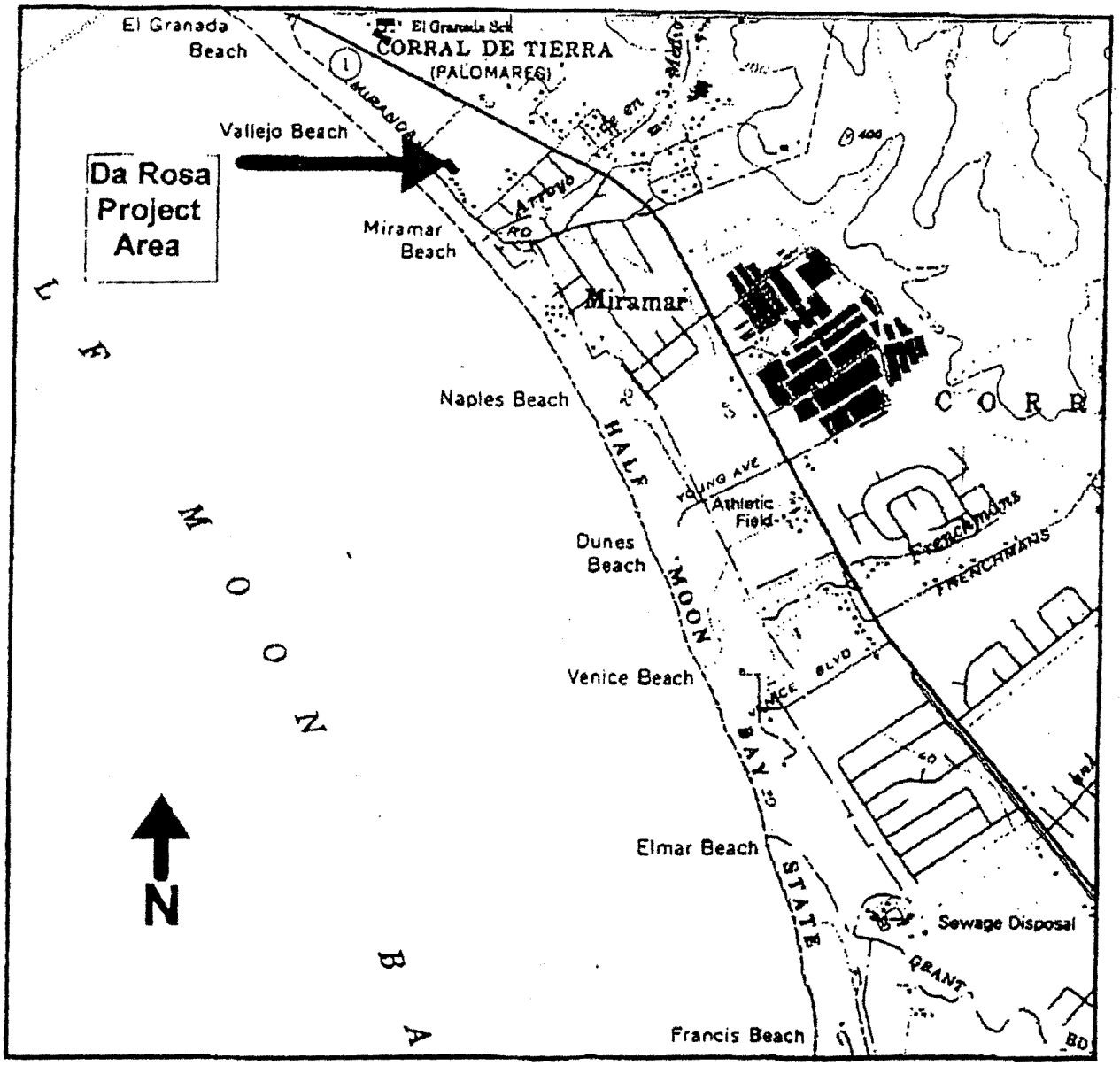
A permit for development in a Coastal High Hazard Area may be issued in accordance with the procedures established in Section 6826 provided:

(a) All buildings or structures shall be located landward of reach of the mean high tide.

(b) Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

(c) The development is in compliance with applicable Standards of Construction contained in Section 8131, the Standards of Manufactured Homes contained in Section 8132, the Standards for Coastal High Hazard Areas in Section 8133 and the Standards for Water Supply and Sewage Systems contained in Section 8309 of the San Mateo County Ordinance Code, Building Regulations.

(d) The use is consistent with the General Plan and permitted by the zoning district in which the use is to be located or conducted, and all required permits and approvals are obtained.



MAP 1: Da Rosa Project Area Location.
(Source: USGS "Half Moon Bay" 7.5 minute topographic quadrangle, 1991)

EXHIBIT NO. 1
APPLICATION NO. A-2-SMC-01-032
DA ROSA
Location map

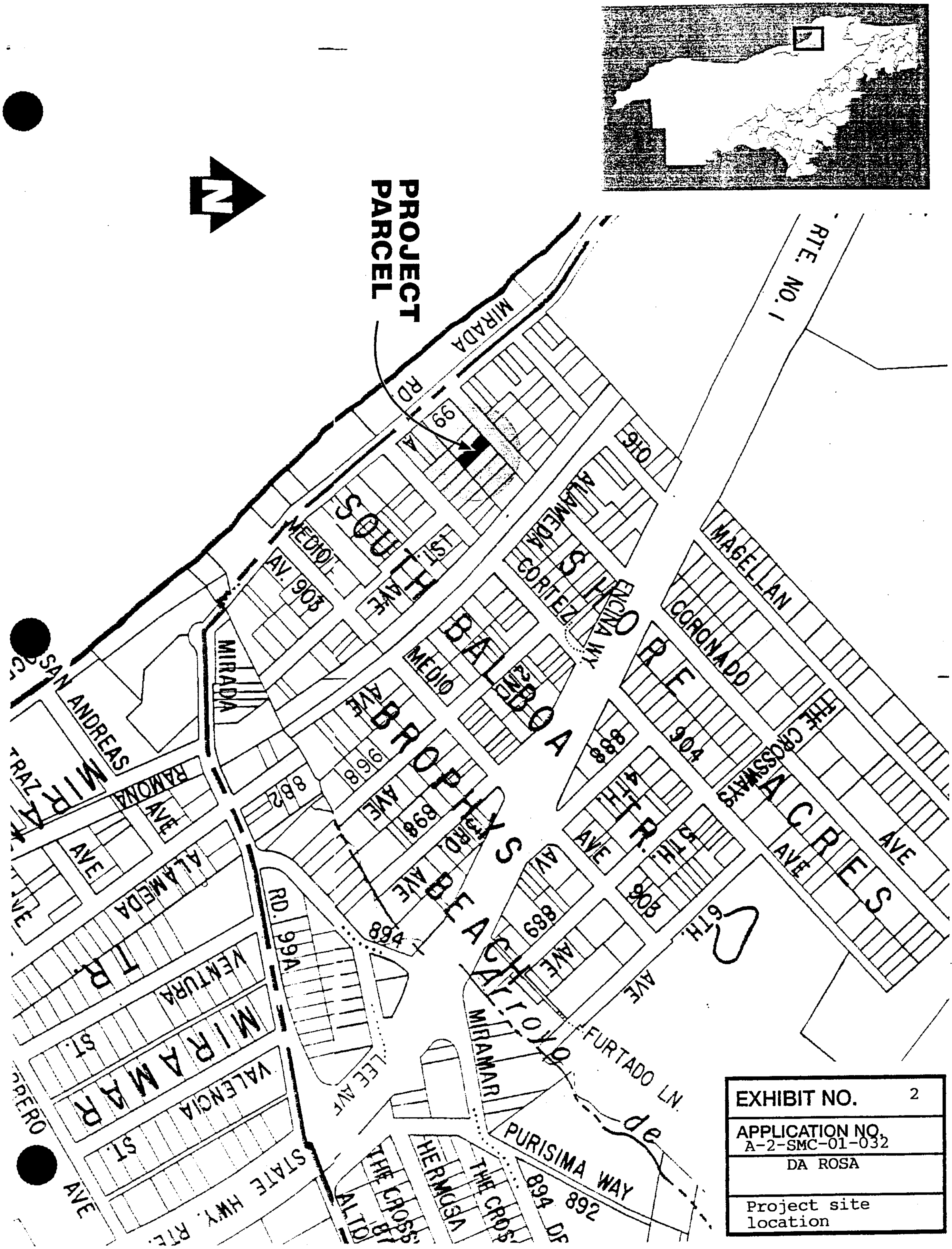


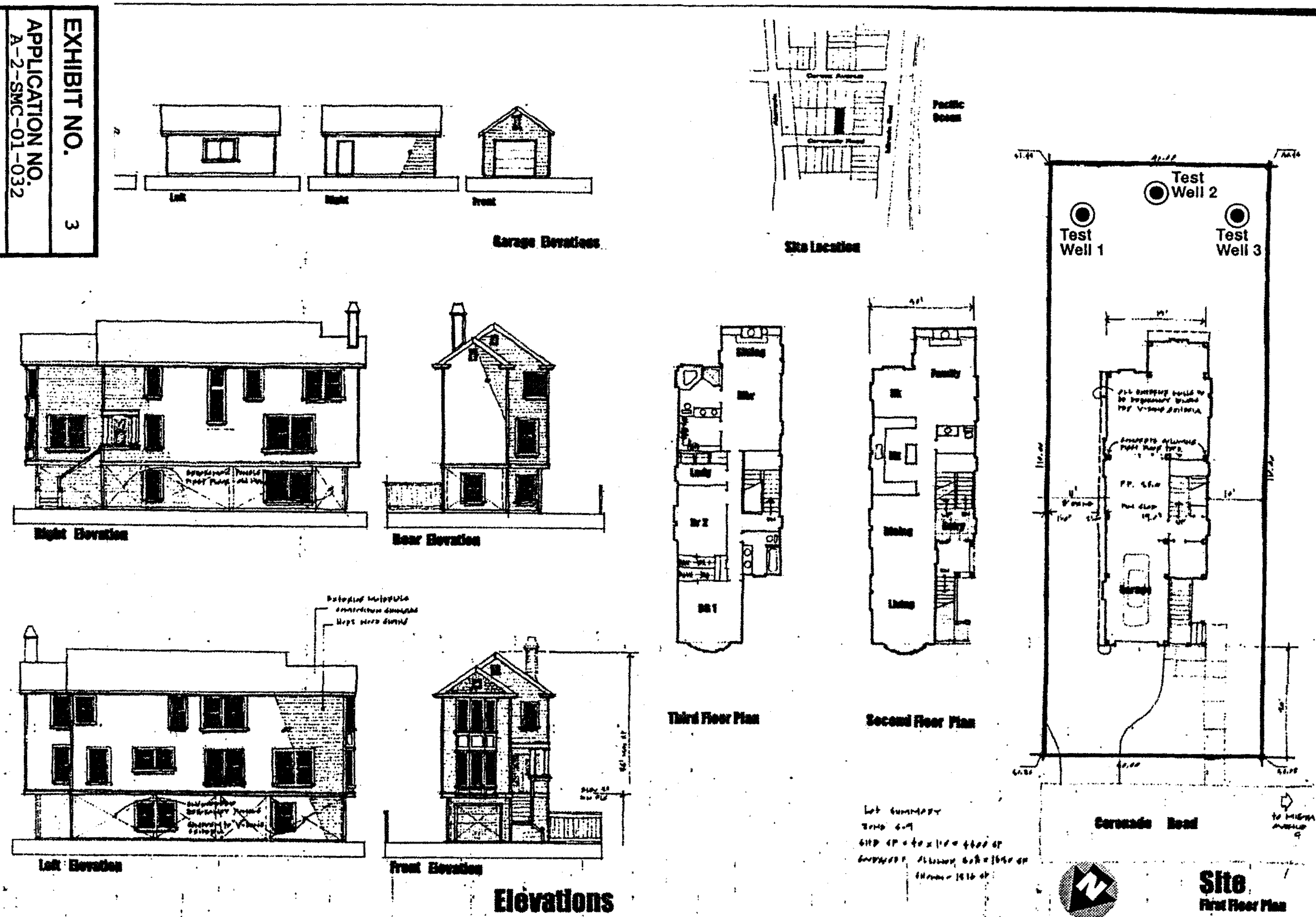
EXHIBIT NO.	2
APPLICATION NO. A-2-SMC-01-032	
DA ROSA	
Project site location	

35

EXHIBIT NO. 3

APPLICATION NO.
A-2-SMC-01-032

DA ROSA
Site plan and
elevation



San Mateo County Zoning Hearing Officer Meeting

Applicant: THOMAS DAROSA

Attachment: D

File Numbers: PLN 1999-00890

pln9...90.cdr 7-18-00 ds

Please reply to: Farhad Mortazavi
(650) 363-1831

October 31, 2001

NVIRONMENTAL SERVICES AGENCY

Barbara Mauz et al
P.O. Box 1284
El Granada, CA 94018

Agricultural ommissioner/ Sealer of Weights & Measures

Notice of Final Local Decision

Subject: **File Number PLN1999-00890**
Location: **Coronado Avenue, Miramar**
APN: **048-013-570**

Animal Control

Dear Ms. Mauz et al

Cooperative Extension

On October 30, 2001, the San Mateo County Board of Supervisors considered your appeal of the Planning Commission's decision to approve a Use Permit, Coastal Development Permit, Off-Street Parking Exception, and Design Review, to allow construction of a new single-family residence, drill three test wells, and provide a tandem parking arrangement on a substandard parcel, located on Coronado Avenue, in the unincorporated Miramar area of San Mateo County.

Fire Protection

LAFCo

Based on the information provided by staff and evidence presented at the hearing, the Board of Supervisors accepted the staff recommendation to deny the appeal and uphold the decision of the Planning Commission to approve the Use Permit, Coastal Development Permit, Off-Street Parking Exception, and Design Review, by making the required findings and adopting the conditions of approval as attached.

Library

Parks & Recreation

This item is appealable to the California Coastal Commission. The Coastal Commission will begin its appeal period upon receipt of the Notice of Final

Planning & Building

EXHIBIT NO. 4
APPLICATION NO. A-2-SMC-01-032
DA ROSA San Mateo County's
Findings and Conditions of Approval

Local Decision. For questions or concerns regarding the Coastal Commission's appeal period and its process, please call 415/904-5260.

Sincerely,

Kan Dee Rud
Planning Commission Secretary
Bosdec10301.darosa.kr.doc

cc: Pete Bentley, Public Works
Jim Eggemeyer, Planning Department
Bill Cameron, Building Department
Thomas DaRosa, Property Owner
Interested Parties

Attachment A

COUNTY OF SAN MATEO
ENVIRONMENTAL SERVICES AGENCY

FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 1999-00890 Hearing Date: October 30, 2001

Prepared By: Farhad Mortazavi Adopted By: Board of Supervisors

RECOMMENDED FINDINGS

Regarding the Coastal Development Permit, Found That:

1. The projects, as described in the application and accompanying materials required by Zoning Regulations Section 6328.7, and as conditioned in conformance with Section 6328.14, conform with the plans, policies, requirements and standards of the San Mateo County Local Coastal Program.

2. The projects conform to the specific findings required by policies of the San Mateo County Local Coastal Program.

3. The number of building permits for construction of single-family residences other than for affordable housing issued in the calendar year does not exceed the limitation of Policies 1.22 and 1.23 as stated in Section 6328.19.

Regarding the Use Permit, Found That:

4. The proposed development is proportioned to the size of the parcel on which it is being built.

5. All opportunities to acquire additional contiguous land have been investigated.

6. The proposed development is as nearly in conformance with the Zoning Regulations currently in effect as is reasonably possible.

7. The establishment, maintenance, and/or conducting of the proposed use will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to the property or improvements in the said neighborhood.

8. The use permit does not constitute a granting of a special privilege.

Regarding Coastal Design Review, Found That:

9. The project complies with the provisions of Chapter 28.1 of the San Mateo County Zoning Regulations.

Regarding California Environmental Quality Act (CEQA), Find That:

10. Exempt from Environmental Review, under Section 15303, Class 3, New Construction of Small Structures, of the California Environmental Quality Act (CEQA). A Notice of Exemption will be filed and posted for review forthwith.

CONDITIONS OF APPROVAL

Planning Division

1. This approval applies only to the proposal, documents and plans described in this report and resubmitted to this office on June 2, 2000, and approved by the Board of Supervisors on October 23, 2001. Minor revisions or modifications to the project may be approved by the Planning Director if they are consistent with the intent of and in substantial conformance with this approval.

2. The Coastal Development Permit and Coastside Design Review Permit shall be valid for one year from the date of final approval. Any extension of this permit shall require submittal of an application for permit extension and payment of applicable permit extension fees sixty (60) days prior to the expiration date.

3. Noise levels produced by construction shall not exceed the 80 dBA level at any one moment. Construction activity shall be limited to the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. Construction operations shall be prohibited on Sunday and any national holiday.

4. All new utility lines to the proposed project shall be installed underground. However, all equipment, lighting switches, and panels shall be installed above the Base Flood Elevation (BFE) as indicated on the site plan.

5. The applicant shall ensure that if during construction any evidence of archaeological traces (human remains, artifacts, concentrations of shale, bone, rock, ash) are uncovered, then all construction within 30 feet shall be halted, the Planning Division shall be notified, and the applicant shall hire a qualified archaeologist to assess the situation and recommend appropriate measures. Upon review of the archaeologist's report, the Planning Director, in consultation with the applicant and the archaeologist, will determine the steps to be taken before construction may continue.

6. Prior to the issuance of a building permit, the applicant shall submit color and material samples of the proposed project (no larger than approximately 4 square inches) for walls and trims, for the approval by the Planning Director. The colors and materials shall blend in with

the surrounding soil and vegetative cover of the site. The approved building colors shall be verified by the Building Inspection Section prior to a final building permit inspection.

7. The applicant shall submit a material sample of the proposed roof material for review and approval of the color and material prior to building permit issuance. Roof material verification by a Building Inspector shall occur in the field after the applicant has installed the approved material but before the applicant schedules a final inspection.

8. The building plans shall meet with the approval of the Half Moon Bay Fire Protection District.

9. The applicant shall submit a landscape plan in accordance with the "Landscape Plan Guidelines Minimum Standards" for review and approval by the Planning Director. The goal of the required landscape plan is to soften the impact of the building from the street and the sides. The plan shall include a minimum of three (3) trees in the front of the property and two (2) trees in the rear. A minimum of twenty (20) shrubs shall be included in the design for the front of the residence. Areas in the front of the property that do not contain trees, shrubs, or landscape shall be planted with groundcover. An irrigation plan for the front area shall be submitted with the planting plan. Upon submittal of the landscape plan, the applicant shall pay a review fee based on the fee scheduled in effect at that time.

10. During project construction, the applicant shall, pursuant to section 5022 of the San-Mateo County Ordinance Code, minimize the transport and discharge of stormwater runoff from the construction site into storm drain systems and water bodies by:

    a. Using filtration materials on storm drain covers to remove sediment from dewatering effluent.

    b. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 15 and April 15.

    c. Removing spoils promptly, and avoiding stockpiling of fill materials, when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.

    d. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry into the storm drain system or water body.

    e. Avoiding cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff.

    f. Limiting and timing applications of pesticides and fertilizer to avoid polluting runoff.

11. The project shall include water runoff prevention measures for the operation and maintenance of the project for the review and approval by the Planning Director. The project shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to

effectively prohibit the discharge of pollutants with storm water runoff and other water runoff produced from the project. Please refer to the attached handout which details the BMPs.

12. Submit an erosion control plan, prior to the issuance of a building permit, to mitigate any erosion resulting from project-related grading activities.

13. The applicant is responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of the correction notices, citation or a project stop order.

    a. All landscaping shall be properly maintained and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration and minimize the use of fertilizer, herbicides and pesticides which can contribute to runoff pollution.

    b. Where subsurface conditions allow, the roof downspout systems from all structures shall be designed to drain into a designated, effective infiltration area or structure (refer to BMP handbook for infiltration system designs and requirements).

14. No grading shall be allowed during the winter season (October 15 to April 15) to avoid potential soil erosion unless approved, in writing, by the Planning Director. The applicant shall submit a letter to the Planning Division at least two weeks prior to the commencement of the grading stating when grading will begin.

15. No site disturbance shall occur, including any grading, until a valid building permit has been issued.

16. The applicant shall provide "finished floor elevation verification" to certify that the structure is actually constructed at the height shown on the submitted plans. The applicant shall have a licensed surveyor or engineer establish a baseline elevation datum point in the vicinity of the construction site. The applicant shall maintain the datum point so that it will not be disturbed by the proposed construction activities until final approval of the building permit.

    a. The datum point and its elevation shall be shown on the submitted site plan. This datum point shall be used during construction to verify the elevation of the finished floors relative to the existing natural or to the grade of the site (finished grade).

    b. Prior to Planning approval of the building permit application, the applicant shall also have the licensed land surveyor or engineer indicate on the construction plans: (1) the natural grade elevations at the significant corners (at least four) of the footprint of the proposed structure on the submitted plan, and (2) the elevations of proposed finished grades.

c. In addition, (1) the natural grade elevations at the significant corners of the proposed structure, (2) the finished floor elevations, (3) the topmost elevation of the roof and (4) garage slab elevation must be shown on the plan, elevations, and cross-section (if one is provided).

d. Once the building is under construction, prior to the below floor framing inspection or the pouring of the concrete slab (as the case maybe) for the lowest floor, the applicant shall provide to the Building Inspection Section a letter from the licensed land surveyor or engineer certifying that the lowest floor height, as constructed, is equal to the elevation specified for that floor in the approved plans. Similarly, certifications on the garage slab and the topmost elevation of the roof are required.

e. If the actual floor height, garage slab, or roof height, as constructed, is different from the elevation specified in the plans, then the applicant shall cease all construction and no additional inspections shall be approved until a revised set of plans is submitted to and subsequently approved by both the Building Official and Planning Director.

17. The placement of the domestic well shall be at least 50 feet from any sanitary sewer line, 50 feet from a septic tank, 75 feet from a drainage field and 5 feet from all property lines. All pumps and motors are to be located 20 feet from the front and rear property lines and a minimum of 5 feet from the west property line and 10 feet from the east property line.

18. The property owner shall apply for and shall obtain service from the Citizen Utilities Company when it has availability of adequate water supplies.

19. The applicant shall pay, to the Planning Division, the balance due of the Environmental Health review fee of $153.00 prior to the building permit issuance.

Building Inspection Section

20. The applicant shall obtain a building permit prior to initiating any construction or grading activity on-site.

21. The interior stairs from the garage will have to be eliminated and the only slab that will be allowed in this lower area will be confined to the tandem parking area only. The remaining area at grade will not be allowed to a slab.

22. The parking slab must be unreinforced or have nothing greater than 6 x 6 x 10 welded wire mesh.

23. The main entry stairs must be of an open riser construction and all enclosures below the Base Flood Elevation (BFE) must be break-away construction.

24. All new utility lines to the proposed project shall be installed underground. However, all equipment, lighting switches, and panels shall be installed above the Base Flood Elevation (BFE) as indicated on the site plan.

25. The well pump is to be energized, a building permit is required and all utility lines connected to it shall be underground.

Department of Public Works

26. Prior to the issuance of the Building Permit, the applicant will be required to provide payment of "roadway mitigation fees" based on the square footage (assessable space) of a proposed residence per ordinance #3277.

27. The applicant shall submit a driveway "Plan and Profile," to the Department of Public Works, showing the driveway access to each parcel (garage slab and proposed garage slab) complying with the County Standards for driveway slopes (not to exceed 20%)and to County Standards for driveways (at the property line) being the same elevation as the center of the access roadway. The driveway plan shall also include and show specific provisions and details for handling both the existing and the proposed drainage.

28. No construction work within the County right-of-way shall begin until Public Works' requirements for the issuance of an encroachment permit, including review of applicable plans, have been met and an encroachment permit issued by the Department of Public Works.

Environmental Health Division

29. Prior to the building permit application stage, the applicant shall construct a well with the required permit from the Environmental Health Division.

30. The applicant shall demonstrate that the domestic water supply can meet quality and quantity standards.

Half Moon Bay Fire Protection District

31. The building plans shall comply with the requirements of the Half Moon Bay Fire Protection District.

Granada Sanitary District

32. The applicant shall provide proof of having secured a sewer assessment on the property to allow for permit application for sewer connection.

33. The applicant shall provide additional assessment payment to the Sanitary District in order to receive a sewer permit.

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

By Fax 415-904-5400 and U.S. Mail

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

RECEIVED
NOV 27 2001
CALIFORNIA COASTAL COMMISSION

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Committee for Green Foothills
339 La Cuesta
Portola Valley CA 94028 (650) 854-0449
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: San Mateo County

2. Brief description of development being appealed: File Number PLN 1999-00890: Use Permit, Coastal Development Permit, Off-Street Parking Exception and Design Review

3. Development's location (street address, assessor's parcel no., cross street, etc.): Coronado Ave, Miramar APN: 048-013-570

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: X

c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

H5: 4/88

EXHIBIT NO. 5
APPLICATION NO. A-2-SMC-01-032
DA ROSA Appeal by Committee for Green Foothills

5. Decision being appealed was made by (check one):

a. __Planning Director/Zoning Administrator

c. __Planning Commission

b. X City Council/Board of Supervisors

d. __Other_____

6. Date of local government's decision: October 30, 2001

7. Local government's file number (if any): PLN 1999-00890

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Thomas DaRosa
address not in County Staff Report

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Barbara Mayz
P.O. Box 1284
El Granada, CA 94018

(2) Robert La Mar
P.O. Box 2282
Redwood City, CA 94064

(3) Ric Lohman
420 First Ave.
Half Moon Bay, CA 94019

(4) Steve Marzano
100 Miramar Road
Half Moon Bay, CA 94019

(plus several others - see County public hearing record)

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Please see attached

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Committee for Green Foothills

Lennie L Roberts, Legislative Advocate

Signature of Appellant(s) or Authorized Agent

Date November 25, 2001

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____

Signature of Appellant(s)

Date _____

Appeal of PLN 1999-00890 Applicant: Thomas Da Rosa
Appellant: Committee for Green Foothills

Reasons for Appeal:

The proposed project is a three story, 36 foot high, 2,870 square foot single family dwelling located in the Miramar area on a parcel of 4,400 square feet. The site is located within the LCP designated High Hazard Area, an area of special flood hazard associated with high velocity waters from coastal and tidal inundation and tsunamis. The project site does not meet the minimum parcel size of 10,000 square feet for the Miramar area. During the development of the LCP, the County consolidated the parcels in the Miramar area to a minimum parcel size of 10,000 square feet in order to protect scenic views from Highway One.

The Committee for Green Foothills contends that:

1. Use of a groundwater well in this urban area is not consistent with the policies of the LCP Public Works Component. The parcel is within the Coastside County Water District urban service area, and should be served by the public utility. The Miramar area west of Highway One was given priority for water and sewer connections due to the County's consolidation of parcels in the LCP. (Note: it is unclear why the subject parcel was not consolidated at that time.) LCP Policies 2.8 and 2.29 reserve capacity for all priority land uses shown in Table 2.17. Policy 2.8(a) requires that: "all priority land uses shall exclusively rely on public sewer and water services." The project should be required to obtain service from Coastside County Water District; we are not aware of any refusal by Coastside County Water District to serve priority land uses. (Note: Condition 18 of the County approval would require the property owner to obtain water service from Citizens Utilities Company when water is available. Citizens Utilities Company does not serve this area, so this is not an enforceable requirement.) **We request that the well component of the project be denied, due to inconsistency with the certified LCP, and that connection to Coastside County Water District be required.**

2. No study has been made of the groundwater resource in this area, and due to its proximity to the ocean, the well(s) will likely experience salt water intrusion. Other wells drilled in the area have never been monitored, so there is no information as to whether salt water intrusion has occurred. The Staff Report refers to a presentation to the Planning Commission regarding salt water intrusion. This presentation was general in nature, and its conclusion that there was no evidence of saltwater intrusion in this area, was not supported by any facts, except the water quality tests that occurred as a one-time test at the time of drilling of five wells in the area. **A groundwater investigation of this area should be conducted in order to determine what is**

the long-term safe yield in terms of water quality and quantity, if this or any other individual groundwater wells are ever to be considered in this area.

3. The project does not conform to the Design Review standards for this area. The house is 19 feet wide, 57 feet long, and 36 feet high. The tall, skinny, long house design may be appropriate as a row house in San Francisco, but it is out of character with the Miramar area. The design is further exacerbated by having an overhang on three sides of the house, which accentuates the height and mass of the structure's second and third stories. The design of the house on this substandard lot would result in blocking of views to and along the shoreline from Highway One, due to the parcel's orientation with the long dimensions parallel to the highway. This blockage of views would be contrary to Section 6565.7 (j) of the Zoning Ordinance. **As approved by San Mateo County, the project should be denied, due to its lack of conformity with the zoning standards for the area. It could be conditioned to allow approval if the parcel were combined with one or more of the adjacent undeveloped parcels to in a manner that would result in a minimum 10,000 square foot parcel, and a new, more compatible design developed for the site.**

4. The project is located within the LCP designated **Coastal High Hazard Area**, which recognizes special flood hazards associated with high velocity waters from coastal and tidal inundation and tsunamis. Section 6825.3 (d) (Coastal High Hazard Area) of the Zoning Ordinance requires that the use be consistent with the General Plan and that the use is permitted by the zoning district. In this instance, the use (residential) requires a Use Permit, due to non-conformity with the zoning standards requirements for parcel size, parcel width, and tandem parking. Therefore, the residential use on this parcel, as proposed, is only a conditionally permitted use, and does not therefore meet the requirements of 6835.3 (d). (Note: Section 6565.7 (d) in the Design Review section of the Zoning Ordinance requires structures to be located outside Flood Zones. There is no exception provided to this requirement. Resolution of these two conflicting requirements of the Zoning Ordinance was not analyzed by the County Staff Report.) **Conditioning the project to require combining this parcel with one or more of the adjacent undeveloped parcels, as suggested above, would allow the project to be designed and built without triggering a Conditional Use Permit due to exceptions to the zoning standards.**

5. The County Staff Report, on page 14, states with respect to the flood hazard issue, that the first story is a non-habitable space. However, the design of the house includes six windows on the first story. It would be a simple matter for this owner or a future owner to convert the first floor to liveable space. The visual impacts of three stories of lights at night would be inconsistent with the Design Guidelines of the LCP. **The project should be denied absent a condition to prohibit habitation or liveable space on the first floor, and to**

delete all windows on this floor in order to comply with the Hazards and Visual Components of the LCP.

6. No analysis has been made by the County as to the cumulative impacts of allowing this 4400 square foot parcel, as well as myriad other substandard sized parcels to be built in the Miramar Area, and throughout the urban Mid-Coast. Tables 2.7 and 2.17 of the Locating and Planning New Development Component of the LCP project that the Miramar Area will have 55 residential units constructed under Phase I, and a total of 70 units constructed at buildout, based on 10,000 square foot lots, due to Lot Consolidation in the Miramar area. Public Works capacities (water, sewer, and highway Routes 1 and 92) are based upon these projected buildout figures. If this substandard lot is allowed to be developed, the County must adjust the buildout figures for this project, and for all other anticipated projects on substandard sized lots, accordingly. An LCP Amendment is necessary to amend the Tables for evaluating all Public Works Capacities allowable under the LCP. More appropriately, the County should revise any policies that are inconsistent with the buildout figures. **We respectfully request that the Coastal Commission deny this project due to its potential for cumulative adverse impacts on public works capacities, based upon the LCP buildout figures (which did not include development on substandard parcels).**

STATE OF CALIFORNIA—THE RESOURCES AGENC

GRAY DAVIS, GOVERNOR

CALIFORNIA COASTAL COMMISSION

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT Re: 2-SMC-00-051

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Robert LaMar 323 Miranda Rd, Half Moon Bay 94019 (650) 726-4013
Barbara K. Mauz P.O. Box 1284 El Granada 94018 (650) 726-4013
Steve Marzano - 100 Miranda Rd Half Moon Bay 94018-(650) 712-8360
Ric Lohman - 420 First Ave. (650) 726-9607

Zip Half Moon Bay 94019 Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: San Mateo County - Board of Supervisors

* 2. Brief description of development being appealed: PLN-1999-00890 - USE Permit, CDP Off-Street parking Exception and three (3) ST. wells

3. Development's location (street address, assessor's parcel no., cross street, etc.): Coronado Ave., Miramar - unincorporated Mid-Coast / APN: 048-013-570

4. Description of decision being appealed:

a. Approval; no special conditions: X (See above)*

b. Approval with special conditions: _____

c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

RECEIVED
NOV 27 2001
CALIFORNIA COASTAL COMMISSION

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-2-SMC-01-032

DATE FILED: 11/27/01

DISTRICT: South Central Coast

H5: 4/88

EXHIBIT NO. 6
APPLICATION NO. A-2-SMC-01-032
DA ROSA
Appeal - Mauz, La Mar, Marzano and Lohman plus attachments

5. Decision being appealed was made by (check one):

a. __Planning Director/Zoning Administrator

c. __Planning Commission

b. X [redacted] S.M. County/Board of Supervisors

d. __Other_____

6. Date of local government's decision: Oct. 30, 2001

7. Local government's file number (if any): PLN 1999-00890

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Thomas DeRosa
P.O. Box 730
Pismo Beach, CA 93449

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal. (See attached)

(1) _____

(2) _____

(3) _____

(4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

(See attached)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Barbara K. Manz, ET AL
(Robert LaMar, A.M. (Steve) Manzano and Ric Lohman)

Signature of Appellant(s) or Authorized Agent

Date November 26, 2001

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____
Signature of Appellant(s)

Date _____

TO: Sara Wan, Chair & Coastal Commissioners c/o Sarah Borchelt, Coastal Program Analyst
FROM: Robert La Mar, Barbara K. Mauz, A.M. (Steve) Marzano and Ric Lohman, Appellants
DATE: November 26, 2001

RE: PLN 1999-00890 – APN: 048-013-570 -- Appeal to Coastal Commission 2-SMC-00-051
Applicant: Thomas DaRosa (Owner of Record: Thomas Bishop Trust)
Location: Coronado Ave. – "Shore Acres"/West Side Miramar

Appeal Contents:

Cover letter dated November 26, 2001

Exhibit 1 - California Case No. A093139 – Jack A. Gardner et al vs. County of Sonoma

Exhibit 2 - County Geologist, Jean Demouthe's memo of 1/30/01

Exhibit 3 – Kathryn Slater-Carter's Letter of 10/30/01 (with attach.)

Historical Exhibit – Mid-Coast Community Council Letter of 3/18/99
Table 2: County LCP Policy Summary for Urban Midcoast
Photograph of affected West Side Miramar "Shore Acres" Area
Assessor's Map of affected West side Miramar "Shore Acres" Area

Letter of 3/13/01 and Appeal of Robert LaMar – (Not Addressed)

Letters of 8/29/01, 3/14/01 and Appeal of Barbara K. Mauz – Includes Issues (Not Addressed) of County's Non-Compliance with: LCP Policies 1.27 through 1.29(d)*, LCP Policy 2.4*, LCP Policy 2.6*, Required Zoning Lot Minimum of 10,000, sq.ft. – Miramar, CEQA 15300.2 – Exceptions (a) Location (b) Cumulative Impact (d) Scenic Highways, Public Resource Code Section 21083 (a), (b) and (c), Public Resource Code Section 15300 (b), LCP Policies 7.14 through 7.19, Coastal Act Sections 30107.5 and 30240 (a) and (b), LCP Policies 8.11 and 8.12, Well, Aquifer and Groundwater Concerns (Cumulative Impacts), Tandem Parking (Cumulative Impacts) and Appeal Exhibits (Not Addressed) - (A) The Coastside Capacity Report, (B) The Perkovic Report re: Analysis Of Sub-Standard Lots – Mid-Coast and (C) Half Moon Bay's Certified Proportionality Rule

Letter/Appeals of 9/4/01 and 3/11/01 of A.M. (Steve) Marzano (Not Addressed)

Letter/Appeal of 3/12/01 of Ric Lohman, MCCC Member (Not Addressed)

Issues Not Addressed included in the following:
Letter from Half Moon Bay Mayor, Deborah Ruddock/Councilman Dennis Coleman of 2/26/01
Letter from Half Moon Bay Mayor, Deborah Ruddock/Councilman Dennis Coleman of 1/22/01
Resolution NO. C-76-00 of City Council – Half Moon Bay – dated 12/26/00 with
(Findings Justifying a Determination that an Emergency Situation Exists Re: Building Permits)

Letter of 1/22/01 from Chuck Kozak, MCCC Member
Letter of 1/22/01 from Ric Lohman, MCCC Member
Letter of 1/24/01 from Barbara K. Mauz
Letter of 8/15/00 from A.M. (Steve) Marzano

November 26, 2001

Sara Wan, Chairman and Commission Members
California Coastal Commission
c/o Sarah Borchelt, Coastal Program Analyst
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

Re: Appeal of PLN 1999-00890 - 2-SMC-00-051 - Applicant: Thomas DaRosa
Location: Coronado Ave., Miramar - APN: 048-013-570
Appellants: Robert LaMar, Barbara K. Mauz, A.M. (Steve) Marzano & Ric Lohman

Dear Chairman Wan and Commission Members:

We are appealing the Board of Supervisor's decision of October 30th, 2001 to approve of a Use Permit, Coastal Development Permit (CDP), Off-Street Parking Exception and Allowance for Three Test Wells regarding the above.

Herewith is our appeal that consists of our four conglomerate County appeals whose issues were NOT dealt with along with the written concerns of Half Moon Bay City Council members Dennis Coleman and Debbie Ruddock that were also NOT dealt with.

We call particular attention to LCP Policy 1.29(d).

Refer to Court of Appeal First District, Division 1, California Case No. A093139 – Jack A. Gardner et al, Plaintiffs and Appellants vs. County of Sonoma, Defendant and Respondent – Attached hereunder as Exhibit 1. This case fully applies to the land involved in this appeal and was presented to the Board of Supervisors at the Appeal hearing.

There has been no CDP applied for or obtained to determine the legality of APN: 048-013-570. Such a CDP IS REQUIRED by LCP Policy 1.29(d).

We further direct your attention to memo (Exhibit 2) of Jean Demouthe, County Geologist, regarding possible salt-water intrusion problems from wells in the appeal area. And, letter (Exhibit 3) from Kathryn Slater-Carter, which was submitted to the Board of Supervisors on October 30th, 2001.

It is of critical importance for the County to adhere to established Zoning Lot Minimum Requirements, as for example 5,000 sq.ft is the requirement in El Granada and 10,000 sq.ft is the requirement in Miramar. Zoning Lot Minimums were put into place in order to maintain designated densities in these two communities as well as the other communities in the San Mateo Mid-Coast. The designated density in Miramar is being converted from Medium Low to High - De Facto!

LCP Policy 1.20 - Lot Consolidation - Under Growth Control states:

"According to the densities shown on the Land Use Plan Maps, consolidate contiguous lots, held in the same ownership, in residential subdivisions in Seal Cove to minimize risks to life and property and in Miramar to protect coastal views and scenic coastal areas."

Continued.....

For the sake of history, please recall the observations and admonitions of Jack Liebster, Staff Analyst, retired, pages 12, 13 and 14 from the Staff Report for Appeal of 25' Lot at 910 Ventura, El Granada (A-1-SMC-99-014):

"Indeed, some of the facts related to this appeal raise serious concerns over the efficacy of the County's approach to substandard lots. As discussed further in section 2c, page 26 below, the subject parcel was recently one of three "contiguous, commonly owned substandard lots" held by Richard Shimek and Shannon Marquard. The 8,000 sq.ft. total area of the three lots, if merged, would have met the minimum 5,000 sq.ft. parcel size required by the zoning district. However, in the period leading up to the submittal of the subject development proposal to the County, two of the three lots were sold to different neighbors, leaving the remaining 3,000 sq.ft. lot to be sold to yet another purchaser, the present applicant (Linda Banks/Judy Taylor)."

"That three contiguous lots in a single, common ownership could be sold off in a manner that necessitated developing a substandard building site rather than merged into a parcel meeting minimum lot requirements, POSES REAL QUESTIONS ABOUT THE WORKABILITY OF THE COUNTY'S APPROACH."

"Commission staff had expressed concern to County staff during the formulation of its substandard lot consolidation policy that precisely this kind of transfer of title could be used as a loophole to avoid the consolidation requirements. Staff further cautioned that it would be very difficult to tell if such transfers were happening on a large scale, because such sales or transfers do not require any permit. Moreover, once done, the "creation" of substandard lots by this means is very difficult, if not impossible, to reverse. If the breakup of the original property involved in this project is a harbinger of what may come, and indeed what may already be happening, on the MidCoast, a substantial number of substandard lots may soon be on their way to becoming building sites."

There are thousands of 25' lots in our Mid-Coast communities. These lots are behind existing homes, as in the case of 910 Ventura, El Granada where an adjacent home owner, Gary Crispell, offered to purchase this 25' lot to merge it with his conforming lot – but was refused by the Applicant, Judy Taylor. They are between existing homes, on our hillsides and in wetland/riparian areas. The LCP Coastal Resources Map has been blank since 1986, except for the Fitzgerald Marine Reserve, and that is a part of the problem. We are seeing trees being cut down, wetlands destroyed and precious Coastal Views blocked where the County has been allowing "Administrative" and "Staff" approved permits with no public hearing or environmental study on Non-Conforming, Sub-Standard Lots. Below is another current example of an application at the County in Miramar, West side, where there is coastal scrub, possible wetlands and Coastal Views at stake.

San Mateo County - PLN 2000-00540 Application for 2,500 sq. ft. lot - proposed two-story house with no garage – Location, West Side Hwy. 1 - Directly Adjacent to Hwy. 1 – Miramar. The Original Owner, Mark Hurley, is now deceased. Joseph Hurley, his nephew is and has been the Applicant – Joseph Hurley has now inherited this 25' lot and he is seeking to build on it – knowing full well that there are severe restrictions. According to the San Mateo County Tax Assessor's Office, the Land Valuation for this lot $761, Annual Property Tax, $8.10.

The surrounding Lots are Vacant. The Zoning Lot Minimum is 10,000 sq. ft. (R-1/S-9). Back Lot = 25 x 100 sq. ft. (Owner: Thomas Bishop), Left Lot = 50 x 100 sq. ft. (Owner: Thomas Bishop), Right Lot = 25 x 100 sq. ft. (Owner: Michael McDonald)

Again, for the sake of history and to see how this relates to the situation today, please recall these determinations of Jack Liebster, Staff Analyst, retired, pages 12, 13 and 14 from the Staff Report for Appeal of 25' Lot at 910 Ventura, El Granada (A-1-SMC-99-014):

"The Commission itself has already expressed concern that extensive development of substandard lots could exceed development levels anticipated in the LCP. As one part of the LCP Amendment 1-97-C (failed Coastal Protection Initiative), the County submitted amendments to the certified zoning non-conformities use permit section of the LCP that were intended to address the substandard lot question. The amendments more or less incorporated the lot coverage and floor-area-ratio (FAR) provisions of the "San Mateo County Policy: Use Permits for Construction on Non-conforming (25-foot-wide) Residential Parcels" (Exhibit 17). This Policy was adopted in March, 1992, but was never submitted for certification as part of the LCP. In the hearings on Amendment 1-97-C, numerous community members raised concerns that the standards in the existing Policy and the proposed amendment permitted houses too large for such small lots, causing undesirable impacts to community character. Moreover, there was concern that making such small lots more marketable would increase the incentive to develop them as individual building sites, rather than to combine them into building sites that meet zoning standards. This in turn would result in an unanticipated level of buildout of small lots, with the potential impacts discussed above."

(Ed Note: What will be the effect of the just certified LCP Amendment 3-00-A (FAR and % Lot Coverage) that should have strictly applied to standard or above standard lots and NOT to non-conforming, sub-standard lots? Hopefully, the attitude of the County will not reflect that of the Project Planner for the DaRosa proposal! When discussing the need for enforcement of Zoning Lot Minimums, Mr. Mortizavi replied, "But, Barbara, now we have our new house size rules.")

Mr. Liebster continued: "For these reasons, the Commission's action on LCP Amendment 1-97-C rejected the approach offered by the County to resolve the substandard lot problem. The Commission recognized that simply rejecting the County's proposed amendment would not solve the problem, and directed staff to encourage the County to determine the EXACT MAGNITUDE of the problem, and develop an effective means to deal with it." (Ed Note: The County has not done this to date. Precious Coastal Views and sensitive areas are being destroyed; infrastructure is getting overburdened and there are serious health and safety issues. Something needs to be done now to stop the exploitation of these non-conforming, sub-standard lots that are not even represented in the County's LCP buildout numbers.)

We request that the Coastal Commission uphold our appeal and take strong steps to make sure that LCP Policies, Zoning Lot Minimums, Designated Densities are complied with and that Community Character and irreplaceable Coastal Resources are preserved.

Thank you,
Robert LaMar, Barbara K. Mauz, A.M. (Steve) Marzano & Ric Lohman, Appellants

TO: Sarah Borchelt, Coastal Program Analyst
FROM: Robert La Mar, Barbara K. Mauz, A.M. (Steve) Marzano and Ric Lohman, Appellants
DATE: November 26, 2001

RE: PLN 1999-00890 – APN: 048-013-570 -- Appeal to Coastal Commission 2-SMC-00-051
Applicant: Thomas DaRosa (Owner of Record: Thomas Bishop Trust)
Location: Coronado Ave. – "Shore Acres"/West Side Miramar

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Exhibit 1

Filed 10/11/01

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

JACK A. GARDNER et al., Plaintiffs and Appellants, v. COUNTY OF SONOMA, Defendant and Respondent.	A093139 (Sonoma County Super. Ct. No. SCV-219103)

In 19th century California, antiquated maps embodied the entrepreneurial hopes and financial dreams of some settlers who drew plans for vast estates of teeming subdivisions. "These subdivisions are the legacies of 19th century would-be developers whose dreams of carving up their land into profitable real estate parcels went only as far as the county recorder's office." (*Morehart v. County of Santa Barbara* (1994) 7 Cal.4th 725, 765 (*Morehart*) (conc. opn. of Mosk, J.).) Despite the bold vision of those who created them, such early subdivision maps — if drawn and recorded before 1893 — do not create legal parcels within the meaning of California's Subdivision Map Act (Gov. Code, § 66410 et seq.).

Appellants Jack and Jocelyn Gardner, Trustees of the Gardner Family Trust, and Lindsay and Hilary Gardner own certain lots and fragments of lots depicted on an antiquated subdivision map recorded prior to 1893, when the first California statute regulating subdivision maps took effect. (Stats. 1893, ch. 80, § 1, p. 96; see Curtin et al., California Subdivision Map Act Practice (Cont.Ed.Bar 2d ed. 2001) § 1.2, pp. 2-3.) Appellants asked respondent County of Sonoma (County) to recognize their lots and lot fragments as legal parcels. The County refused to recognize the parcels as legal, and

appellants sought a writ of mandate to compel the County to do so. The superior court denied appellants' writ petition.

Appellants argue that antiquated subdivision maps can create legal parcels for subdivisions despite their noncompliance with the Subdivision Map Act or any of its precursors. We disagree, and conclude that maps recorded before 1893 do not create legal parcels. Accordingly, we affirm.

I. FACTS

The history of this case begins soon after Lee's surrender at the Appomattox Court House ended the Civil War. On May 9, 1865, S. H. Greene recorded a map entitled "The Redwood Estate of S.H. Greene" with the Sonoma County Recorder. This antiquated map (hereafter "the Greene Map") purported to depict a vast subdivision surveyed the previous year by H.R. Martin and R.M. Martin. Greene's subdivision consisted of almost 90 numbered rectangles, or lots, in a grid superimposed over more than a thousand acres of open land west of Sebastopol.

The Greene Map divided its lots into four different ranges, with 15-28 lots per range. Each lot was labeled with a range number and a lot number, as well as length and width measurements which appear to be precise to the one-hundredth of an acre. The Greene Map noted surveyor's compass points and the location of several monuments, such as "post in mound," "Redwood tree," and "Blackoak."

The Greene Map identified two streams, Salmon and Jonive Creeks, which flowed through the purported subdivision, but identified no other geographic features. The map identified a county road running along the southeast corner of the grid, but depicted no interior roads or other subdivision infrastructure, no easements, no drainage systems, and no access routes.

Since no subdivision map statute existed in 1865, the Greene Map was simply accepted for recording without the review and approval of any public entity, including any arm of local government.

In 1877, the Thompson Atlas Map of Sonoma County included the purported subdivision called "The Redwood Estate of S.H. Greene." Over the years numerous

portions of the purported S.H. Greene subdivision were conveyed to different parties. It appears that these conveyances referred to the Greene Map to describe the property conveyed, i.e., by range and lot number, but typically supplemented the description by one based on metes and bounds.

Appellants own approximately 158 acres in the south-central portion of the purported S.H. Greene subdivision. Appellants' property consists of two full lots and portions of 10 other lots from the 90 lots depicted on the Greene Map. The property is part of a conveyance from the Greene family to Paul Bertoli in 1903, which used the Map for reference but described the conveyed property in detail using metes and bounds. Appellants ultimately came into possession of their 158 acres of the purported subdivision in 1990. The Gardiners' lots today bare scant resemblance to the configuration that Greene recorded in 1865. Greene envisioned 90 distinctive rectangular lots for his paper subdivision. Appellants' lots include only fragments from ten of the original lots. The property includes steep slopes and is the subject of a timber harvest plan. It is zoned for "Resource and Rural Development."

In 1996, appellants asked the County's Permit and Resource Management Department (Department) to issue them 12 certificates of compliance with the Subdivision Map Act, pursuant to Government Code section 6499.35.[1] Such certificates would have established that appellants' 12 lots constituted legal parcels within the meaning of the Act, and thus could be sold, leased or financed. (§ 66499.30, subds. (a), (b), (c); see Merritt, Antiquated Subdivisions (CEB Land Use & Environment Forum Winter 1996) p. 40.) The Department denied appellants' request, reasoning that the Greene Map did not create legally cognizable parcels because it was recorded prior to 1893.

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[1] Subsequent statutory references are to the Government Code. The Subdivision Map Act is usually referred to either as "the Act" or "the Map Act."

Appellants appealed the Department's denial to the Planning Commission (Commission). After a public hearing in November 1997, the Commission denied the appeal and affirmed the Department's determination by a vote of five to zero.

Appellants then appealed the Commission's decision to the County Board of Supervisors (Board). After a public hearing in January 1998, the Board denied the appeal and upheld the Commission, also by a vote of five to zero. In so doing the Board adopted Resolution No. 98-0205, which contained detailed findings.

The Board found that "the creation of parcels by the recordation of a map is a legal consequence of the Subdivision Map Act and that therefore, only maps properly recorded under the Subdivision Map Act or . . . its predecessor statutes can be deemed to create parcels." The Board further found that "the mere recordation of a map prior to 1893 cannot create parcels cognizable under the Subdivision Map Act."

The Board made more specific findings that appellants' property had been "repeatedly and consistently conveyed as a single unit of land, generally described in metes and bounds since 1903"; that none of appellants' 12 purported lots had ever been separately conveyed or separately described in a grant deed;[2] and that the Thompson Map of 1877 was adopted for "administrative purposes and served [only] as a reference tool," and did not establish parcels within the meaning of the Subdivision Map Act.

The Board noted that a primary purpose of the Subdivision Map Act was orderly community development, and that the Act "serves as a critical tool for rational local land use planning." But the Board found that "recognition of parcels drawn on antiquated maps recorded prior to the adoption of any regulation of the design and improvement of subdivisions could seriously undermine rational land use planning in the County . . . ." The Board further found that the grid lines on the Greene Map were for the most part drawn without regard to "topography, natural resources, and community needs[,] and without community review." As a result, recognition of the parcels laid out on the 1865

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[2] Except for certain attempted conveyances by appellants in 1996 and 1997, which are not at issue here.

Greene Map could lead to "the creation of hundreds of parcels in the area inconsistent with the land use designations and acreage limitations" of the County General Plan.

The Board concluded that "the resurrection of the 1865 [Greene] map now, a hundred and thirty-three years after its recordation, could raise serious concerns regarding the preservation of water supplies in a water scarce area, the protection of the scenic corridor, the protection of stream fisheries and other wildlife resources, and the preservation of other strong community interests in the area."

Appellants challenged the Board's ruling by a petition for writ of mandate seeking to compel the County to issue 12 certificates of compliance for their Greene Map lots. After briefing and oral argument, the trial court denied the petition, essentially ruling that the 1865 Greene Map did not create legal parcels within the meaning of the Subdivision Map Act.

II. DISCUSSION

Appellants contend that antiquated subdivision maps recorded prior to 1893, when no law regulating subdivisions was in existence, can nevertheless create legal parcels if they are sufficiently accurate, detailed, and informative. Respondents and amici curiae disagree and urge that legal recognition of such maps would wreak havoc with modern land use planning. We conclude that the legislative intent underlying the Subdivision Map Act precludes legal recognition of subdivision lots in pre-1893 antiquated subdivision maps.

This is a case of first impression. Like many explorers of a new world, we set forth with a sextant and a map that, while incomplete, contains many reference points to guide us.

The first such point is the Act itself. The Subdivision Map Act "is the primary regulatory control governing the division of property in California and generally requires that a subdivider of property design the subdivision in conformity with applicable general and specific plans and to construct public improvements in connection with the subdivision." (*Hill v. City of Clovis* (2000) 80 Cal.App.4th 438, 445 (*Hill*).)

"Among the Act's purposes are to encourage and facilitate orderly community development, coordinate planning with the community pattern established by local authorities, and assure proper improvements are made, so that the area does not become an undue burden on the taxpayer. [Citations.]" (*Gomes v. County of Mendocino* (1995) 37 Cal.App.4th 977, 985; see *Hill, supra*, 80 Cal.App.4th at p. 445; *Bright v. Board of Supervisors* (1977) 66 Cal.App.3d 191, 194.)

Stated another way, the Act's purposes are to "control the design of subdivisions for the benefit of adjacent landowners, prospective purchasers and the public in general. [Citation.]" (*Hays v. Vanek* (1989) 217 Cal.App.3d 271, 289 (*Hays*).) In addition, "[t]he salutary purposes of the Map Act include . . . a determination of the compatibility of design of a subdivision in relation to surrounding land, the requirement for installation of streets and drains, and the prevention of fraud and exploitation of the public and purchasers. [Citation.]" (*John Taft Corp. v. Advisory Agency* (1984) 161 Cal.App.3d 749, 755 (*Taft*); see 2 Longtin, California Land Use (2d ed. 1987) Subdivisions, § 6.03, pp. 583-584.)

Our legal sextant focuses on several provisions of the Act pertinent to our analysis. Section 66424 defines "subdivision" as "the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale . . . ." Subdivision under the Act "may be lawfully accomplished only by obtaining local approval and recording" a final map pursuant to section 66426, when five or more parcels are involved, or a parcel map pursuant to section 66428 when four or fewer parcels are involved. (*Taft, supra*, 161 Cal.App.3d at p. 755; see 64 Ops.Cal.Atty.Gen. 549, 550 (1981).)

A final or parcel map must meet strict requirements, and approval is based on the local agency's extensive review of the proposed subdivision. The local agency takes into account such matters as land use policies, water supplies, environmental concerns, and the burden on public services. (See, e.g., §§ 66451-66451.7, 66452-66452.13, 66453-66472.1, 66473-66474.10, and 66475-66478.) There are very limited exceptions from

the Map Act and its process of local review of a proposed subdivision. (See, e.g., §§ 66411, 66412; see also 2 Longtin, California Land Use, *supra*, § 6.11 at pp. 597-599.)

Map recordation is the key component to subdivision establishment. Generally, a subdivision is "established" within the meaning of the Act on the date the approved final or parcel map is recorded or, if the subdivision is exempted from map requirements, on the date an application for a certificate of exemption is filed with the appropriate local agency. (§ 66412.7; see *Taft, supra* 161 Cal.App.3d at p. 756.) Since 1893 neither Greene nor any successor owner has attempted to establish the Gardner portion of the property as a legal subdivision under any available law. Appellants have not brought the property within the confines of section 66412.7 which explains when a subdivision is deemed established.

Section 66499.30 of the Map Act prohibits the sale, lease or financing of any parcel subject to the final or parcel map requirement, unless an approved map in full compliance with the Act is recorded. (§ 66499.30, subds. (a), (b), (c).) The polestar is section 66499.30, subdivision (d), the Act's primary "grandfather clause," which provides for a significant exemption: "[This section does] not apply to any parcel or parcels of a subdivision . . . in compliance with or exempt from any law . . . regulating the design and improvement of subdivisions in effect at the time the subdivision was established." (See Gustafson, Antiquated Subdivisions: A Government Perspective (CEB Land Use & Environment Forum Winter 1996) p. 50.)

Our other reference points are three Map Act decisions which did not decide the issue before us, but provide valuable direction.

Taft involved the question whether an 1878 United States Government Survey Map created a legal subdivision within the meaning of the Map Act. The Government Survey Map depicted monuments and lot lines. The *Taft* court reviewed the key provisions of the Act set forth above, noting that they indicated "[t]he Legislature thus places significance on subdivision map recordation and local agency control. We are guided by this legislative intent." (*Taft, supra*, 161 Cal.App.3d at p. 756.)

Although the federal survey laws referred to "legal subdivisions," those laws did not include numerous significant provisions of the Map Act, including recording in the office of the county recorder and the consequent constructive notice to transferees. (*Taft, supra*, 161 Cal.App.3d at p. 756.) Also, a "federal subdivision" was defined in a way not entirely consistent with the Map Act. (*Ibid.*) "Therefore, the 'legal subdivisions' referred to by the federal survey laws have not been 'established' within the meaning of the Map Act. *Had the Legislature intended to exempt such units of land from the Map Act, a specific exemption from the 'subdivision' definition of section 66424 could have been provided.*" (*Id.* at pp. 756-757, italics added.) The Government Survey Map did not satisfy the Map Act to establish a legal subdivision.

Morehart, supra, 7 Cal.4th 725 touched upon the issue before us but did not decide it. The main substantive issue in *Morehart* involved the merger provisions of the Map Act (§§ 66451.10-66451.21), which provide that contiguous parcels *already created* are not automatically merged by virtue of common ownership, and are subject to merger only under certain conditions.

The parcel at issue in *Morehart* was a lot depicted on an 1888 antiquarian subdivision map. (*Morehart, supra*, 7 Cal.4th at p. 732.) The County of Santa Barbara (CSB) *conceded* that the parcel was "created" by the recordation of the 1888 map. (*Id.* at pp. 760-761.) The Supreme Court accepted that concession and explicitly declined to decide the issue of whether a pre-1893 antiquated map "creates" a legal parcel: "Thus, we need not consider any of the prerequisites to creation of a parcel that preceded California's first subdivision map statute in 1893 (Stats. 1893, ch. 80, § 1, p. 96). Instead, the question presented by [CSB's] contention is whether a parcel so created is covered by the present Act's merger provisions." (*Morehart, supra*, 7 Cal.4th at p. 761.)

In his concurring opinion in *Morehart*, Justice Mosk perceptively noted that the parcel "exists because [CSB] . . . said it exists." (*Morehart, supra*, 7 Cal.4th at pp. 765-766 (conc. opn. of Mosk, J.).) He observed the court had not reached the issue of whether pre-1893 antiquated subdivision maps created legal parcels: "The answer to that question awaits further judicial -- or legislative — clarification." (*Id.* at p. 767.)

Morehart not only did not decide the issue raised by this case, but it is distinguishable. *Morehart* involved whether a concededly created parcel was covered by the Act's merger provisions. We must decide whether the parcels at issue here were created in the first place by the 1865 recordation of the Greene Map. But some language of *Morehart* does have a bearing on our discussion.

CSB argued in *Morehart* that the Act's merger provisions did not apply to the lot at issue. CSB focused on section 66451.10, subdivision (a), which, if applicable, precluded automatic merger if contiguous parcels "have been created under the provisions of [the Act], or any prior law regulating the division of land, or a local ordinance enacted pursuant thereto, or . . . *were not subject to those provisions at the time of their creation* . . . ." (*Morehart, supra,* 7 Cal.4th at p. 766.)

CSB argued the parcel at issue did not fall under the scope of this statute because the parcel, created as it was before any subdivision map law was in existence, was not established under or exempt from any law " 'regulating the division of land.' " The *Morehart* court construed CSB's argument as follows: "In other words, the county reads section 66451.10(a)'s phrase, 'not subject to those provisions at the time of their creation,' to mean 'exempted from land-division provisions that were in existence at the time of the parcels' creation.' " (*Morehart, supra*, 7 Cal.4th at p. 761.) The court "disagree[d] with that strained interpretation. If, when the parcels were created, no land-division provisions were in existence, the parcels necessarily 'were not subject to those provisions at the time of their creation.'" (*Ibid.*)

This language from the *Morehart* opinion surfaces in *Lakeview Meadows Ranch v. County of Santa Clara* (1994) 27 Cal.App.4th 593 (*Lakeview*), which involved three parcels dating from the 19th century. The County of Santa Clara (CSC) conceded that two parcels were legally created before 1893 by *conveyance* — by deeds executed in 1882 and 1892. (*Lakeview, supra,* at p. 596.) Prior to 1893 parcels were typically created by conveyance. CSC disputed that the third parcel was legally created prior to 1893. The court concluded that it had been legally created by an 1891 federal patent,

which is simply another form of conveyance. (*Lakeview, supra,* at pp. 596-598; see *Gomes v. County of Mendocino, supra,* 37 Cal.App.4th at pp. 982-983.)[3]

The second issue in *Lakeview* was whether the three parcels were exempt from the Map Act under the grandfather clause of section 66499.30, subdivision (d), as parcels which were "in compliance with or exempt from any law . . . regulating the design and improvement of subdivisions in effect at the time the subdivision was established." CSC argued that the parcels were not exempt from the Act: since the three parcels were created before 1893, they could not have been " 'in compliance with or exempt from any law . . . in effect at the time' " because there were no such laws then in effect. (*Lakeview, supra,* 27 Cal.App.4th at p. 599.)

The *Lakeview* court found CSC's interpretation of the grandfather clause "at odds" with the *Morehart* court's interpretation of "similar language" — the " 'not subject to' " language of section 66451.10, subdivision (a). (*Lakeview, supra,* 27 Cal.App.4th at p. 599.) "[CSC] tries to draw a distinction between parcels 'exempt from any law' regulating subdivisions and parcels 'not subject to' the provisions of any laws regulating subdivisions. However, we are unable to find any basis for this distinction. 'Exempt' and 'not subject to' have essentially the same meaning . . . ." (*Ibid.*)

The *Lakeview* court was also influenced by section 66412.6, subdivision (a), on which appellants now rely. This grandfather clause provides that a parcel created prior to March 4, 1972, is presumed to be legally created if, at the time of its creation, it complied with any local ordinance governing a subdivision of less than five parcels — or if there was no such ordinance in effect. (*Lakeview, supra,* 27 Cal.App.4th at p. 599.) Of course, the parcels in *Lakeview* were legally created by conveyance in 1882, 1891, and 1892, before the first subdivision law in 1893. But, the parcels in the present case were not created by conveyance, and the very issue before us is whether they were legally

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[3] Although we need not formally discuss the issue, historically parcels have been created either by conveyance or by a recordation of a subdivision map in compliance with the Map Act. (See *Lakeview, supra,* 27 Cal.App.4th at pp. 596-598; see also Gustafson, Antiquated Subdivisions, *supra,* at p. 52.)

created by an antiquated subdivision map. Section 66412.6, subdivision (a) does not show a legislative intent that pre-1893 maps are deemed to "create" parcels.

Morehart and *Lakeview* are distinguishable from the case before us. Both decisions involved parcels which were already created, or considered "created" by a litigation concession. Neither decision directly addressed and resolved the issue of whether a parcel is legally created by virtue of the pre-1893 recordation of an antiquated subdivision map. We thus move on past our reference points into unexplored territory.

Appellants contend that the language and purpose of the Map Act support the conclusion that a pre-1893 antiquated subdivision map can legally create a cognizable parcel. Our examination of the Act and its purposes directs us to the opposite conclusion.

Appellants' contention leads us to an exercise in statutory interpretation. The interpretation of the Map Act, like that of any statute, is a question of law subject to de novo review on appeal. (*Hill v. City of Clovis, supra,* 80 Cal.App.4th at p. 446.) The Act is to be liberally construed to apply to as many transfers or conveyances of land as possible, "in order to facilitate local regulation of the design and improvement of subdivisions. [Citation.]" (*Taft, supra,* 161 Cal.App.3d at p. 755.) In accordance with the general rules of interpreting exemptions to statutes, exemptions to the Act are to be narrowly construed. (See *City of Lafayette v. East Bay Mun. Utility Dist.* (1993) 16 Cal.App.4th 1005, 1017.) As always, "[t]he fundamental rule of statutory construction is that a court should ascertain the intent of the Legislature so as to effectuate the purpose of the law. [Citation.]" (*O'Kane v. Irvine* (1996) 47 Cal.App.4th 207, 211.)

Appellants argue that the text of the Act and the decisions in *Morehart* and *Lakeview* demonstrate the validity of antiquated subdivision maps. As we have discussed in detail above, *Morehart* and *Lakeview* are distinguishable and do not resolve the issue. *Lakeview*, which actually discussed the Map Act's section 66499.30, subdivision (d) grandfather clause, interpreted it with the aid of *different* language, that of the merger provision at issue in *Morehart*.

The legislature intended the grandfather clause to apply to subdivisions approved under prior versions of the Act, i.e., to exempt from the current Act those subdivisions

established in compliance with or exempt from *laws then in effect*. The Legislature, with its strenuous emphasis on local control and approval of subdivisions, did not intend the grandfather clause to apply to the pre-1893 legal "State of Nature" when no subdivision statute was in existence. The legislative language dictates this result and nothing to the contrary appears in the Act.

Our conclusion is supported by *Hays, supra,* 217 Cal.App.3d 271. Interpreting the grandfather clause of the 1929 version of the Act, the *Hays* court concluded that "[t]he clear purpose of the so-called 'grandfather' clause is to protect developers who have detrimentally relied on an earlier state of the law." (*Hays, supra,* 217 Cal.App.3d at p. 289.) The Map Act does not reveal a legislative intent to exempt recorded subdivision maps which were not subject to any subdivision law from a time when there was little land use regulation.

Indeed, as the *Taft* court noted in a similar context, if the Legislature wished to exempt antiquated maps from the Map Act, it could have done so in clear and express language. Grandfathering does not spring up by inference. For example, the Legislature in section 66412.6 provided for a presumption of lawful creation for parcels created before March 4, 1972, if the parcel resulted from a division of land in which fewer than five parcels were created and if at the time of the creation, there was no local ordinance in effect regulating such land divisions. The Legislature has not passed similar legislation for parcels like appellants'.

We find it significant that all of the various versions of the Map Act, from the second version enacted in 1907 to the present, have a grandfather clause — but the first version of the Map Act does not. Presumably in 1893 what we now call antiquated subdivision maps were much more common — had the Legislature wished them to be exempt from the Map Act, the 1893 Act would have grandfathered in subdivision maps recorded prior to the effective date of the statute. For instance, the 1907 version of the Map Act specifically grandfathers in maps "filed or recorded prior to the taking effect of this act and in accordance with the laws in force at the time it was so filed or recorded." (Stats. 1907, ch. 231, § 8, p. 292.) (See 9 Miller & Starr, Cal. Real Estate (3d ed. 2001)

§ 25:148, p. 361.) The 1893 Map Act did not have such a provision and did not grandfather in antiquated subdivision maps — and the Legislature has never explicitly exempted pre-1893 antiquarian maps from the Map Act's scope.[4]

Finally, we reject appellants' contention that certain "turn of the century" case law supports their position. Appellants rely on decisions such as *McCullough v. Olds* (1895) 108 Cal. 529; *Cadwalader v. Nash* (1887) 73 Cal. 43; and *Wolfskill v. County of Los Angeles* (1890) 86 Cal. 405, which generally involve conveyances of parcels by deed with reference to a map. None of these cases stands for the proposition that pre-1893 subdivision maps can legally create parcels.

We have reached our destination. Given the manifest purposes and language of the applicable statutes in the Map Act, we conclude that the Legislature did not intend that antiquated subdivision maps create legal parcels in the twenty-first century. Such maps recorded prior to the existence of the first Map Act in 1893 do not in themselves create parcels that are automatically subdividable.

III. DISPOSITION

The judgment denying the petition for writ of mandate is affirmed. Each party shall bear its own costs.

Marchiano, J.

We concur:

Stein, Acting P.J.

Swager, J.

[4] Appellants refer us to a curative statute that apparently was in effect between 1917 and 1953. That statute, however, only deemed cured any defects in maps such that they would be considered in compliance *with laws in force at the time they were recorded.*

Exhibit 2

To: Dean Peterson
Date: 1/30/[illegible] 9:51AM
Subject: DeRosa appeal

Dear Dean Peterson:

Sorry I missed you this morning. I came upstairs at 10:30, but you had already left the building.

I do not have any of the maps or building plans for the DeRosa project, but I checked its location.

They may indeed have a saltwater intrusion problem over time, depending upon the depth of the well and the producing aquifer, the amount of water taken from it, and the number of other producing wells in the immediate neighborhood.

My questions about the project would be: are there any producing wells in the neighborhood? If so, where are the producing horizons within them? and have they ever experienced salt-water intrusion?

You can't ask a soils engineer or geotech consultant to give an opinion about this: the owner would probably have to contract with a hydrologist.

If you want to talk to me about this, I can be reached at my usual office in San Francisco at 415-750-7094. I will be out of town from 4 - 11 February.

Jean DeMouthe
Acting County Geologist

CC: Terry Burnes

Exhibit 3

October 30, 2001

Kathryn V. Slater Carter
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Members of the Board of Supervisors
400 County Center,
Redwood City, CA 9403

Honorable Members of the Board:

RE: PLN 1999-00890

There are several issues that need to be considered here, all of which concern 'planning' as well as the specific project.

The 2 most important aspects of the need for planning, as exemplified by this project, are an examination of the potential impacts of all the wells that are possible here and the increase of residential density on the planned character of the neighborhood as well as on the adjacent commercial area.

Before you can make a decision on this one project you should know how many similar lots needing the same type of use permits and having the same infrastructure requirements exist in the area. Chuck Kozak, Midcoast Community Council member and chair of the MCC Planning and Zoning Committee, presented the planning commission with that data. It has not been included in the staff report.

The staff report claims that there is no salt water intrusion and that there are no nearby wetlands. It cites the presentation by Dean Peterson to the Planning Commission as proof that no salt water intrusion can occur. Yet Mr. Petersen presented only a very general overview of salt water intrusion and made no area specific studies. The letter I submitted to the Planning Commission is from the most recent study specific to that area. As you have budgeted for and are beginning a study of the aquifers in the area, perhaps it would be best to defer this decision until a comprehensive assessment of the potential for problems has been completed.

There is a wetland in the vicinity. It is the southwest side of the eastern portion of the Mirada Surf parcel and the north eastern side of this subdivision. It

contains dense stands of willow and other riparian vegetation. Perhaps this one well will have little or no influence upon those areas, but you must know what the cumulative effects are before you make this decision.

The Planning Department approval of this project is predicated upon the existence of 2 other similar projects. How many more are coming? What will their effects be?

I repeat the request I made to the Planning Commission to you: Please follow the 13 year old, but as yet unfulfilled, recommendations from the El Granada Water Supply Investigation: install a system of monitoring wells, collect data and establish a safe yield for the area. This will protect the health and safety of the individuals and the environment -above and below ground.

Sincerely,

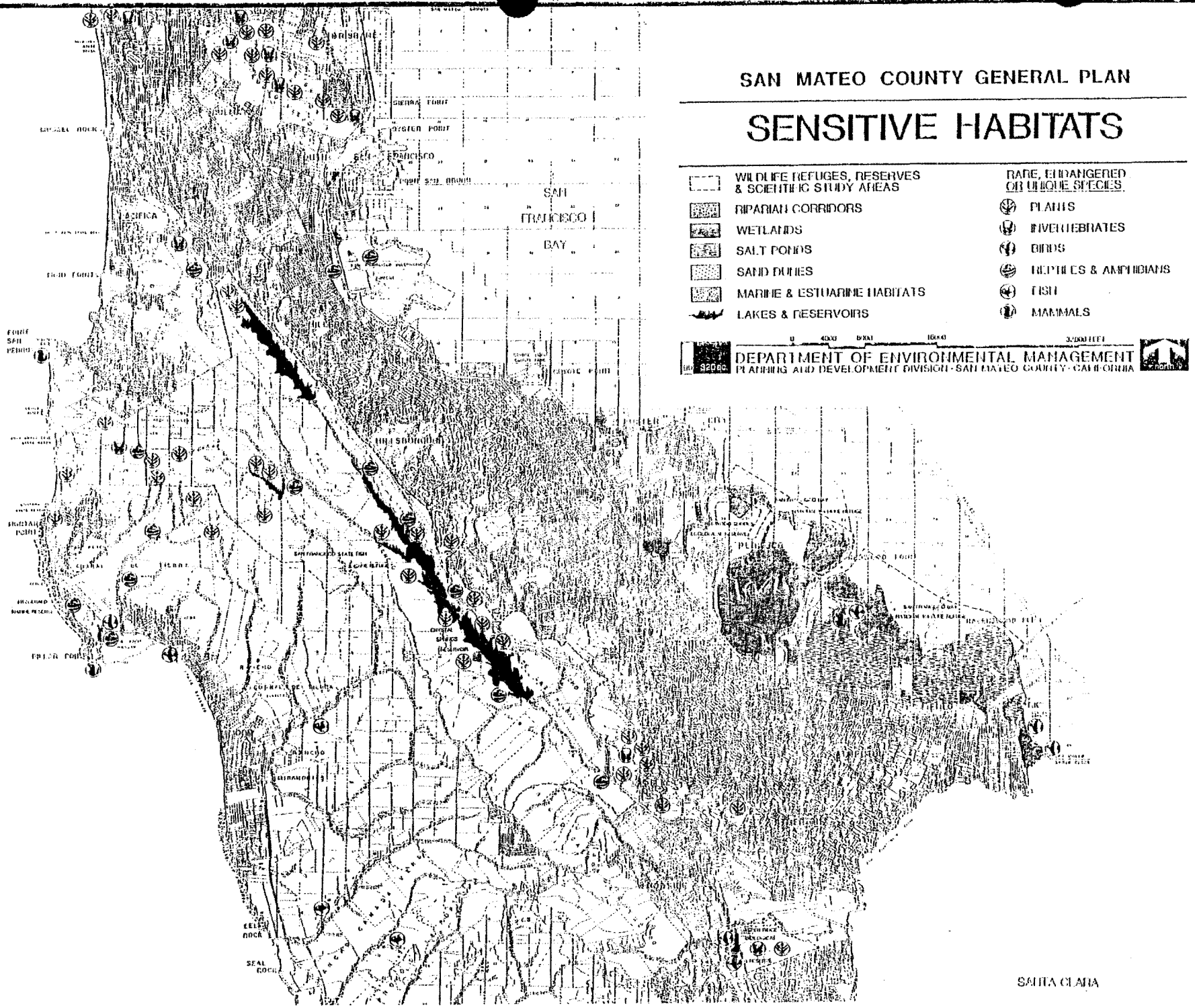
Kathryn Slater Carter

Kathryn V. Slater-Carter

1.3M

SAN MATEO COUNTY GENERAL PLAN

SENSITIVE HABITATS



2/28/01

To: San Mateo County Planning Commission

From: Kathryn V. Slater-Carter

Two distinct aquifer systems exist under El Granada from Princeton to Medio Creek. The potential volumes of water in storage estimated in the report suggest that the amount of water available for current pumpage {1988 - 226 wells} is large. But there are specific locations in which the aquifer has wide potential variability - "indicating a potential risk for some areas of high density well clusters during critical drought periods."

The report suggested several potential levels of management :

"Passive Management: permitting and installing wells, documenting problems that may occur, and RE-ASSESSING BASIN MANAGEMENT ANNUALLY TO DECIDE UPON A NUMBER OF PERMITS TO ISSUE FOR THE FOLLOWING YEAR. "

"The Active management program would be designed to establish observed patterns of ground water response to varying rainfall, allowing more precise identification of potential problem areas associated with clustered wells or geologic constraints. This approach is intended to address unresolved questions regarding the occurrence and movement of ground water in El Granada and provide a basis for management decisions in specific subareas of the basin."

There is also a 3rd even more intensive recommendation.

The necessity for the basin management arises from the conclusion that " The risks inherent in extensive ground water development by individual wells in El Granada increase in both magnitude and complexity as water levels decline." There is a threshold at which a problem extends beyond a "few isolated cases, becoming a community health concern.

These problems include depletion of wells, diminished yields due to interference between wells, and water quality constraints:

"Originally, water-quality was not considered a limiting factor in El Granada, OTHER THAN THE POSSIBILITY OF INTRUDING SEAWATER. Interpretation of data collected for the County indicated that at least 2 more localized constraints may affect a number of wells considerably earlier than any expression of sea water intrusion might be expected: elevated nitrates and elevated levels of chloride.

A further problem is reducing the relative water levels between the 2 aquifers and changing the interbasin flow characteristics - potentially "resulting in water level declines in the Southern Airport aquifer and perhaps Pillar Point Marsh."

There is one large tland, to the east and north of this ea that may well be adversely affected by the huge number of wells (60) potentially in this area given the ownership and permitting patterns.

In 1993 the Board of Supervisors established a "safe-yield" for the Citizens Utilities wells in the Denniston Aquifer.

I am humbly requesting that the County follow the 13 year old El Granada Water Supply Investigation recommendations and install and monitor a system of monitoring wells to detect salt water intrusion and threats to the marsh, in addition to establishing a maximum number of wells based on a safe-yield determination in order to protect health and safety of individuals and the environment.

Sent Via Fax - 363-4849
Attn: Farhad Mortizaci

29

August 30, 2001

San Mateo County board of supervisors
400 County Center
Redwood City, CA 94063

Dear Supervisors:

RE: PLN 1999-00890 – APN: 048-013-570 -- Appeal to Board of Supervisors
Applicant: Thomas DaRosa (Owner of Record: Thomas Bishop Trust)
Location: Coronado Ave. – "Shore Acres"/West Side Miramar

Granting another CDP on a Non-Conforming, Sub-Standard Lot continues a precedent that threatens the integrity of the buildout numbers in the County's LCP, which are not based on Sub-Standard Lots. The discretionary decisions of planning agencies are allowed to look beyond the individual projects and consider the long-term effects of their actions. Thus far, the County's Planning Department has not done this. This is wrong and very destructive.

This project has long term effects because it extends the Sub-Standard Lot precedent West of SR 1 and accepts a new low of 44% lot area as being acceptable. There are good reasons for Zoning Lot Minimums and they should be enforced, especially in the Coastal Zone. Zoning Lot Minimums govern the density of an area – Miramar's designated density is "Medium Low" which is being converted to "High" – de facto. This practice by the County is a distinct threat to entire Coastside. A very aggressive lot merging program needs to be developed and the Zoning Lot Minimums need to be enforced, not ignored.

We want to know WHY the County has not been enforcing this long-standing LCP Policy:

Under Growth Management

LCP Policy 1.20 – Lot Consolidation

"According to the densities shown on the Land use Plan Maps, consolidate contiguous lots, held in the same ownership, in residential subdivisions in Seal Cove to minimize risks to life and property and in Miramar to protect coastal views and scenic coastal areas."

These concerns are not going to "go away."

Very truly yours,

Barbara K. Mauz, Et Al

Barbara K. Mauz, Et Al
C/O P.O. Box 1284
El Granada, CA 94018 Phone: 726-4013

March 14, 2001

San Mateo County Board of Supervisors
400 County Center
Redwood City, CA 94063

Re: PLN 1999-00890 APN: 048-013-570
Location: Coronado Avenue – "Shore Acres"/Miramar

Dear Supervisors:

The following are additional concerns regarding the above.

The proposed project does not comply with LCP Policy 1.5(b) – by approving of building on a non-conforming lot (4,400 sq.ft.) within the required Zoning Lot Minimum of 10,000 sq.ft. increases the density of the subject area from Medium Low to High and increases stress on vital and irreplaceable coastal resources such as roads, water, and ocean views from SR1. The proposed project and other similar projects will result in the walling off of these views. Zoning Lot Minimums are for a good reason – careful planning! The County needs to review projects by and enforce the required Zoning Lot Minimum of 10,000 sq.ft. for this area.

Additionally, Coastal Resources include biological and view corridors which are being totally ignored by the proposed project and therefore violate LCP ESHA Policies (7.1, 7.3, 7.14 to 7.19, 7.32 to 7.35, 7.43 and 7.44) and LCP Policies (8.1, 8.5, 8.11, 8.12 and 8.28 to 8.33).

The County needs to prepare an immediate updated Coastal Resources Map for the Mid-Coast, as none are depicted on the current one, and that is inexcusable! Because of this lack, coastal resources such as the wetlands in this appeal area are being destroyed.

Data from the 2000 Census shows that Half Moon Bay's population grew 30% from that last census in 1990; they are number 2 in growth second to Brisbane. Please present to us the Current Census numbers for the Mid-Coast and the difference between those numbers and the census numbers of 1990. The Mid-Coast is within Half Moon Bay's sphere of influence and it is reasonable to assume that similar growth rates in the communities of the Mid-Coast have occurred. The population most probably is 14,000 and not the 12,000 number being used at this time.

Action needs to be taken NOW to getting a control over the sub-standard lot problem. There are thousands of these lots that are unaccounted for and are not represented in our LCP Buildout Numbers. You will note that the Granada Sanitary District has implemented and is enforcing County Mandated Measure A for the benefit of the rate payers. LCP Policy 2.4* states: "As a condition of Coastal Development Permit approval, special districts... shall conform to the County's zoning ordinance and the policies of the LCP." Also, please refer to the concerns expressed by Half Moon Bay Mayor Deborah Ruddock and Councilman Dennis Coleman regarding this appeal. The City Council has recently created a resolution to deal with over-development in Half Moon Bay (See attached) and have established a 1% Growth Rate. It is clear that the Coastside's capacity for new residential development is now limited. Any new residential development considered should be confined to conforming lots that do not endanger coastal resources.

Very truly yours,

Barbara K. Kraus, Appellant
P.O. Box 1284 - El Granada, CA 94018
Attach: 1990-2000 Census Data - re: Half Moon Bay

1990-2000 POPULATION GROWTH FOR SM COUNTY CITIES *

CITY	1990 POPULATION	2000 POPULATION	10 YR GROWTH %	AVG YR GROWTH %(rank)	
Atherton	7163	7537	5.2	0.51	(19)
Belmont	24165	26173	8.3	0.80	(16)
Brisbane	2952	4063	37.6	3.23	(1)
Burlingame	26600	29512	10.7	1.03	(10)
Colma	1103	1287	16.7	1.56	(4)
Daly City	92088	104571	13.6	1.29	(6)
E. Palo Alto	23451	25122	7.1	0.68	(18)
Foster City	28176	30908	9.7	0.94	(13)
Half Moon Bay	**8886**	**11292**	**27.1**	**2.44**	**(2)** ✓
Hillsborough	10667	11681	9.5	0.92	(14)
Menlo Park	28403	31776	11.9	1.14	(8)
Millbrae	20414	21394	4.8	0.47	(20)
Pacifica	37670	41028	8.9	0.85	(15)
Portola Valley	4195	4622	10.2	0.98	(11)
Redwood City	66072	78011	18.1	1.68	(3)
San Bruno	38961	41750	7.1	0.69	(17)
San Carlos	26382	28956	9.8	0.94	(12)
San Mateo	85619	95390	11.4	1.09	(9)
South San Fran	54312	62551	15.2	1.43	(5)
Woodside	5034	5650	12.2	1.17	(7)

NOTE: There has been no data to show the change in growth rate in unincorporated Midcoast from 1990 to Current.

* 2000 data from State Census Data Center (http://www.census.gov/sdc/www/casdc.html)
1990 data from 11/21/97 San Mateo County Times report of 1990 Census data

✓ Question: Were the non-conforming sub-standard lots in unincorporated Midcoast + NOT included in the County's 600 build-out number? Included there in a part of HMB?

Re: Appeal of Zoning Hearing Officer's Decision of August 3, 2000
PLN 1999-00890 APN: 048-013-570
Location: Coronado Ave., Miramar

The Use Permit, Coastal Development Permit, Off-Street Parking Exception and allowance for three test wells approved by the Zoning Hearing officer on August 3, 2000 regarding the above named project is hereby appealed on the following grounds:

This proposed project brings to light serious concerns regarding the uncontrolled, cancer-like development of non-conforming lots in "Shore Acres" Miramar (East and West sides of SR 1) on the Mid-Coast where multiple stresses on fragile coastal resources is already occurring, including road capacity and water. The zoning is for medium/low density where 10,000 sq. ft. is the minimum lot size. The proposed building site is a combination of antiquated 25' wide lots. Antiquated 25' wide lots are not in the County's Local Coastal Plan (LCP) buildout numbers. San Mateo County has refused to make an accurate count of these antiquated 25' wide lots and to deal with the fact that they are not in the County's LCP buildout numbers. The Coastal Commission has already acknowledged this problem by denying the County's sub-standard lot treatment in a set of 1996 LCP amendments stemming from the ill-fated Coastal Protection Initiative. LCP policies 1.27 to 1.29* requires legal parcels of land; legalization of old parcels shall require a separate CDP. 1.31* Indicated LCP policies (*) can only be changed by approval of the voters. (*County Mandated Measure A 1986)

Under the County LCP, the determination of whether the property in question is a legal parcel is required to be made pursuant to a Coastal Development Permit process considered as a "conditional use" for purpose of review. As a result, the appellants would be entitled to notice and a public hearing on the issue before the appropriate public body(ies). No such Coastal Development Permit process was conducted to determine the legality of the property in question as "an existing legal lot." The only permit process conducted was a Use Permit process for development of the property. As set forth in LCP Section 1.29d* quoted below, the Use Permit process for development involves a separate Coastal Development Permit from that required to determine the legality of the parcel. LCP Section 1.28* provides that a Coastal Development Permit to legalize parcels under Government Code Section 66499.35(b) is required for "parcels illegally created without the benefit of required government review and approval." As set forth below there is strong evidence that the parcel in question was created without the benefit of required government review and approval and hence was not legally created.

LCP Section 1.29d*, in turn, provides that: "On undeveloped parcels created before Proposition 20 [1972], on lands located within 1,000 yards of the mean high tide, or [before] the Coastal Act of 1976, on lands shown on the official maps adopted by the Legislature, a coastal permit shall be issued to legalize the parcel if the parcel configuration will not have any substantial adverse impacts on coastal resources, in conformance with the standards of review of the Coastal Development District regulations. Permits to legalize this type of parcel shall be conditioned to maximize consistency with Local Coastal Program resource protection policies. A separate Coastal Development Permit, subject to all applicable Local Coastal Program requirements, shall be required for any development of the parcel."

If the property in question is "an existing legal lot," it must base its claim on being "created" before the effective date of the Coastal Act. Hence it would be covered by LCP Section 1.29d*. The Property in question is within 1,000 yards of the mean high tide as shown at CT 0772. Therefore, it qualifies under Section 1.29d* in this respect as well.

The existence of "an existing legal lot" is required by LCP Sections, 1.1 and 1.2 which combine to establish that:

"[t]he County will: ... require a Coastal Development Permit for all development in the Coastal Zone ... [and] define development to mean ... subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the government Code), and any other division of land, including splits..."

If the property in question was not "created" as "an existing legal lot" prior to the effective date of the Coastal Act, then both a Coastal Development Permit and a Minor Land Division approval from the County of San Mateo are required, which permit and approval must meet current regulatory standards.

As set forth above, under LCP Sections 1.27 – 1.29*, the evaluation of whether the property in question was "created" as "an existing legal lot" is to be made pursuant to a Coastal Development Permit process (in which the appellants would have notice and an opportunity to participate).

County Measure A mandated by the voters of San Mateo County in November, 1986, Public Works Component General Policies state: Section 2.4*: "As a condition of Coastal Development Permit approval, special districts... shall conform to the County's zoning ordinance and the policies of the LCP." (In other words, Granada Sanitary District and Coastside Water District are prohibited from servicing development, which does not meet zoning and LCP buildout requirements. The zoning requirement for this area is a 10,000 sq.ft. lot minimum, which is much larger than the subject lot size.)

Section 2.6*: "The County will limit development or expansion of public works facilities to a capacity which does not exceed that required to serve buildout of the LCP." (In other words, the SAM plant capacity is restricted to LCP buildout requirements. When the Granada Sanitary District grants sewer permits out of its share of SAM capacity to lots which have not been counted in the LCP buildout, it violates Section 2.6*.)

This project has no provision for water and there is an intent to drill three test wells. It is a well-known fact that there is a danger of infiltration and contamination of the aquifer by salt water, the proposed site is very close to the ocean. It would also stress any existing aquifer in the area.

The proposed project is NOT exempt from environmental review. The proposed building site is in a wetland area. The following key indicator wetland plants have been noted on this site: Dock, Marsh Grass, Rush and a variety of ferns. Standing water commonly occupies the site between October and March (wet season). The project requires evaluation according to the California Environmental Quality Act (CEQA). CEQA does apply to this project because the cumulative impact of successive projects on substandard lots. Section 15300.2 "Exceptions" of Article 19 of Title 14 of California Code of Regulations and Public Resource Code Section 21083 which provides below:

15300.2 – Exceptions

(a) Location. Classes 3, 4,5,6, and 11 are qualified by consideration of where the project is to be located - project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant... (This project is in a wetland area.)

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant. (Unplanned house by house permitting is causing multiple cumulative impacts on the environment, SR 1 capacity, access roads and existing homes in the area.)

(c) ...

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements that are required as mitigation by an adopted negative declaration or certified EIR. (This area is within a County Scenic Corridor as shown on County LCP and General Plan maps.) There are notable ocean viewsheds that would be blocked by the proposed project. The historic viewshed including the Miramar Restaurant in this area would also be blocked by this project.)

The strength and importance of these limitations on the categorical exemption, Class 3 are further supported by Public Resource Code Section 21083 which is one of the sections cited as authority for the Federal Regulations. Code Section 21083 provides in part:

21083: The office of Planning and Research shall prepare and develop proposed guidelines for the implementation of this division [CEQA) by public agencies... The guidelines shall specifically include criteria for public agencies to follow in determining whether or not a proposed project may have a "significant effect on the environment." The criteria shall require a finding that a project may have a "significant effect on the environment" if any of the following conditions exist:

(a) A proposed project has the potential to degrade the quality of the environment, curtail the range of the environment, or to achieve short-term, to the disadvantage of long-term, environmental goals.
(b) The possible effects of a project are individually limited but cumulatively considerable. As used in this subdivision, "cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.
(c) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

This single family residence falls within the category of cumulative impact under both Section 15300(b) and Section 21083(b) when you consider it is part of the sizeable development of many substandard lots together known as "Shore Acres," Miramar where piecemeal development has been taking place by permits being issued on a house to house basis with no consideration of the cumulative impacts on the environment, road capacity and other homes in the area. "Shore Acres," Miramar amounts to an undeclared subdivision on both the East and West sides of SR 1.

The proposed project does not comply with LCP policies 7.14 to 7.19 – Designate wetlands and buffers based on hydric soils or vegetation; permit only limited uses; impose strict standards to avoid development impacts. No biological or environmental studies have been performed on the proposed project site where known wetland plant indicators and standing water have been observed.

The Bolsa Chica decision of April, 1999 confirms long held case law that CDP decisions cannot be arbitrary, but rather must be based on facts and rationale that an ordinary person on the street would find reasonable. No environmental investigation has taken place and the Zoning Officer's decisions had little or no factual basis presented to support them, thus making them arbitrary. Bolsa Chica is applicable to this project because the site is on wetland areas. In Bolsa Chica the court specifically stated, "In terms of general protection the Coastal Act provides for the coastal environment, we have analogized it to the California Environmental Quality Act (CEQA) (citations omitted). We have found that under both the Coastal Act and CEQA: "The courts are enjoined to construe the statute liberally in light of its beneficial purposes. The highest priority must be given to environmental consideration in interpreting the statute."

Since wetlands are also considered to be special habitat in the County's LCP, it is also noteworthy that the Bolsa Chica court discussed environmentally sensitive habitats as follows: "In addition to the protection afforded by the requirement that Commission consider the environmental impact of all its decisions, the Coastal Act provides heightened protection to Environmentally Sensitive Habitat Areas (ESHA's) (citations omitted). Section 30107.5 identifies an ESHA as any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. The consequences of ESHA status are delineated in Section 30240: (a) Environmentally sensitive habitat areas shall be protected against any significant

disruption of habitat values,... (b)Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with continuance of those habitat and recreation areas." The project site is in the proximity of a recreation area, very close to the ocean.

Furthermore, " ... Section 30240 does not permit its restrictions to be ignored based on the threatened or deteriorating condition of a particular ESHA ... under the statutory scheme, ESHA's whether they are pristine and growing or fouled and threatened, receive uniform treatment and protection. (citation omitted).

County LCP policy 8.11 and 8.12 require that CDP review include community design review standards and PRESERVATION of public ocean views. The proposed project would obliterate those ocean views from those who visit our Coastside using SR 1, which the County's LCP is supposed to promote.

No off-street parking exception should be allowed. This is a tourist area. People come to the adjacent Miramar Restaurant and there are existing problems having to do with off-street parking.

In conclusion, permitting development such as that requested by the present applicant will only contribute to further destruction of the County's Coastal Resources, public access to them, and public views of them. Moreover, as homeowners who have complied with the LCP and County zoning ordinances and have a vested interest in the maintenance of such requirements, we have rights to expect that the requirement we have met will be applied to others equally and that our fragile coastal resources will be protected.

It is asked that the Planning Commission deny the Use Permit, Coastal Development Permit, and Off-Street Parking Exception and allowance for three test wells for the above named project.

I am including for your reference the following documents:

Attached Exhibits:

(A) The Coastside Capacity Report (Summary)
(B) The Perkovik Report (25' wide lot count – Moss Beach/Montara – 5,000 have been counted)
(C) The Proportionality Rule for FAR and Lot Coverage which was adopted by the Half Moon Bay City Council in July, 2000 – (sphere of influence) Because Half Moon Bay has taken this action in dealing with the similar problem of sub-standard lots, the County should be looking to adopt this same Proportionality Rule in the LCP update process.

Robert La Mar

323 Mirada Road
Miramar, CA 94019
Mail: P.O. Box 2282, Redwood City, CA 93064
Tel: 650-298-0114 FAX: 650-298-0123 EMail rlamar@pobox.com

March 13, 2001

San Mateo County Board of Supervisors
400 County Center
Redwood City, CA 94063

re: PLN 1999-00890
Location: Coronado Avenue, Miramar
APN: 048-013-570

Dear Supervisors:

The following appeal is being submitted for your consideration primarily because your Planning Commission is failing to enforce the zoning density in my neighborhood.

I trust the Board of Supervisors will be able to rise above the special interest of individual developers and see the future ramifications of continuously granting Use Permits that clearly violate our established zoning density.

Thank you for your consideration.

Robert La Mar

Robert La Mar

323 Mirada Road
Miramar, CA 94019
Mail: P.O. Box 2282, Redwood City, CA 93064
Tel: 650-298-0114 FAX: 650-298-0123 EMail rlamar@pobox.com

August 14, 2000

re: Appeal of Zoning Hearing Officer's Decision of August 3, 2000
PLN 1999-00890
Location: Coronado Avenue, Miramar
APN: 048-013-570

Part I. The Legal Issue

While I am not a lawyer, nor have I personally obtained a formal legal opinion, I offer the following:

The County's Local Coastal Plan (LCP) Section 1.28 provides that a Coastal Development Permit is required to legalize parcels under Government Code Section 66499.35(b) for "parcels illegally created without the benefit of required government review and approval." I believe there is strong evidence that the parcel in question was created without the benefit of required government review and approval and therefore was not legally created. If this is true, and I believe it is, there must be a public hearing to establish the legality of this parcel before the Use Permit process can proceed.

Part II. The Logical Issues

1. Area is zoned "Medium Low Density Residential"

   A 2,870 sq. ft. single family residence built on 4,400 sq. ft. of land is not a "Medium Low Density Residential" development. It is, by the admission of Mr. Mortazavi, a Medium *High* Density development. Now is the time to protect the established zoning density designation. If you continue to set this precedent, how will you be able to deny future applicants who wish to have similar developments in the future? Awarding Mr. DaRosa a Use Permit would be a "first come, first served" policy which could result in either denying future conforming developments, or worse, being forced to change the "Medium Low Density Residential" designation.

2. Opportunity to purchase contiguous land

   Your report states, " All opportunities to acquire additional contiguous land have been investigated." In 1999, subsequent to Mr. DaRosa's acquisition of the parcel in question, the adjacent parcel to the east was offered for sale and in fact was sold to a willing buyer. Mr. DaRosa obviously had an opportunity to purchase this contiguous land and create a reasonable building site as so many

others have do. n this area. However, Mr. DaRosa, t. hatever reasons, declined to do so and is now asking us to allow him to development his sub-standard property. Mr. DaRosa's failure to act when the opportunity was available is not a basis for awarding him a "special circumstances" use permit. At the very least he should be required to wait until such time as it can be determined that his development plan will not violate the "Medium Low Density Zoning" regulation of the neighborhood, i.e. wait until all development plans for the area have been submitted. As previously stated (see #1) if we do not impose this restriction, Mr. DaRosa's use permit could in fact serve to deny a future development permit for a project that conforms to all existing regulations because of the high density nature of Mr. DaRosa's project.

3. Physical Appearance of New Development

The width of the structure proposed for this development is the size of a parking space – 19 feet. The structure is virtually twice as high as it is wide and 3 times as long -- 19 feet wide, 37 feet high and 57 feet long. Your report states that the structure design must "minimize visual impact" and " . . . will not obstruct existing views". This building is virtually an elongated lighthouse. There is no possibility of this design qualifying as "minimizing visual impact", or " . . . not obstructing existing views." We don't allow conforming structures to be built on our ridge lines because we are rightfully jealous of the public's right to unobstructed scenic corridors. How can we possibly allow this type of structure within 1,000 feet of our magnificent ocean front. In the deep south structures of this design were called "shotgun" houses, but even they did not build them 37' high.

4. Granting of special privileges

The fact that your commission granted a Use Permit to another parcel in this neighborhood with similar non-conforming attributes does not mean that the granting of this Use Permit does not constitute special privileges. Two wrongs do not equal anything but two wrongs. The fact that you are stating that this Use Permit is not the granting of special privileges only underscores my arguments that these Use Permits represent the setting of a precedent that could have a devastating effect on our neighborhood and on this section of this scenic corridor.

5. This development <u>will be</u> injurious to the property and improvements of the existing neighborhood.

This development's specifications include:

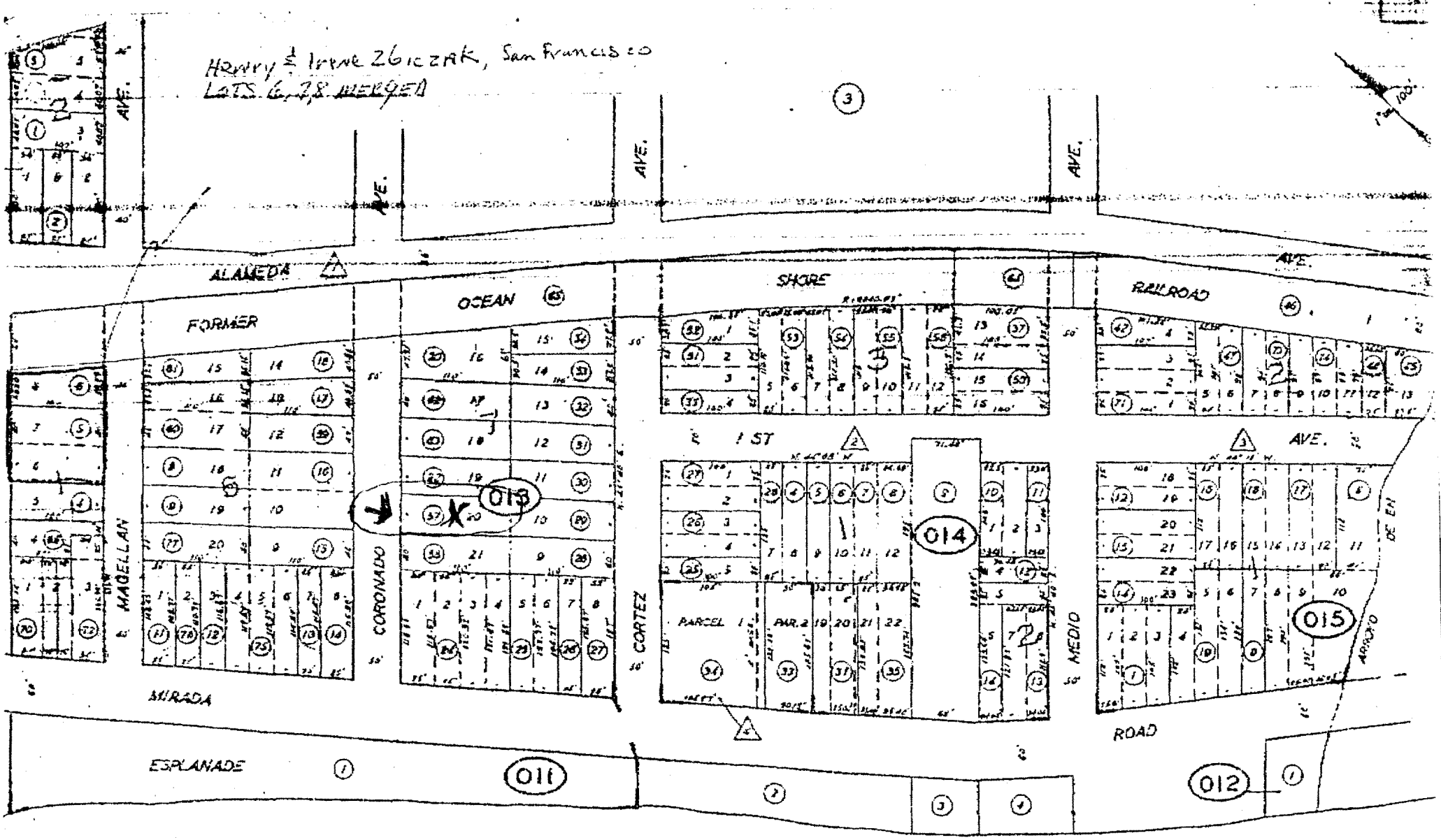
1. A building site that is 44% of the established minimum requirement
2. A building whose square footage is 65% of the lot size
3. A building that is 3 times as long as it is wide and is within 1 foot of being twice as high as it is wide
4. A building that is 3 times as long as it is wide
5. A building that needs a special off street parking variance

All this on a building site in our County's most beautiful scenic corridor. How can this development be anything but <u>injurious to the property and improvements of the existing neighborhood and to the general public's greater good as well</u>?

In summary: This development is counter to our density zoning, its design is not compatible with our neighborhood or the neighborhood's irreplaceable scenic value, and its owner has failed to take prudent steps to make the parcel meet the bare minimum of standards when that opportunity was available.

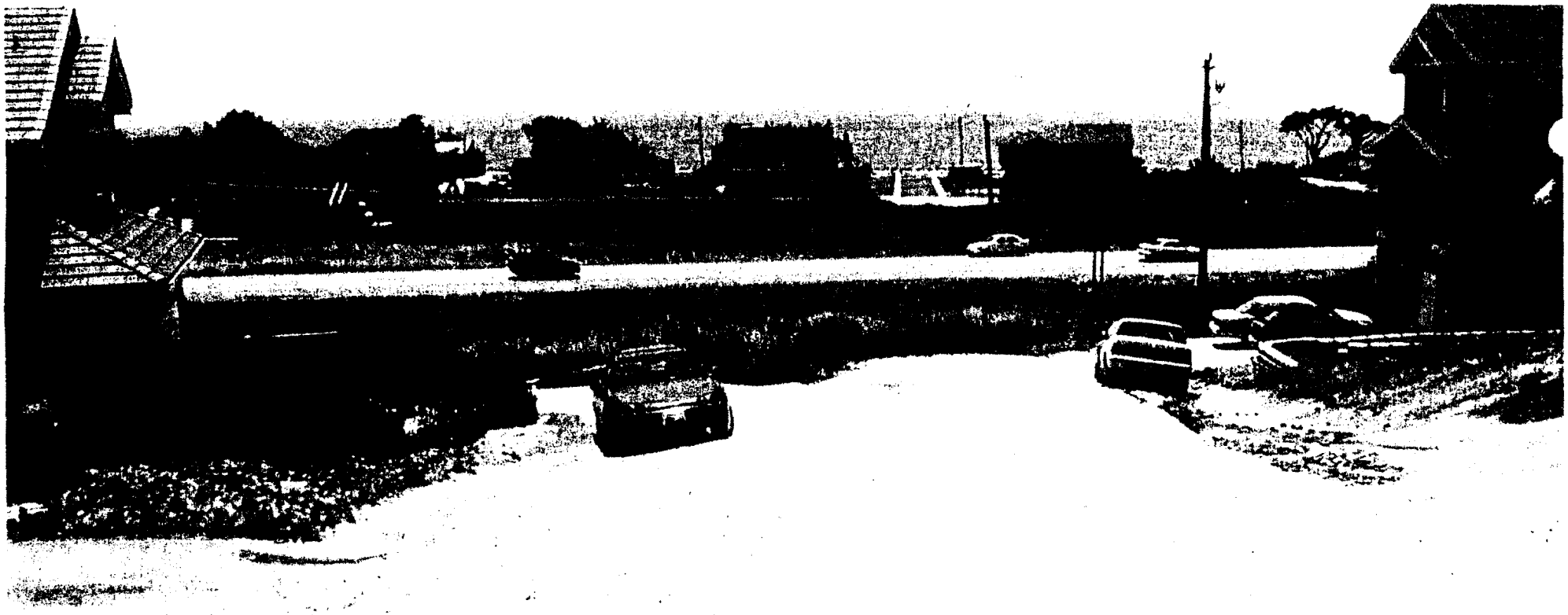
The ownership of land is certainly our unalienable individual right . . . the development of that land must be viewed as a privilege with great concern for the greater good.

I urge the Planning Commission to deny this Use Permit or, at the very least, place a waiting period before any development of this high density type can be considered in our neighborhood considering that the area is already under great development pressure with conforming projects that could theoretically max out our Medium Low Residential Density zoning limitation.



1 SHORE ACRES RSM 3/95
2 SOUTH BALBOA TRACT RSM 5/6
3 BROPHY'S BEACH RSM 5/58
4 PARCEL MAP VOL 13/12

MC ASSESSOR'S MAP COUNTY OF SAN MATEO, CALIF.



VIEW - WESTSIDE MIRAMAR - 10,000 SQ FT MINIMUM - 3 STORY STRUCTURES
And, TOXIC ASPHALT Road IN Wetland Area

Midcoast Community Council
An elected Municipal Advisory Council to the
San Mateo County Board of Supervisors
Serving 12,000 coastal residents
Post Office Box 64
Moss Beach, CA 94038-0064
http://www.montara.com

Historical Exhibit

18 March 1999

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

re: Commission Appeal No. A-1-SMC-99-014, CDP 98-0010
Parcel located at 910 Ventura, El Granada
Applicants: Linda Banks and Judy Taylor

Dear Chair Sara Wan and Honorable Commissioners:

We write to you as the elected representatives of the citizens of San Mateo County's Midcoast Community to protest the County's approval of a Coastal Development Permit for a development that we believe conflicts with the requirements of our Local Coastal Program (LCP). Because the County's approval of projects such as this one threatens to undermine the LCP and silently and unlawfully amend it (Public Resources Code, § 30514, subd. (e)) by excusing compliance with the County's zoning ordinance, we beseech the Commission to disapprove the County's action.

San Mateo County's LCP projects a total population of 15,500 for the Montara - Moss Beach - El Granada Midcoast Community (hereafter M/MB/EG) at complete buildout. As of 1998, the population of this area was estimated to be 12,800. (Association of Bay Area Governments (ABAG) Projections, 1996.) This figure represented a substantial increase over the County's 1990 estimate of 10,222 as the population of not only M/MB/EG but also Princeton and Miramar. In 1990, the County also estimated that there were 3,000 undeveloped parcels in M/MB/EG that met the minimum lot size requirements in the County's zoning ordinance. The average household size in this area was computed by the County in 1990 to be 2.71 persons per household. Based on the County's 1990 figures, the addition of approximately 1948 dwelling units in M/MB/EG after 1990 will constitute full buildout under the LCP. Thus, it is clear that the County cannot permit the development of even two-thirds of the lots which *meet* the requirements of the zoning ordinance without exceeding the full buildout figures set forth in the LCP.

The reason that we are concerned with the instant appeal is that this appeal involves the County's approval of the development of a lot which *does not qualify as a buildable lot* under the County's zoning ordinance. Hence, the County's approval of this development threatens to exacerbate the already serious problem posed by the existence of far more buildable lots than can be developed under the LCP. The LCP's reasonable development restrictions are based on negative impact that population increases beyond full buildout would have on the Midcoast Community. Since the County is required to operate under the strictures of the LCP, it should be encouraging development of only those lots that are in strict compliance with its zoning ordinance rather than permitting development of non-compliant substandard lots. Although precise figures are not available on the total number of substandard lots in existence in M/MB/EG, it has been estimated that there are as many as several thousand substandard lots in this area.

EXHIBIT NO. 19
APPLICATION NO. A-1-SMC-99-014
Midcoast Community Council letter,
March 18, 1999
Page 1 of 2 pages

420 First Avenue
(Miramar)
Half Moon Bay, CA 94019
(650) 726-9607
March 12, 2001

San Mateo County Board of Supervisors
County Government Center
Redwood City, CA 94063

RE: County File 1999-00890 (DaRosa)
APN048-013-570

Dear Supervisors:

I would like to add this letter to those you have received from other public, elected officials, and the local citizens who are protesting this project. As you know, I am a member of the Midcoast Community Council, I serve on the Planning and Zoning Committee of that body, and I live immediately adjacent to this area which is being allowed to develop at up to 250% of its planned (by law) development density.

I do not agree with Staff responses to the appeal items. The main item of concern to me is County's lack of enforcement of the zoning density. The worst aspect of this immediate project area is that there was a contiguous parcel of the same size next to this parcel. The county's philosophy appears to be that an owner is merely required to attempt a purchase, not actually consummate one.

The major property owners in the area are free to spin off non-conforming parcels to buyers with the promise that zoning is not enforced and that they will be able to build whatever they like. No one is putting a gun to the heads of these buyers of non-conforming lots. They are gambling on the leniency of the county in not enforcing the local zoning rules.

The solution is for the county is to investigate ALL surrounding lots at the time of a non-conforming project application. If there are adjacent open lots, the answer should be "No". The contiguous lot owners need to know that nothing can be built until the maximum merging that can occur, really does occur. New buyers would not then be able to gamble on county leniency.

Staff comments on the goal of only seeking average densities in an area are especially meaningless. There is no area on the Coast which is being developed at less than its designed density. ALL areas are being allowed to develop above their designated densities.

The worst excesses of over-development have been inflicted in this Miramar area. Those who purchased conforming parcels or homes had a right to expect that zoning laws for future development would be enforced. No one seems to consider property rights and property values of existing owners, merely those of speculators trying for more than their legal share. This policy of supporting over-development affects the local area of Miramar, the Coast serviced by Highway One, and even our incorporated neighbor of Half Moon Bay.

Locally, we are not legally able to require enforcement of zoning laws as those who live in incorporated areas can do. Existing residents expect the county to work and enforce on our behalf.

Measure A, CEQA, LCP, and all other relevant documents have been mentioned in each of these appeals, yet the county continues to ignore the word and intent of all of them. The county should be taking the GREATEST conservation stance in protecting its coastal resources, not the LEAST. These are laws like any other county law. We have speed limits to avoid traffic disasters. We have growth and zoning limits to avoid natural resource disasters.

Continuing to micro-manage the coastal region on a lot by lot basis is simply hiding one's head in the sand and ignoring the obvious long range problems created by over exploitation of the water table and accelerating development beyond the numbers of the Local Coastal Plan. Current Boards have been passing the buck to future Boards to deal with. After years of non-planning the County now needs to take a pro-active approach to prevent these excesses. Over-development and over-consumption of our resources, will eventually kill the goose the laid the Golden Egg. Future developers with legitimate, conforming projects will be prevented from building due to a future lack of water, sewer or capacity.

Doesn't "planning" mean to look ahead and see the results of one's current policy? Why aren't legitimate planning tools like Transfers of Development Rights (TDR's) even being considered on this project?

I request that this appeal be upheld and the project be denied until a full Coastside plan with build-out numbers and a count of conforming parcels is in place.

Ric Lohman

TO: Board of Supervisors, San Mateo County 3/11/2001

Subject: Appeal of CDP for APN 048-013-570

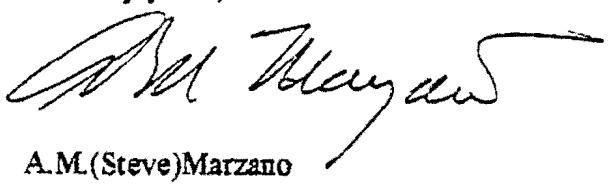
File PLN 1999-00890

As a homeowner who ,by order of the Coastal Commission,had to destroy his well once a CCWD connect was received in order to protect the Miramar aquifer from possible salt water incursion,I find it hard to believe the county planners would approve well drilling so close to the ocean and in the same aquifer.
Please allow me to cite the following concerning well drilling:
1)Coastal Act section 30231 requires coastal water quality be protected by various means,including the prevention of depletion of ground water supplies.
2)Coastal Act 30250(a) requires that new development be located where it will not have significant adverse effects,either individually or cumulatively,on coastal resources.
This proposed project's well is located too close to the ocean and escalates the threat of salt water incursion into the Miramar aquifer.Further,any additional wells allowed will contribute to the depletion of the aquifer.

As an applicant for a Moss Beach lot CDP,on a 50x100 foot lot,we were forced to plan for two car off street parking.Why does this applicant secure a variance?Why this inconsistency,especially for a non-conforming lot?This is not fair or proper.

Finally,we all should know by now that tandem parking is a farce,and ends with the garage being used as storage rather than what it was intended for.County planning should realize this fact by now and deter use of this type of design.

Sincerely yours,



A.M.(Steve)Marzano
100 Mirada Rd
Miramar section of Half Moon Bay

To: Board of Supervisors 9/4/2001
San Mateo County

Subject: PLN 1999-00890 Appeal

Destruction of Wetlands ,W.Side Miramar "Shore Acres"

There have been a number of instances where residential construction has been incorrectly allowed in the wetlands area of Shore Acres in Miramar.This has been reported to the Coastal Commission and is herewith submitted as part of the appeal against the subject APN:

A) A new road -Coronado from Mirada ,with extensive basing because of the wet area,was allowed to be constructed to support construction of a non-conforming 4,400 sq ft lot residence in a 10,000 sq ft zone.The road is also intended to support future construction.

B) An on site Construction Inspector for the Dept. of Public Works of San Mateo County was queried and expressed his concern since ,"all you have to do is go down four feet anywhere in that Miramar area and you hit a lot of water". He said that entire area is a MARSH!

Why are these constructions allowed if Public Works knows that the area is marshland??The entire wetlands area in Miramar is being incrementally destroyed just like our ephemeral creek and the hillside area above it on the East side.Allowing the subject PLN to go through would be another step in these grievious wrongdoings. We must protect,not destroy our wetlands!The law mandates this.

There are many other issues associated with the subject PLN ,but this letter is focussed on the most serious problem of destrying our natural resources.Please consider the foregoing in your appeal review.

Respectfully,
A.M.(Steve)Marzano
Miramar Section
100 Mirada rd
Half Moon Bay,CA 94019

Exhibit A

Coastside Capacity Report:

A Compilation of Public Information on the Sustainability of Current Buildout Trends

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Version 1:

April, 1998

Summ. .y of Coastside Capacity Inform. on

troduction:

is well recognized that the Coastside carrying capacity is to some extent limited by (1) a rugged coastline and and geography; (2) availability and affordability of highway, water, waste treatment and other public frastructure; and (3) state and federal environmental regulations. The interaction between these local factors and ternal factors like the overall economy, technological developments, and societal trends, means that City and ounty land use plans (LCPs) reflect both expressed and implied assumptions about the Coastside carrying pacity. Some of these assumptions are more than 20 years old.

xamples of LCP assumptions that are no longer supported by actual events and trends include:

- Highway expansion can continue to effectively keep up with peak hour traffic congestion;
- It will always be possible for the government to raise taxes to subsidize buildout;
- Enough water will continue to be available and affordable to service buildout;
- Enough urban services will continue to be available and affordable to service buildout;
- Land use based on commuter housing and transportation patterns will remain sustainable;
- Public schools can be fixed with enough State diversion of local taxes in addition to property taxes.

ne fact that the accuracy of these and similar assumptions has proven to be highly questionable, is an portunity to improve LCPs by improving their carrying capacity assumptions based on actual experience. ocumentation of such experience has recently been accumulating for traffic, water, schools, services, jobs, bstandard lots, public safety, and other indicators of whether the current buildout plan is working as intended.

MB has recently responded to its experience by initiating revision of its LCP (General Plan). A community sioning document (Public Advisory Committee Report) was produced in mid-1997 and a consultant was ntracted in early 1998 to represent that vision in a revised General Plan by mid-1999.

nce the adjacent Midcoast experiences the same or similar land use patterns and impacts as HMB, and is deemed LAFCO to be in HMB's "sphere of influence", the Coastside has a chance to apply new information to prove both County and City LCPs at the same time. After all, results of County and City LCPs have to play t together and make sense. On the ground is where the LCPs, regardless of what they may be separately trying achieve, will be physically integrated under a unique set of Coastside conditions. The more actual experience is lected in the LCPs, the more realistic and less controversial the LCPs will be.

is report summarizes recent information from City and County government, district, and other published dies, which indicates that the Coastside carrying capacity is significantly less than that assumed in the current ty and County LCPs. The studies indicate that Coastside carrying capacity is particularly challenged with gard to commuter housing. With 7800 new sewer connections available in 1/99, commuter housing could uble over the next 20 years according to current LCPs. If the partial (50-60%) build-out achieved to date is eady encountering natural, economic, transportation, infrastructure or other key limits, the definition of 100% ild-out needs serious reconsideration.

affic:

specially during commute hours, SRs 1 and 92 have had high traffic volume to capacity (v/c) ratios since at st 1990, and are projected to have the highest v/c ratios in San Mateo County at LCP buildout. This translates o Caltrans Level of Service index F (prolonged gridlock; average traffic speed for affected highway segment proaches zero; SR 92 "F" segments up to 8 miles long). *[Ref. 1: 6/97 CCAG Traffic Modeling Study].*

raffic projections based on current LCPs indicate that SRs 1 and 92 are heading towards a higher v/c range, nparable to that experienced on SR 92 during the 1995 Devil's Slide closure of SR 1. These projections eady take credit for both growth control and the maximum amount of public spending likely to be available for hway and transit improvements in San Mateo County ($3.2B) between now and 2010. *[Ref. 1]*

he Coastside could be either approaching or experiencing a public health and safety issue relative to traffic, ecially during peak commute hours. Even with local EMS-trained people, outside emergency response times the Coastside are already the highest in the County (37 minutes versus 9 minutes in typical cases). *[Ref. 2:*

997 *Pacifica COC Meeting, Presentation on Emergency Response Services]* Seen broadly as the range of ehavior from annoyance through violence, road rage is now playing a part in 2/3 of fatal traffic accidents. *[Ref. : 1997 Road Rage articles from CNN and USN&WP]*

[redacted]

As reported 1/20/98 at a Joint HMB Council/CCWD Board Meeting, about 1000 "priority" (coastal-related, fordable housing, failed wells, etc) water connections remain unsold from CCWD's Phase 1 water supply. ased on a 3/10/98 County Board of Supervisors staff report on a water reallocation appeal, the actual number is out 760. Citizens Utilities (CU; private Montara and Moss Beach water utility) has little or no unused capacity. *Ref. 4: 11/96 MCC presentation on CU's Masterplan Update]*

f additional (Phase 2) CCWD water supply ever becomes available, it will continue to be limited by nature (eg. imate, terrain, aquafers), economics (eg. scarcity, competition, expense) and legal factors (eg. historic vnership, water rights, environmental protection, SFWD contract terms and conditions). *[Ref. 5: CCWD hase II Water Supply Report]* CU's forecast supply growth is also limited, corresponding to about 0.7% per ar growth in customer demand for water. *[Ref. 4]* This represents a Coastside residential growth "doubling ne" of about 100 years, which is four times longer than the current LCP doubling time of about 24 years.

Even approaching the Coastside's carrying capacity relative to water supply, could result in more widespread d/or severe rationing during periodic drought cycles. SFSD reserves the right to unilaterally cut back drought ar water supplies by up to 25%, and local supplies are similarly reduced. *[Ref. 5]* For example, the maximum afe yield" (assumed drought condition) supply is reported to have been 541 million gallons for 1995, while the oduction requirement for that year was 676 million gallons. *[Ref. 5]* Had a drought occurred in 1995, demand ight have easily exceeded supply, which is the kind of situation that leads to rationing.

chools:

CUSD's recent assessment bond study stated that state maximum school fees on new residential development v[redacted]ly about 1/3 of the actual cost incurred. With a state limit of about $1.90 per square foot of new house nless otherwise negotiated), that translates into a school district loss of $3.80 per square foot, or $9500 for a 00 square foot house. *[Ref. 6: CUSD Facilities Planning Report]* If a higher fee is negotiated, as recently ported in the HMB Review for North Wavecrest Village ($3.80 per square foot school fee), the loss per house reduced (in this case to about $5000), but rarely eliminated, since state limits are so much lower than reality.

Proposition 198 allows the state to divert local government and special district revenue to the Educational source Augmentation Fund (ERAF). This fund covers what schools cost to operate beyond what they get from operty taxes. The annual ERAF subsidy for the CUSD service area now averages about $125 per residence $1M of diverted local taxes, which had been paid for other services like fire protection, water and sewers by 000 CUSD residences). *[Ref. 7: MCC presentation on ERAF local tax diversion]* Since the state legislature s repeatedly not acted to either correct this diversion, or prevent it from increasing, cities and counties are now empting to put a state constitutional amendment on the ballot. *[Ref. 8: 1/98 League of CA Cities presentation proposed constitutional amendment]* In any event, continuing to add residences, which increase demand for ools without contributing to economically sustainable development, is not likely to reduce the ERAF burden.

rvices:

With the exception of local park and recreation services, both City and County provide a similar level of services h as police, public works, social services, etc. Experience shows that property taxes on bedroom nmunities no longer cover the ongoing expense of such services. *[Ref. 9: 1/6/98 HMB Meas. A - Housing pact Summary]* The commuter-oriented residential development emphasized in existing LCPs, may no longer the most economically viable option.

bs/Housing Balance:

[redacted]nt years, the Coastside population grew more than any other area of the County *[Ref. 10: 11/97 SM nes census report]*, without a corresponding increase in local, high quality jobs. *[Ref. 11: 7/97 HMB Baseline*

Data; Ref. 12: 12/97 HMB Economic Development Report] Recent information from CCAG's housing needs analysis indicates that the Coastside LCPs now calls for at least 4400 more houses than what local job growth can justify (3200 in HMB; 1200 on the Midcoast). *[Ref. 13: 11/97 CCAG Housing Needs Analysis]* CCAG is developing Congestion Management Program criteria to incent land use planning agencies to reconsider such practices. *[Ref. 14: 2/98 CCAG Balanced Growth Program]*

Substandard Lots

• There has been no definitive planning around the issue of how to manage land use and impacts for thousands of vacant, substandard lots created by Coastside subdivisions more than 90 years ago. Not only are substandard lots uncounted for in the LCP buildout total (~19000 sewer connections worth of buildings), but the number of lots is unknown.

• The magnitude of this uncertainty can be seen by comparing the number of substandard lots (~5000) manually counted for the Montara Sanitary District (Montara and Moss Beach) *[Ref. 15: 8/97 MSD Ltr]* with the number of lots (~2000) the County gets from statistical sampling of the entire Midcoast. *[Ref. 16: 3/98 County Staff Rpt]* There are a few thousand more substandard lots in HMB, but most are in areas zoned Planned Unit Development (PUD). PUD means that an integrated plan is required for development of the whole area, although this could be challenged in court by individual property owners, since the old subdivisions are still legal.

• Letting market forces and court cases alone determine what happens on such a large, unknown number of substandard lots, introduces so much uncertainty into what the LCPs can accomplish, that the basic LCP assumptions may no longer be applicable.

Airport Safety

• The currently under revision HMB Airport Masterplan calls for expansion of usable runway length, taxiways, hangers, parking, special navigational equipment to allow non-visual (bad weather) approaches and landings, and other "landside" facilities to handle projected growth in the annual number of "operations" (takeoffs and landings) from ~38000 in 1996 to ~54000 in 2015. *[Ref 17: 1/98 Airport Land Use Plan Update]*

• In recent years, the State has developed and is now recommending a new set of "safety compatibility" criteria, which in effect, recognizes that land use in the vicinity of airports is associated with some public safety risk. *[Ref. 17]* Previously, 1000 X 2000 foot safety zones on airport-owned land, and various decibel noise limits for the surrounding land were considered in terms of airport impact on that land. *[Ref. 17]*

• Based on the location of land within various safety zones, the new recommendations limit concentrations of people and building density and provide open space for emergency situations. Since the safety zones are sized based on runway length, and the HMB Airport has a 5000 foot runway, the zones extend for a mile beyond the sides and ends of the runway. *[Ref. 17]* This puts much of the urban Midcoast and the northern tip of HMB inside the "Traffic Pattern" and "Inner Turning" zones, including many of the Midcoast substandard lots graphically shown in the previous section.

• Failure to incorporate the State airport safety compatibility recommendations within the LCP framework could expose the City or County to liability in the event of a future accident involving people and structures on the ground, which were there in violation of such recommendations.

Exhibit B

To: Board of Directors, Montara Sanitary District
From: Paul Perkovic, Director
Date: 7 August 1997; revised 11 August 1997

Subject: Preliminary Analysis of Potential Impact on Montara Sanitary District of LCP Policy 1.6, "Development of Residential Substandard Parcels in the Urban Mid-Coast" (proposed to be modified as Policy 1.5c by Coastal Commission staff)

Recommended Action: Forward concerns to Coastal Commission for hearing on 14 August 1997

Executive Summary:

County of San Mateo LCP Amendment No. 1-97-C (Coastside Protection Initiative) is currently before the Coastal Commission for certification. Among other provisions, this package of amendments includes changes to development policies for substandard parcels within the service area of the Montara Sanitary District which, absent any safeguards, could allow uncontrolled development far in excess of the "build-out" numbers contained in the LCP and far in excess of the wastewater treatment capacity available to the District.

While recognizing the rights of property owners to develop their parcels, it is imperative that development permitted within the Montara Sanitary District service area allow for fair and equitable usage of limited public resources, particularly sewerage treatment capacity and potential future water capacity. LCP population forecasts and sewer capacity projections were made at a time when the County of San Mateo was enforcing a 5,000 square foot zoning requirement for development in coastal residential areas, which limited construction in the Mid-Coast to parcels comprising two or more small lots in most cases. (Variances were required for smaller building sites or unusual site conditions.)

In 1994, the Board of Supervisors considered a proposal for a lot merger program in the Mid-Coast, but failed to take action to consolidate existing substandard lots in common ownership into larger, conforming parcels. As a consequence, with the recent changes in policy, every legal lot — created by subdivisions now nearly 100 years old — is a potential building site, and the proposed allowable building size is larger than the existing size of many residences within our service area that are on conforming building sites.

The consequence is that our projected future demand estimates of 647 equivalent residental users (derived during the engineering study for expansion to build-out capcity), which were based on existing residences remaining on their current multi-lot parcels and new residences only on existing parcels that met the then-current zoning standard of 5,000 square feet, may be upset by creation of a strong economic incentive for property owners to break up parcels consisting of several substandard lots into multiple substandard building sites, each of which appears to be assured the right to develop under the proposed change in Modified LCP Policy 1.5c.

The level of residential development made possible with the proposed change within the Montara Sanitary District is startling — perhaps as many as 3,257 new residences inside the Urban/Rural Boundary, when LCP build-out allows for approximately 1,330 new users — and would result in development far in excess of LCP projected build-out.

Proposed Recommendation to Coastal Commission:

Before accepting Modified Policyt 1.5c, require San Mateo County to conduct a complete study of the cumulative impact of the potential increase in build-out on the other elements of the LCP, particularly roads, sewer, and water, as they affect the Mid-Coast. In order to provide assurance to existing property owners within the District that their opportunity to develop in the future will not be abrogated by County decisions that permit a limited resource to be fully consumed by non-conforming parcels, require a formal opinion from County Counsel that protections currently in place will prevent "runaway build-out."

Require that Modified Policy 1.5c be permitted to apply only to currently identified isolated substandard parcels in continuous ownership as of 4 June 1996, the date the San Mateo County Board of Supervisors adopted Resolution 60232, provided that at no time since that date was the owner of the substandard parcel also the owner of an adjacent parcel with which it could be combined in order to form a conforming parcel. Explicitly prohibit development on any newly-formed substandard parcel created by sale of one or more lots formerly in common ownership, until such time as all conforming parcels have had an opportunity to develop. (It is the potential dis-aggregation of existing conforming parcels made up of underlying substandard lots that poses the greatest threat to the community.)

Detailed Background:

The Montara / Moss Beach communities, which are the service area of the Montara Sanitary District, were subdivided early in this century, predominantly into 2,500 square foot lots. There is quite a mix of lot sizes within our service area; other common sizes for rectangular lots are 3,000 square feet and 3,125 square feet. There are thousands of these lots in the Mid-Coast, most resulting from subdivisions between 1905 and 1908 when land promoters and speculators such as the Shore Line Investment Company subdivided large tracts in conjunction with the construction of the Ocean Shore Railroad. A portion of Montara between Audubon Avenue and East Avenue was generally subdivided into 5,000 square foot lots.

Detailed analysis of the entire District is complicated by the rolling hills and ocean bluffs, which required many roads to curve or follow angles around creeks, and consequently a large number of lots are irregularly shaped, with areas that cannot readily be determined from Assessor's Parcel Maps. Just within the Montara Sanitary District boundaries — encompassing only Montara and Moss Beach — there are more than 5,500 sub-standard lots, and there are thousands more in the other Mid-Coast areas (El Granada, Miramar, Princeton). By actual count using the Assessment District maps from the Local Improvement District 92-1 engineering study, the approximate number of sub-standard lots within the Urban/Rural Boundary is 4,542. Another thousand or so are in the Rural Residential Area just outside our service area.

Existing construction in this area has generally followed prior County zoning policy and occurred only on parcels consisting either of single lots of 5,000 square feet or more, or on parcels in common ownership consisting of several substandard lots that in the aggregate produced a building site of 5,000 square feet or more.

Recently, the County of San Mateo has allowed building on individual substandard lots, and has recently approved building permits for a number of such sites in other areas of the Mid-Coast. (New development in our area is currently limited by lack of water.)

As previously mentioned, the total number of such substandard lots in our service area (within the Urban/Rural Boundary) is approximately 4,542. In 1993, the County Planning Department did a study that estimated that approximately 80% of Montara lots are substandard, and that approximately 76% of Moss Beach lots are substandard. This estimate appears to be too low — an actual count only shows approximately 501 conforming lots in our urban service area. Adding these two numbers together, there are thus approximately 5,043 legal lots within our collection system service area.

At the present time, the Montara Sanitary District serves approximately 1,786 customers (about 1,560 residences). Based on the number of legal lots estimated above, and based on the proposed LCP Policy 1.5c that would entitle each of those individual lots, including substandard lots, to develop at least to a density of 1,500 square feet of housing, there is a potential for 3,257 additional connections if every legal lot is separately developed.

This would be disastrous for our community: It would represent potential build-out more than twice what was previously predicted by the LCP (and used for planning of other services); it would far exceed our sewerage treatment capacity, and it would violate the precepts of the Coastal Act.

An appropriate control should disallow disaggregation of existing multi-lot parcels in common ownership, whether developed or undeveloped, since the exception for sub-standard lots is portrayed as meeting the need of isolated substandard lots to develop when there is no opportunity to purchase an adjacent lot and thus create a conforming parcel.

Without such a control, and absent a lot-merger policy enforced by the Board of Supervisors, there is the potential for speculators and profiteers to buy up small older homes in the Mid-Coast (which are so crucial to preserving the semi-rural character of the community), raze them, sell off the underlying lots to separate owners, and then invoke the provisions of the LCP policy to demand the right to build on the individual substandard lots. Even if we proceed with the expectation that existing housing will not be destroyed, the approximately 450 parcels that were identified as undeveloped in the LID 92-1 study generally consist of two or more underlying sub-standard lots, and these could easily be dis-aggregated without removing any existing construction, and still produce a demand for sewer capacity far in excess of that currently permitted under Table 2.3 of the LCP.

This proposed condition is one of several that should be considered to prevent this end-run around the County's zoning requirements, the LCP, and the clear intent of the Coastal Act.

Build-Out Scenarios:

The Coastal Commission's staff prepared a thorough and well-documented report that recommends acceptance of modified policies based on the LCP amendments proposed by San Mateo County. One particularly impressive set of scenarios studied potential south coast visitor-serving development based on density credits, and the potential impact on traffic and other limited coastal resources. Assistance of San Mateo County staff in producing this analysis — including the "worst case" scenario — led the Coastal Commission staff to recommend a temporary limit on the number of "bed-and-breakfast" or hotel accommodations (at about the level the County anticipates) until further study can show whether or not the worst case scenario is in danger of realization.

For the proposed LCP policy changes that affect the Mid-Coast, however, there is no similar analysis and no known County study that shows the cumulative potential impacts of full development as permitted under the LCP amendments.

Proposed Policy 1.6 (which is suggested by staff to be replaced by Modified Policy 1.5c) addresses so-called "sub-standard" lots in the urbanized Mid-Coast. These are legal lots that do not conform to the County's current Zoning Regulations. Existing LCP Table 2.3 establishes sanitary sewer requirements for build-out that are sufficient in our service area to accommodate a population of approximately 7,432 persons or 2,891 households. These estimates in the original LCP appear to have been made using the County's then-existing 5,000 square foot residential zoning minimum lot size requirement at the time the County's LCP was first adopted, and never anticipated that additional development would be permitted at the same intensity (or in many cases higher intensity) on sub-standard lots.

As a specific example, under Phase I sewer capacity limits (400,000 gallons per day), our District is able to serve 1,786 customers (including a very small number of institutional and commercial users). The expansion project currently under construction at Sewer Authority Midcoastside is intended to provide our District with "build-out" capacity (800,000 gallons per day). After allowing for Coastal Act priority uses, our District will have capacity remaining for 1,330 additional equivalent residential units. Beginning in 1992, our District analyzed all undeveloped land within our service area as part of an assessment district proceeding, and through a careful engineering study determined that there were approximately 450 parcels of land in individual ownerships (in many cases, consisting of several contiguous sub-standard lots that formed a building site meeting the County's 5,000 square foot minimum lot size) and that, based on their potential conforming building sites, those parcels could result in approximately 647 new dwelling units.

Our District already has obligations to two affordable housing projects to provide connections for up to 346 additional dwelling units, a small portion of which are actually reserved for affordable housing. Together with new single-family homes on conforming parcels, our District would have limited reserve capacity if all of the identified parcels meeting current minimum Zoning Regulations were developed.

As a parallel to the Coastal Commission staff study for the south coast, we can consider a number of build-out scenarios for the Montara Sanitary District urban service area. This is really just an outline of a careful study that should be performed by the County, which of course has access to computerized Assessor's records showing actual lot and parcel sizes, which parcels are developed, etc. However, the numbers shown below are based on preliminary estimates made by spending two days counting parcel maps for a sample of our District, and from District-wide totals known or estimated from current customer Sewer Service Charge rolls or LID 92-1 Assessment rolls.

Scenario I ("Original LCP"): Build-out as originally contemplated by the LCP, with 5,000 square foot minimums for residential development. As noted earlier, because the original LCP was internally consistent, the Montara Sanitary District would have sufficient wastewater capacity to serve all existing and reasonably anticipated future residential and commercial users, as well as LCP priority users, within our planned build-out capacity (800,000 gallons per day).

Scenario II ("Existing Sub-Standard Parcel Ownership Patterns"): Build-out as originally contemplated by the LCP, with existing APN parcels of 2,500 square feet or more all developed. This is the same as Scenario I, except there would be a relatively small number of existing sub-standard lots in isolated ownership, estimated by the County in 1993 to be about 294 throughout the Mid-Coast and, therefore, somewhat smaller within the Montara Sanitary District boundaries. From a preliminary analysis, it appears that our District could serve these additional sub-standard lots, particularly if many of the existing homes on 10,000 square foot or larger building parcels do not sell off any of their vacant lots for development, but rather retain them for gardening and open space.

Scenario III ("Maximum Dis-Aggregated Development on Empty Parcels"): Retain existing ownership configuration of developed parcels, but permit all undeveloped APN parcels to be dis-aggregated into their underlying sub-standard lots and permit development on each such lot under the Modified Policy 1.5c. This is the most difficult scenario to evaluate without a thorough study, but it appears that our District could be overwhelmed with requests for service for construction on dis-aggregated sub-standard lots such that the entire permitted wastewater capacity for our service area would be exhausted before all parcels had an opportunity to develop. Essentially, if the County and the Coastal Commission permit this kind of unrestricted development, it may constitute a "taking" of the development rights from existing owners of conforming parcels, and a "giving" of those development rights to new owners of dis-aggregated sub-standard lots.

Scenario IV ("Maximum Dis-Aggregated Development on All Parcels"): This should also be called the **"Runaway Build-Out"** Scenario; the consequences were summarized earlier in this report, but are repeated here for consistency. The total number of sub-standard lots in our service area is approximately 4,542. There are approximately 501 conforming lots in our urban service area. Adding these two numbers together, there are thus approximately 5,043 legal lots within our collection system service area. At the present time, the Montara Sanitary District serves approximately 1,786 customers. Based on the number of legal lots estimated above, and based on the proposed LCP Policy that would entitle each of those individual lots, including sub-standard lots, to develop, there is a potential for 3,257 additional connections if every legal lot is separately developed. This is in addition to the LCP Priority parcels which are assured 346 connections, and other LCP visitor-serving priority uses. After deducting priority allocations from the District's full 800,000 gallon per day build-out capacity, we will have approximately 1,330 remaining equivalent residential connections — far less than the potential demand in this scenario.

The final analysis above is a "worst case" scenario, admittedly. The County assures us that they only expect existing isolated substandard lots — those where there are no contiguous lots in common ownership — to actually develop under this Modified LCP Policy 1.5c. Given the tremendous consequences for our community, including impacts on traffic, schools, sewer, water, and the quality of life, we think it is essential that the Coastal Commission require, as a condition of approval of Modified Policy 1.5c, some guarantee that the number of sub-standard lots that may be developed is kept to the absolute minimum necessary, i.e., at most those isolated sub-standard lots in separate ownership.

Scenario II is the recommended scenario, and would require either a County-wide limitation on sub-standard lots permitted to develop, or a limitation on dis-aggregation of existing multi-lot parcels, in conjunction with the Modified Policy 1.5c.

As part of a thorough study of these possible scenarios, particular attention should be given to implications for water supply. Currently, our service area receives water from a private water company, Citizens Utility Company of California, which is under a new connection moratorium imposed by the Public Utilities Commission because there is inadequate water for the existing users in our community. Nearly all water is drawn from community wells, which draw on the same aquifers as private wells scattered throughout the area (used for both agricultural and domestic purposes). Unless new sources of water can be obtained by Citizens, new development in the Montara Sanitary District service area requires each property to provide its own on-site well. There is a tremendous threat to the public health and safety of over-development threatening the groundwater resources for the entire community, either through depletion or through salt water intrusion. Other communities have experienced loss of portions of their water supply in California, so this is not just an academic or theoretical concern, but an important public policy issue demanding study.

Conclusion

With the formal adoption of Modified Policy 1.5c in its present unrestricted form, it is our understanding that any owner of multiple contiguous sub-standard parcels would be able to deed individual legal lots to new owners, and each new owner would then have the entitlement granted by the County's amended LCP to construct a home of 1,500 square feet or more. There is no clear language in the LCP, as proposed to be amended, that provides assurance that Scenario IV will not be the outcome. Indeed, if past history is used as a guide, every time the County grants an exception or expands a loophole for one developer, it is used as a precedent by other developers and soon becomes the rule, rather than the exception.

It is possible that our Sanitary District Board is mis-informed and unduly alarmed, and that there are existing, foolproof, air-tight laws and LCP policies that would assure us that our "nightmare" scenario is impossible. If this is the case, our Board requests that San Mateo County Counsel deliver a formal opinion, citing all relevant authorities, that show how existing groups of sub-standard lots in common ownership, currently treated as one building site, can never be dis-aggregated or split into their underlying sub-standard legal subdivision lots. This would provide us with the assurance we need to know that we can continue to fairly serve all property owners in our service area, and not find that our limited capacity is exhausted prematurely by conversion of existing conforming parcels (i.e., those comprising two or more sub-standard lots) into separate ownerships. In particular, such an opinion must be based on laws and policies that are at least as difficult to change as the certified County LCP, and not merely on the Planning Department's changing interpretation of what constitutes a suitable building site, or an action that can be taken merely by the Board of Supervisors without review by the Coastal Commission. Further, there must be no opportunity for a variance or exception: otherwise, the protection is not air-tight, and with sufficient economic incentives, creative land use attorneys will find a way around the intended policy.

We understand that our Sanitary Board has no land use or zoning authority, and we do not wish to appear to be exercising such powers. We accept that every property owner in our service area has a right to develop that property. We are not attempting to deprive any property owner of the right to develop; we are merely asking the Coastal Commission to ensure that all existing owners will continue to be able to exercise that right, and not find that through an unintended "loophole" created by this Modified Policy 1.5c, the very limited public resource of wastewater treatment has been artificially re-allocated to a small number of early creative developers who dis-aggregate current lot groups and thus deprive other property owners — in particular, those who still maintain a sufficient group of sub-standard lots in common ownership to meet current Zoning Regulations — of their right to develop their property in conformance with all existing Zoning Regulations.

Results of Preliminary Analysis

The attached spreadsheet is the beginning of a comprehensive analysis of the potential service demands on our District. Only a fraction of the total work has been completed, but it is sufficient to identify the existence and magnitude of a major problem. Since the County has been the source of changes in development policy, and since the County is the relevant land use planning and zoning agency for the Mid-Coast, the County should be required to do a complete study showing the impacts of Modified Policy 1.5c along the lines outlined. The detailed worksheets attached are for the convenience of and verification by County staff, to ensure that the overall approach is valid and the preliminary results accurate. The detailed worksheets are described at the end of this section.

The attached spreadsheet, "**Preliminary Analysis — Potential Demand on Montara Sanitary District if All Legal Lots are Developed,**" shows the consequences of development under various scenarios. The following paragraphs explain how this preliminary analysis was accomplished and what further work would be required to complete the analysis under present conditions.

As of 11 August 1997, preliminary counts of conforming and substandard lots have been completed, but other figures are known only from County estimates or District-wide totals.

The first column, "**Assessor's Map Book and Page,**" shows which map page is being analyzed. The Montara Sanitary District service area, within the Urban/Rural boundary, is shown in full in Map Books 36, 37, and 47. For purposes of this preliminary analysis, the maps reproduced and annotated in the Local Improvement District 92-1 were used. These are based on the County Assessor's Parcel Numbers as of the 1994-1995 County Assessment Roll. Although there may be minor changes in property configuration since those Assessment Diagrams were produced, because of the moratorium on both new sewer and water connections, the number of changes is likely to be immaterial to the conclusions.

The second column, "**Original Subdivided Lots,**" is the sum of the largest lot number on each underlying block. For academic purposes, the exact numbers could be obtained by reviewing the original subdivision parcel maps. When a block does not show lot numbers, this count reflects the number of legal parcels shown on the map page (e.g., each area that is outlined either by dashed or solid lines). This number is really only of historical interest.

The third column, "**Remaining Subdivided Lots,**" is a count of the number of legal lots (or parcels) as shown on the map page. This number may be smaller than the second column because lots from the original subdivision were acquired for public uses (e.g., additions to the Cabrillo Highway right of way) or because a group of lots were resubdivided or merged into different parcel configurations.

The fourth column, "**Remaining Conforming Lots,**" is an approximate count of the number of legal lots that are 5,000 square feet or greater in area. For rectangular lots, this count should be exact, but for irregularly shaped lots, this is based on an estimated area.

The fifth column, "**Remaining Substandard Lots,**" is the difference between the third and fourth columns. Since this count was the number of initial interest in doing this preliminary analysis, for many map pages that is the only count that was obtained, and the other columns will need to be filled in through further analysis.

The sixth column, "**Conforming APN Parcels,**" uses the configuration shown on the parcel maps for each Assessor's Parcel Number (Page, Block, and Parcel) indicated by a solid outline, which may comprise one or more individual legal lots, and counts those which appear to be 5,000 square feet or greater in area. [Note: The actual counting work remains to be done, and should be done by the County.]

The seventh column, "**Substandard APN Parcels,**" again uses the parcels in common ownership and taxed to a single address, which may comprise one or more individual legal lots, and counts those which appear to be less than 5,000 square feet in area. These are the substandard parcels where no contiguous lots are in common ownership, and unless these owners are able to acquire adjacent lots to combine into a conforming parcel, the parcels that are intended to be the beneficiary of the Local Coastal Program changes regarding substandard lots. [Note: The actual counting work remains to be done, and should be done by the County.]

The eighth column, "**Existing Developed Parcels**," is based solely on the APNs on each map page that are not part of LID 92-1 or that have septic tanks, because that Assessment District did not include existing developed parcels (except those parcels having a septic tank). This count could be easily cross-checked against the current Sewer Service Charge Assessment Roll, which lists each existing customer of the Montara Sanitary District and hence includes all developed parcels (including those with septic tanks). [Note: At this time, the Existing Developed Parcels have not been counted for each separate map page; however, the total number of users within the Urban/Rural boundary is known to be 1,786, and this total is the only really important number.]

The ninth column, "**Undeveloped Conforming Parcels**," is a count of those APNs that were included in LID 92-1 and also appear to be 5,000 square feet or greater in area. Again, this count eliminates APNs representing existing developed parcels, indicated as having a septic tank. [Note: Filling in the details on the spreadsheet is a future exercise.]

The tenth column, "**LID 92-1 Additional Demand**," reflects the total number of parcels that were included in the assessment district (in some cases, non-conforming parcels were included), adjusted for the total number of conforming building sites that could be formed within those parcels. For instance, a group of four contiguous 2,500 square foot lots in common ownership and shown with a single APN could be divided into two building sites and still conform to the current zoning requirements, so this case would be counted as an additional demand of 2 residences. If this study is pursued, large parcels (especially those given special density consideration through designation as Affordable Housing sites) must be carefully checked. Note that this count does include existing developed parcels having a septic tank, as it is expected that such parcels will connect to the public sewer system when additional capacity becomes available. [Note: Again, since the relevant total of 647 Benefit Units in the Assessment District is known, representing the total number of additional capacity that property area would allow (subject to Bond Counsel's opinion on property value to bonded indebtedness ratio, which required one parcel to be proposed for assessment for only 94 Benefit Units although it is zoned for 218 residential units), the total number of new users can be computed as 647 plus 218 minus 94, or 771.]

The eleventh column, "**Potential Additional Demand**," is the most critical one: It represents the total potential additional demand for sewer capacity if every legal lot within the Montara Sanitary District is able to develop with a single family dwelling. It is computed as the sum of all remaining lots, both conforming and substandard (columns 4 and 5), reduced by the number of existing developed parcels. This potential demand would arise if each existing undeveloped parcel comprising multiple lots were developed with a single family dwelling on each legal lot, and if each existing structure that spans multiple lots were demolished and replaced with separate single family dwelling units on each underlying legal lot.

As background material supporting the summary numbers, an example "**Map Page Detailed Analysis for Map Book 36 Page 01**" is included. This is intended to provide a block-by-block (using Assessor's Block Numbers, not the original subdivision block numbers) analysis that can be easily checked and adjusted as necessary, since full-page totals reach large numbers quickly.

Assessor's Tax Book & Page	Original Subdivided Lots	Remaining Subdivided Lots	Remaining Conforming Lots	Remaining Substandard Lots	Conforming APN Parcels	Substandard APN Parcels	Existing Developed Parcels	Undeveloped Conforming Parcels	LID 92-1 Additional Demand	Potential Additional Demand
6-01	237	234	9	225	96	16	85	14	11	149
6-02			9	186						195
6-03			5	126						131
6-04			11	124						135
6-05			5	140						145
6-06			137	16						153
6-07			0	190						190
6-08	Part Rural		8	37						45
6-09			121	0						121
6-10			6	235						241
6-11			9	71						80
12			18	214						232
6-13	Part Rural		0	25						25
6-14	Rural									0
6-15	Part Rural		1	71						72
6-16	Part Rural		1	54						55
6-17	Rural									0
6-18	Rural									0
6-19	Rural									0
6-20	Rural									0
6-21	Rural									0
6-22	Rural									0
6-23	Rural									0
6-24	Rural									0
6-25	Part Rural		19	58						77
6-26	Rural									0
[illegible]	Rural									0
6-28			4	125						129
6-29	Rural									0
6-30	Rural									0
6-31	Rural									0
6-32				1						1
Totals for Map Book 36			363	1898						2176

Revised 7-Aug-1997

Preliminary Analysis — Potential Demand on Mo[illegible] Sanitary District if All Legal Lots are Developed

Assessor's Tax Book and Page	Original Subdivided Lots	Remaining Subdivided Lots	Remaining Conforming Lots	Remaining Substandard Lots	Conforming APN Parcels	Substandard APN Parcels	Existing Developed Parcels	Undeveloped Conforming Parcels	LID 92-1 Additional Demand	Potential Additional Demand
7-01			14	143						157
7-02			11	20						31
7-03	Rural									0
7-04	Part Rural		1	0						1
7-05	Rural									0
7-06			3	249						252
7-07			0	114						114
7-08			3	160						163
7-09			12	186						198
7-10				67						67
7-11			3	170						173
7-12			36	0						36
7-13			1	168						169
7-14			3	228						231
7-15			0	203						203
7-16	Part Rural		4	0						4
7-17			0	187						187
7-18			0	146						146
7-19			0	54						54
7-20			6	0						6
7-21			12	19						31
7-22			0	98						98
7-23			4	17						21
7-24			1	19						20
7-25			4	151						155
26			2	0						2
7-27			0	110						110
7-28			3	135						138
7-29	Part Rural / Granada Sanitary		2	0						2
7-30			4	0						4
7-31			2	0						2
7-32	Part Rural / Granada Sanitary		2	0						2
Totals for Map Book 37										
			133	2644						2777
47-30			5	0						5
Revised 7-Aug-1997		Book 36	363	1898						2261

TOTALS 501 4542 TOTAL LOTS 5043

Assessor's Map Book, Page, Block	Original Subdivided Lots	Remaining Subdivided Lots	Remaining Conforming Lots	Remaining Substandard Lots		Conforming APN Parcels	Substandard APN Parcels	Existing Developed APN Parcels	Undeveloped Conforming APN Parcels	Undeveloped Substandard APN Parcels		LID 92-1 Additional Demand	LID 92-1 Undeveloped Legal Lots	Potential Additional Demand
036-01 1	2	2	2	0		2	0	2	0	0			0	0
036-01 2	16	20	0	16	•	5	0	2	3	0			7	14
036-01 3	42	42	0	42		18	2	15	3	2			8	27
036-01 4	25	25	0	25		6	5	4	2	5			12	21
036-01 5	38	41	4	34	•	19	2	18	1	2			5	20
036-01 6	24	25	2	19	•	9	2	8	1	2			4	13
036-01 7	42	42	0	42		20	1	17	3	1			7	25
036-01 8	24	25	0	23	•	10	2	10	0	2			2	13
036-01 9	24	25	0	23	•	7	2	9	0	0			0	14
Totals	237	247	8	224		96	16	85	13	14		0	45	147

Remaining Subdivided Lot Size Analysis

Assessor's Map Book, Page, Block	Substandard Lots, Front Footage x Lot Depth 2500 25 x 100	3000 30 x 100	3500 35 x 100	4000 40 x 100	2500 to less than 5000	below 5000 irregular	below 2500 (fragments)	Conforming Lots, Front Footage x Lot Depth 5000 50 x 100	5500 55 x 100	6000 60 x 100	other 5000+ rectangular	other 5000+ irregular
036-01 1											0	2
036-01 2	7		1			8	10				0	
036-01 3	12	30									0	
036-01 4	22					3					0	
036-01 5	11	21	1	1			4	4			0	
036-01 6	19										2	
036-01 7	10	29				3					0	
036-01 8	23						2				0	
036-01 9	23						2				0	
Totals	127	80	2	1	0	14	18	4	0	0	2	2

Assessor's Parcel Number (APN) Parcel Size Analysis

Assessor's Map Book, Page, Block	Substandard Lots, Front Footage x Lot Depth 2500 25 x 100	3000 30 x 100	3750 37.5 x 100	4000 40 x 100	2500 to less than 5000	below 5000 irregular	below 2500 (fragments)	Conforming Lots, Front Footage x Lot Depth 5000 50 x 100	5500 55 x 100	6000 60 x 100	other 5000+ rectangular	other 5000+ irregular
036-01 1											0	2
036-01 2								2			0	3
036-01 3	1	1						1	4	11	2	
036-01 4	4					1		1			4	
036-01 5	1			1				7	1	7	4	
036-01 6	2							6			3	
036-01 7		1						4	2	13	0	1
036-01 8	2							7			3	
036-01 9			2					3			4	
Totals	10	2	2	1	0	1	0	31	7	31	20	7

Revised 9-Aug-1

Assessor's Map Book, Page, Block	Original Subdivided Lots	Remaining Subdivided Lots	Remaining Conforming Lots	Remaining Substandard Lots		Conforming APN Parcels	Substandard APN Parcels	Existing Developed APN Parcels	Undeveloped Conforming APN Parcels	Undeveloped Substandard APN Parcels	LID 92-1 Additional Demand	LID 92-1 Undeveloped Legal Lots	Potential Additional Demand
036-02 1	42	42	3	35	•	14	5	15	1	3		6	23
036-02 2	40	43	2	35	•	18	4	21	1	0		2	16
036-02 3	40	45	0	35	•	16	1	13	3	2	•	7	22
036-02 4	42	39	4	27	•	14	0	10	4	0		9	21
036-02 5	42	42	0	42		19	2	15	4	2		10	27
Totals	206	211	9	174		81	12	74	13	7	0	34	109

Remaining Subdivided Lot Size Analysis

Assessor's Map Book, Page, Block	Substandard Lots, Front Footage x Lot Depth 2500 25 x 100	3000 30 x 100	4000 40 x 100	4500 45 x 100	2500 to less than 5000	below 5000 irregular	below 2500 (fragments)	Conforming Lots, Front Footage x Lot Depth 5000 50 x 100	5500 55 x 100	6000 60 x 100	other 5000+ rectangular	other 5000- Irregular
036-02 1	9	23				3	4	3			0	
036-02 2	8	27					6	2			0	
036-02 3	8	27					10				0	
036-02 4	6	21					8				4	
036-02 5	11	26			3	2					0	
Totals	42	124	0	0	3	5	28	5	0	0	4	0

Assessor's Parcel Number (APN) Parcel Size Analysis

Assessor's Map Book, Page, Block	Substandard Lots, Front Footage x Lot Depth 2500 25 x 100	3000 30 x 100	4000 40 x 100	4500 45 x 100	2500 to less than 5000	below 5000 irregular	below 2500 (fragments)	Conforming Lots, Front Footage x Lot Depth 5000 50 x 100	5500 55 x 100	6000 60 x 100	other 5000+ rectangular	other 5000- Irregular
036-02 1		1	2	2				4		4	5	1
036-02 2		2		2				7	2	8	1	
036-02 3		1					1	2	2	5	6	1
036-02 4								2		1	11	
036-02 5						2		4		12	2	1
Totals	0	4	2	4	0	2	1	19	4	30	25	3

Revised 9-Aug-1997

Proportionality Rule for FAR and Lot Coverage Applied to 3 Substandard Lots in 3 Zoning Districts

On Substandard Lots the Coverage and Floor Area Ratio is reduced by the ratio of actual lot size and required lot size

25 X 100 foot lot in R1 (standard lot is 50 feet wide and 5000 square feet)
[not including 200 sq ft garage allowance]

Lot Size	One-Story Coverage	Two-Story Coverage	Max FAR	Sq Ft for Second Story
2500	625	438	625	188187

25 X 100 foot lot in R1 (standard lot is 50 feet wide and 5000 square feet)
[including 200 sq ft garage allowance]

Lot Size	One-Story Coverage	Two-Story Coverage	Max FAR	Sq Ft for Second Story
2500	825	638	825	187

40 X 110 foot lot in R1B1 (standard lot is 60 feet wide and 6000 square feet)

Lot Size	One-Story Coverage	Two-Story Coverage	Max FAR	Sq Ft for Second Story
4400	1613	1129	1613	484

50 X 100 foot lot in R1B2 (standard lot is 75 feet wide and 7500 square feet

Lot Size	One-Story Coverage	Two-Story Coverage	Max FAR	Sq Ft for Second Story
5000	1667	1167	1667	500

Exhibit C

RESOLUTION NO. C-76-00

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY ESTABLISHING THE RESIDENTIAL DWELLING UNIT BUILDING PERMIT ALLOCATION FOR THE YEAR 2001

WHEREAS, the voters of the City of Half Moon Bay approved the Residential Growth Initiative in May of 1991 (Measure A); and

WHEREAS, in November of 1999, the electorate of the City of Half Moon Bay expressed serious concern with the 3% growth rate and adopted a new Residential Growth Initiative (Measure D) calling for a 1% growth rate that was adopted by the City Council, but which has not yet been adopted into the Local Coastal Program or certified by the Coastal Commission; and

WHEREAS, because Measure D has not been implemented, the rules under Measure A remain the law; and

WHEREAS, the Residential Growth Allocation system and the implementing ordinance, Chapter 17.06 of the Half Moon Bay Municipal Code, exempts density bonuses for the provision of low and moderate income housing to the extent required by State law; and

WHEREAS, as a part of the implementation of the Residential Growth Initiative, the City Council adopted the Residential Dwelling Unit Building Permit Allocation System Ordinance, Chapter 17.06 of the Half Moon Bay Municipal Code; and

WHEREAS, Section 17.06.020 of the Residential Dwelling Unit Building Permit Allocation System Ordinance requires the City Council to adopt the annual building permit allocation for the upcoming year by December 31 of each year; and

WHEREAS, Section 17.06.025 of the Half Moon Bay Municipal Code provides that the City Council may elect to establish the number of allocations based on a growth rate of less than 3 percent if the Council determines that an emergency situation directly effecting the health and safety of the residents of the City of Half Moon Bay exists; and

WHEREAS, Section 17.06.045 of the Half Moon Bay Municipal Code provides that the Council may elect to establish the number of allocations based on a growth rate of less than 3 percent if it determines, based on consideration of the information in a fiscal impact analysis study, that additional residential development would adversely affect City finances and its ability to adequately provide services to the residents; and

WHEREAS, the year 2001 is the third year of implementation of the Residential Dwelling Unit Building Permit Allocation System, after the sewer plant expansion became operational in 1999; and

WHEREAS, the number of building permits issued in previous years and estimated concomitant population growth has been determined; and

WHEREAS, the population of the City at the end of 2000, based upon the methodology specified in Chapter 17.06, is estimated to be 9,998 persons.

NOW, THEREFORE BE IT RESOLVED AND DIRECTED AS FOLLOWS:

Section 1. Findings Justifying a Determination that an Emergency Situation Exists.

Based upon all the information in the record, including without limitation, all the findings in the record for Measure A adoption, Measure A implementation, development approvals for the City of Half Moon Bay from 1990 to 2000, the Half Moon Bay General Plan and LCP, the California Coastal Act, the Fiscal Analysis of New Residential Development prepared for the City by Applied Development Economics dated November 28, 2000, and the staff reports for Measure A allocations for the December 19 and 26, 2000 City Council meetings, the City Council hereby makes the following findings:

1. Measure A Annual Growth Limit Requirement. Since The City's population can already grow 5% during 2001 as a result of carrying over past Measure A allocations that did not expire, the Measure A limit of 3% is already exceeded, so further allocations contradict the governing policies of the City's LCP/General Plan.

Since Half Moon Bay now has about 4000 residential units, unredeemed Measure A entitlements from past year allocations and development agreements have accumulated to the point that the 214 residential units those allocations represent now exceed what would be a 5% annual growth rate, if all were to come forward as they are in fact entitled to do in 2001. A 5% growth rate clearly exceeds both the letter and intent of Measure A, which is an adopted section of the City's certified LCP, specifically limiting annual growth rate to 3% or less unless the voters determine otherwise (which they recently did with Measure D, which made the maximum growth rate 1% on public health, safety, welfare, and environmental protection grounds). Some $400 million dollars worth of development projects within the City have already been found by the Coastal Commission to have substantial LCP compliance issues associated with them and are thus held up indefinitely. Awarding more Measure A allocations on top of such a large scope of unresolved land use, can only compound the City's problems in making any progress whatsoever toward orderly implementation of its certified LCP/General plan.

2. Traffic. Approving an allocation based on a 3% growth would have the effect of exacerbating currently substandard levels of service on limited two-lane highways with additional peak hour traffic, when it is known that capacity will soon be even further limited by years of construction beginning in 2002, presents serious challenges to the City's ability to implement a safe and orderly circulation element under the LCP/General Plan. Given that the area has only two access and egress roads, each of which is limited by state law to two travel lanes in the rural zone, further transportation challenges have no remedy and must therefore simply be avoided because of associated negative impacts on (1) Coastside access to outside emergency services, (2) the danger of increasingly aberrant driver behavior that the City has no resources to regulate, and (3) ability of the area to comply with state mandates to not obstruct the public's right to get to and from the coastal zone. Roadway capacity is not available to accommodate new residential development.

- Based on the CCAG Traffic Modeling Study of July 1997 (reported in detail at both Planning Commission and City Council meetings during 1998), the peak hour traffic level of service (LOS) on the City's only two highways (SRs 1 and 92) has been F since 1990.
- LOS F is the worse of six Caltrans' levels of service and is characterized as "heavily congested flow with traffic demand exceeding capacity to the extent that speed and flow may drop to zero"; "operations with extremely slow speeds and extensive delays" and for intersections, "forced flow operations with excessive delays and queues blocking upstream intersections."
- Based on the CCAG Traffic Modeling Study of July 1997, LOS F corresponds to a highway volume to capacity (v/c) ration exceeding 1.0. For the Coastside, peak hour v/c for SRs 1 and 92 were reported in the CCAG study to vary between 1.1 and 1.2 in 1990 and 1.2 and 1.3 in 1995. The v/c at buildout of current City and County LCPs was projected to vary between 2.1 and 2.3. If a reduced growth rate was assumed, v/c on the order of 1.5 to 1.7 was predicted for the year 2010 on SRs 1 and 92. At buildout, the length of the high v/c area along SR92 was predicted to be more than five miles. Even taking into account the effects of all current and planned highway and transit improvements, for all projects, the model is reported to optimistically assume that $3.2 billion dollars of public funding will be available between now and 2010 for San Mateo County highway and transit improvements. In no case was the LOS adequate in terms of meeting accepted standards.
- During studies of the Ox Mountain and quarry acceleration and deceleration lanes on SR92, Caltrans has reported to the City Council a peak hour volume exceeding 1500 cars per hour going in the rush hour direction on SR92, which is reported in the CCAG study to have a capacity of 1000 cars per hour in each direction. This is further confirmation that SR92 now operates at v/c near 1.5.
- Getting deeper into LOS F exacerbates public access to the Coastal Zone. Coastal Commission staff, in a report on the Pacific Ridge project, recently opined that generating such traffic would be a violation of the City's LCP (General Plan).

- Getting deeper into LOS F exacerbates emergency access to the Coastside. The County's Office of Emergency Preparedness reported that the Coastside has among the longest emergency response times of any area in the County. Even without further traffic congestion, the Coastside emergency response times are typically in the slowest 25% of all response times for the 20 cities in San Mateo County.
- A series of projects together amounting to multiple years of construction on the City's only two access roads has recently been funded and is now scheduled to begin on both SRs 1 and 92 in the year 2002. These projects have been documented to the City Council from the County Transportation Authority's 1999 Annual Report. Details and maps of SR 1 and 92 projects within the City have been presented numerous times to both the Planning Commission and City Council. Projects include new Frenchman's Creek, Coronado and North Wavecrest intersections and traffic lights on SR1, the triangle (SR1, SR92, Main Street) intersection and widening project, and at least three SR92 projects; namely, parts 1 and 2 of widening SR92 within the City limits, and the SR92 "road straightening" project east of the City in the County. A fourth SR92 project, the east side passing lanes project, has been planned and funded but not yet approved. It would add another 2-3 years of heavy construction activity on the same steep and winding two-lane road.
- The SR1 closure at Devil's Slide for 5 months in 1995 showed how close the Coastside roads are to a near total breakdown of access and the economy. That closure added only about 1000 cars to the SR92 commute period, the result being the well-publicized 8 hour periods of total gridlock every day and the ensuing serious decrease of local economic activity during which many businesses failed. This is further confirmation that congestion is at the point where lost time increases more rapidly for each increment of added demand.
- Because SRs 1 and 92 are restricted to two lanes in the rural zone surrounding Half Moon Bay, the v/c rations are already greater than 1.0 both in and surrounding Half Moon Bay, and various projects are likely to soon have significant impact on current levels of service which are already substandard, something must be done to decrease the growth of peak hour traffic on SRs and 1 and 92 beginning in 2002 and continuing for at least several years.
- The historic use of Measure A allocations for commuter housing means that additional entitlements on top of the 214 allocated, but as yet unredeemed, would likely impact peak hour conditions and would therefore further accelerate deterioration of traffic service during what is likely to be a period of prolonged construction affecting both SRs 1 and 92.
- The volume of peak hour traffic has already reached a point where driver impatience is leading to anger, unnecessary risk taking, and other behavior, which is apparently becoming aberrant and antisocial. For example, a rising level of altercations between angry commuters during the Devil's Slide closure of 1995 (when there was less traffic and driver stress than now) required significant extra intersection and other traffic control duty for the City's police force during both AM and PM commute hours. The City lacks the resources to maintain such services on an ongoing basis, and this would become more likely if additional

Measure A allocations are made at this time. Driver behavior problems were most recently demonstrated by a SR 1 accident during the morning commute period, when a pedestrian was struck and killed by up to five cars in quick succession, leaving body parts strewn along the road. The City is ill-equipped to deal with the aftermath of adding further Measure A allocations at this time, which would add up to 150 cars to the 400 that can already be added from previous allocations.

3. Economic Viability and Sustainability. Prior to completion of the City's LCP/General Plan revision, which includes consideration of significant rezoning for economic development, additional Measure A allocations beyond those already awarded would (1) unnecessarily create more long-term deficit obligations as a result of the City having to provide the more intensive services associated with residential development and (2) unnecessarily foreclose on valid and well-considered land use options such as TDR programs and redevelopment projects, which the City has already invested significant time and money to develop, but has not yet completed and adopted.

- In addition to the health, safety and welfare significance of minimizing further compromise of access and egress for 23,000 Coastside residents, reasonable visitor access is central to the City's economic well-being since more than half of the City's General Fund revenue is derived from visitor-generated retail sales, transient occupancy taxes and golf fees.
- Both prior and current City analysis of the economic impact of residential development continues to show that, even with development fees considered, residential development generates a services deficit of several hundred dollars per house per year. These analyses are periodically presented to the City Council whenever the annual growth rate is considered. The 214 houses with unused Measure A allocations would therefore generate an annual City deficit on the order of $100,000 per year. The City has not identified new revenue sources to pay for that, let alone the further deficits that would be generated by granting additional Measure A allocations.
- The City has previously funded studies, the results of which have been reported to the City Council and have indicated that the City suffers from a serious jobs/housing imbalance. In short, there are too few local jobs for current residents, which increases the vulnerability of the local economy to external factors, such as gasoline shortages or communication problems. Given that 214 previously awarded Measure A allocations will already diminish more productive options for the City's remaining vacant land, there is little if any justification to further diminish the City's options with additional Measure A allocations.
- Foreclosing future land use options is particularly harmful when the City is making a good faith attempt (including the expenditure of $400,000 of limited funds) to develop a more economically sustainable vision. The City Council, Planning Commission and a Mayor's Advisory Committee of residents have all been considering various land use planning tools such as TDR programs, redevelopment, business opportunity zones and business improvement districts in order to diversify the City's previous reliance on residential development so as

to result in a more economically sustainable LCP/General Plan. Because the City's remaining amount of developable, vacant land is limited, awarding more Measure A allocations at this time effectively acts to further lock in the prior vision and further lock out options for the future. These are options which the City and its voters have acted on in good faith and at great cost to develop.

4. Critical Infrastructure Requirements. Allocation of additional Measure A certificates beyond the 214 already allocated needlessly adds to development expectation and demand for water at a time when the adequacy of existing water service has been questioned by the CCWD engineer for as little as 90 new connections, and when state auditors have recently recommended additional analysis before further water service commitments are made.

- Measure A allocations cannot be turned into a CDP without availability of water services. Proof of availability of water service has always been a CDP requirement and has always been part of the City's adopted and certified LCP/General Plan. It easily becomes a fruitless act for the City to issue more Measure A allocations beyond the 214 already allocated when, based on new information, the availability and timing of water services is so uncertain, at least for the near to mid-term period of several years. The new information includes (1) CCWD's first time ever refusal earlier this year to issue a will serve letter to the proposed hotel near Frenchman's Creek, which would have required 90 additional connections to the north end of the water system. In fact, the district engineer could not insure the Board that addition of 90 new connections at that location could be safely handled by the system on a peak demand day, which is the state standard for "adequacy" of service; and (2) the results of the state audit which recommended that additional analyses precede authorization of additional water connections.
- The above refusal to issue a will serve letter triggered a recent audit of CCWD by the regulatory agency for the CA Watercode (Department of Health Services). The report and transmittal letter recommended that new analysis of whether the system pressure is adequately maintained as a result of the new connections, precede the addition of new water connections. Since CCWD is only now developing such a model, there is no way of determining when or whether additional Measure A allocations can have access to water service and thus whether those allocations can be built. If the model shows that system expansion is needed to prevent new connections from endangering current users, there is no schedule of financing defined as yet for such an expansion. City review of infrastructure expansion and financing plans is required by the LCP.
- The water issue is real because system pressure measurements documented in previous and current annual Water Supply Reports as well as reported at monthly CCWD Board meetings have indicated that significant pressure decreases can occur and in fact have occurred on at least 10 peak demand days since 1/97. New analysis recommendations from the state regulatory authority reflect the fact that such pressure decreases indicated that extra care should be taken to avoid taxing a system that direct measurement indicates is nearing its

limits. For example, on one occasion during 5/97, the peak demand period was significant and prolonged enough so as to empty the local reserve tanks 50% before demand decreased and refill of the tanks could occur. It is only lack of a major fire that prevented that situation from creating a more serious public health and safety issue.

The Council hereby determines, based upon the preceding findings, that an emergency situation within the meaning of Section 17.06.025 of the Municipal Code currently exists and said emergency situation directly affects the health and safety of the residents of the City. The City Council further determines that the above findings of emergency situations establish the necessity for setting the number of residential allocations set forth in Section 2 of this resolution.

Section 2. Total Allocation for Calendar Year 2001.

Based on the methodology established in Chapter 17.06 of the Half Moon Bay Municipal Code and the findings set forth in Section 1 above, and in order to ensure that the annual population growth in the City does not exceed 1%, the total allocations for residential dwelling units for the 2001 calendar year shall be 39.

Section 3. Assignment of Allocation to "Infill" and "New Projects" Categories.

The total allocation of 39 units shall be distributed as follows: 14 units to the "Infill" category and 25 units to the Wavecrest project (which allocations were committed in the Development Agreement with Wavecrest Village, LLC, approved on August 19, 1999). This distribution is based on the priority given by Section 17.06.065 to infill projects and on the fact that the number of applications for infill allocations in calendar year 2000 exceeded the number of allocations available for that category.

Section 4. Approval of Application Form and Related Materials for the "Infill" Category.

The application form for the "infill" category and related administrative materials are hereby approved as set forth in Exhibit 1 to this Resolution, incorporated herein by this reference. Staff is authorized to incorporate minor revisions as may be necessary for effective administration of the allocation system. It is further directed that the determination by the Planning Director as to those applications to be awarded allocations not be final until review and confirmation or modification by the Planning Commission.

Section 5. Approval of Application Form for the "New Projects" Category.

The application form for the "new projects" category is hereby approved as set forth in Exhibit 2 to this Resolution, incorporated herein by this reference. Staff is authorized to incorporate minor revisions as may be necessary for effective administration of the allocation system.

Section 6. Adoption of Processing Fee

Pursuant to Section 17.06.040 of the Municipal Code, the fee for processing each application for an allocation in the infill category shall be One Hundred and Fifty Dollars ($150.00) and the fee for an application in the "new projects category" shall be Two Hundred Dollars ($200.00) for each unit allocation requested in the application. The amount of these fees is established to directly offset the costs to the City of processing the application.

****

I hereby certify that the foregoing is a full, true and correct copy of a Resolution duly passed and adopted by the City Council of the City of Half Moon Bay, San Mateo County, California, at the meeting thereof held on the 26th day of December, 2000, by the following vote of the members thereof:

AYES, and in favor thereof, Councilmembers:

Mayor Ruddock, Vice Mayor Taylor, Councilmember Patridge

NOES, Councilmembers:

Councilmember Coleman, Councilmember Donovan

ABSTAIN, Councilmembers:

ABSENT, Councilmembers:

Deborah Ruddock, Mayor
City of Half Moon Bay

ATTEST:

Dorothy R. Robbins, City Clerk

CITY OF HALF MOON BAY
City Hall, 501 Main Street
Half Moon Bay, CA 94019

Dennis Coleman
Councilmember
January 22, 2001

San Mateo County Planning Commission
455 County Government Center, 2nd Floor
Redwood City, CA 94063
(via fax to 650-363-4849)

Subject: Allowing Full Scale Development on Small Scale Lots Sooner or Later Creates LCP Compliance Problems (CDP appeal for APN 048-013-570; File PLN 1999-00890)

Even though this project is outside Half Moon Bay, the City is directly adjacent to it and the thousands of future substandard lot projects it represents. Also, Coastside developments have integrated impacts on the entire Coastal Zone because of our unique constraints of geography, environment, infrastructure and state regulation. Therefore, no matter how well founded the City's local land use planning efforts might be, those efforts could easily be frustrated or even negated by County decisions about the unincorporated urban Midcoast. This project is one of a continuing series of such decisions.

The urban Midcoast now has a larger population than the City but relatively less transportation, water, urban services and tax infrastructure to support that population. The City and its officials have ample standing to take positions on Midcoast projects because the Midcoast is our LAFCO-designated sphere of influence. The bottom line is that the County's present practices regarding substandard lots can more likely have impacts that threaten the City's ability to implement its LCP, than vice versa.

In addition to to the debatable nature of the project's own LCP compliance, it is the latest substandard lot project of many more that could eventually come forward. Since the County has not yet developed a substandard lot policy acceptable to the Coastal Commission, it behooves the County to develop that policy before considering any other substandard lot projects on an individual (as opposed to cumulative) basis. This recommendation is based on the fact that the Coastal Commission denied the County's last substandard lot policy proposal, which was made as part of the LCP Amendment that resulted from the 1996 Coastal Protection Initiative petition. Moreover, the latest County proposal relating to the scale of development on all lots, allows substandard lot houses to be almost twice the size as they are allowed to be in Half Moon Bay, thus making almost no provision for protecting Coastal Resources by properly scaling development on substandard lots.

The subject CDP should therefore be denied without prejudice (which allows later reconsideration) or stayed pending development of a substandard lot policy that can be certified by the state. This would allow a more complete and defensible review of whether individual projects comply with the rules and thus avoid further appeals and law suits. If this can't be done at the County level, residents have proven themselves more than knowledgeable and willing enough to elevate such matters to the Coastal Commission, which has recently tended to agree with them that substantial issues exist with regard to almost $400M worth of other Coastside development projects.

LCP compliance is not evident for this and other substandard lot projects in various areas of regulation, which are the applicant's burden to address, as summarized on the enclosed LCP Policy Summary.

- The practice of routinely allowing standard-size development on nonstandard-size lots cannot help but eventually result in cumulative development densities exceeding that allowed by the LCP policies, maps and implementing zoning ordinances. Also, since substandard lots have not been

counted in the County LCP b dout target, allowing development on th could later deprive owners of standard size lots of the right to build. According to LCP Policies 1.1 and 1.2, it is a CDP requirement that the LCP policies, maps and implementing zoning ordinances be complied with. Therefore, whether the average size of building sites for the zone where the project is located (not the average for all zones on the Midcoast, which the County often quotes as posing no problem) is more or less than that required for that zone, is relevant to whether a finding of CDP compliance can be made with regard to LCP Policy 1.5b. Otherwise, to allow planned development intensity to continually be exceeded would create further precedents, expectations and momentum, that work against the orderly, safe, economic and beneficial objectives that underlie the whole public purpose of land use planning. Creativity rather than business as usual is needed. For example, to prevent hyper-intensive and out of scale utilization of substandard lots, Half Moon Bay has adopted a "proportionality" rule, which not only maintains the relative scale of zoning districts with substandard lots, but incents the more inclusive result of affordable housing distributed throughout the community, as opposed to being concentrated in "compounds".

- The letter and intent of regulations (eg. LCP Policy 1.20) requiring that lot consolidation protect Miramar coastal views has not been seriously pursued by the County. The result has been incremental loss of public views from Coastal Access route SR1. One look at the area west of SR1 and east of the Miramar Beach Inn makes this point. Applicants for substandard lot development have learned to avoid the whole consolidation issue by claiming that they tried to acquire a larger building site, but were simply unable to do so. Property rights do not include perfunctory attempts to follow the rules, followed by an automatic right to waive those rules. A takings issue is not apparent either, because the applicant has the option of building something that fits the site, acquiring a conforming site, or selling out to someone who can meet the LCP requirements.

- As required by LCP Policy 1.25, development was not shown to be consistent with results of the Watershed Study, which assumed that Midcoast aquifers could nominally support between 250 and 450 wells without risking excessive salt water intrusion or habitat and creek damage. Since a recent County report to CCWD indicates that the current number of Midcoast wells approaches 250 (lower end of the aquifer capacity range), projects proposing additional wells need current data and analysis to ensure that water problems are not created or exacerbated by additional wells. Since the public water system is itself showing signs of nearing its capacity on peak demand days, state regulators have just recommended to CCWD that additional pressure analysis precede the addition of new connections as well. Therefore, the project can not guarantee its rescue by CCWD if the wells don't work. It is a County CDP requirement that applicants demonstrate sufficient water service for their projects.

- With regard to the legalization of old, substandard parcels (required by LCP Policies 1.27 to 1.29), state courts have made recent rulings (such as the Circle K and other cases), which impact the legality of such parcels, depending on their age and other factors. Rather than take as the final word, a planner's general comment that County Counsel has previously found old parcels to be legal, and in view of the fact that there are thousands of substandard parcels on the Midcoast, the Planning Commission might find an up to date analysis of old lot legality useful if not necessary.

- The entire remaining vacant area of Half Moon Bay has been designated by our LCP revision consultants as "Biologically Constrained" on our new LCP maps, and much of the remaining vacant land west of SR1 have been designated "Environmentally Sensitive Habitat Area" (ESHA). The general project area in this case appears to have similar beach front location, terrace features, topography, plant life, soil coloration and drainage potential as the above-mentioned land, the only difference being that the City is actually looking at and in some cases surveying vacant land before drawing its Coastal Resource maps. The fact that the County's Coastal Resource maps are essentially blank in the urban zone (with the exception of Pillar Pt. Marsh) does not mean that Coastal Resources are not present, nor does it mean that LCP ESHA Policies (7.1, 7.3, 7.14 to 7.19, 7.32 to 7.35, 7.43 and 7.44) are met by the present CDP application, nor does it mean (according to the Bolsa Chica decision and subsequent cases) that past compromise or damage to coastal resources justifies writing off whatever remains. Because the County's LCP maps of urban zone Coastal Resources are relatively blank, there is no apparent basis for finding that the present project has been reasonably considered with regard to the LCP requirement that Coastal Resources be designated and protected.

- With regard to the apparently relevant LCP Policies dealing with protection of visual resources (8.1, 8.5, 8.11, 8.12 and 8.28 to 8.33), this project is another brick in the wall. When Half Moon Bay reached that point, we shifted our LCP interpretation from "the view is almost gone because of past decisions, so it doesn't matter anymore" to "the view that's left should be protected as the last remaining portion of what should have been protected as a public resource". The latter perspective is the one expressed and implied by the plain language of both City and County LCPs. To help save whatever public views are left, the City recently limited residential development to 28 feet high west of SR1. As a result, the pressure to create a "canyon effect" of maxed out structures has decreased, and owners now seem less inclined to propose such projects. In short, there is little if any demonstrable public benefit in giving up on LCP visual resource protection policies. That's why Planning Commissions have discretion to protect even diminished public views when considering a CDP application, even if the project was the last brick in the wall.

Finally, there is the matter of new development exacerbating public health, welfare and safety issues that prior development with inadequate mitigation has created. In terms of the legal responsibility of any land use planning agency, this issue can supersede all others. For example, it may not be as apparent from the vantage point of Redwood City, but local conditions have reached a point that the Half Moon Bay City Council can now make factual findings to justify urgency measures decreasing prior rates of development. Such findings were most recently made on 12/26/00, and a copy is enclosed.

Note that the City Council's findings are based on specific, independently derived, and demonstrable facts and references that fall into four distinct groups; namely, LCP compliance, traffic congestion, economic sustainability, and infrastructure availability and affordability. Since these same challenges exist in the adjacent unincorporated Midcoast (which shares limited Coastside infrastructure with the City), any actions by the County which increase development pressure on substandard lots would tend to further promote market expectations and exacerbate those challenges.

In summary, for the County to continue to approve full scale development on small scale lots would create more problems in all four of the above areas. These areas represent key elements of land use planning responsibility. If granting a permit because a planner thought the County might otherwise get sued, is the only option presented to the Commission, a decision should wait until better options are identified which more affirmatively implement the LCP, especially when thousands of other substandard lots exist without a state-certified policy to guide their use.

The truth is that more than the usual options are available with regard to land use decisions in the Coastal Zone. The LCP is a manifestation of state law, and it has a clearly stated public purpose. Its protective policies are to be liberally construed and specifically override all other local land use laws, including zoning. Therefore, regardless of what County staff recommends or what County boards decide for this particular project, the substandard lot issue is pervasive enough on the Midcoast to warrant more thoughtful application and improvement of the rules than has occurred to date.

The County's efforts with regard to its recent "monster house" ordinance may prevent overdevelopment of a few large lots, but do not address the overdevelopment of substandard lots, which are far more numerous and impactful. Thus the Planning Commission is currently left to interpret substandard lot development from the general perspective of the LCP letter and intent. I encourage the Commission to do so for this project and to push for stronger and more effective policies to specifically deal with future substandard lot issues in a manner more protective of Coastal Resources and more reflective of the LCP's public purpose.

Thanks for considering this input. Please include it in the public record.

Councilman Dennis Coleman

Mayor Deborah Ruddock

CITY OF HALF MOON BAY

City Hall, 501 Main Street
Half Moon Bay, CA 94019

Dennis Coleman
Councilmember
February 26, 2001

San Mateo County Planning Commission
455 County Government Center, 2nd Floor
Redwood City, CA 94063
(via fax to 650-363-4849)

Subject: Staff Report on Continued Item Is Unresponsive to Previous Input
(CDP appeal for APN 048-013-570; File PLN 1999-00890)

A letter from myself and Mayor Ruddock dated 1/22/01 was previously provided on this item. It stated in good faith, serious land use concerns regarding the impact of the County continuing to routinely allow full scale development on small scale lots. We thought that the Commission had asked staff for more information on the issues presented at your last hearing. But no. Not only is the staff report unresponsive to our legitimate concerns, but the new rationale for allowing the project (namely, that other non-compliant projects have been allowed in the past) is at best, only remotely related to the current application and coastal zone conditions, under which an LCP review is supposed to take place.

We again call the Commission's attention to the issues and supporting facts raised by our letter of 1/22/01, including the fact that the project and the policy it represents adversely affects conditions in the City as well as the unincorporated urban zone of the Midcoast, our Lafco-designated sphere of influence. In regard to that sphere, for the County to ignore the issues we presented, will force us to agendize the investigation of whatever new land use authority was conferred on the City by recent amendments to the Cortesi-Knox Act, and how the City might use that authority to protect its valid interests in its own LCP and that of the Midcoast as well. There are easier ways to implement both of our LCPs.

We again ask that the Commission (1) deny this project on the numerous unresolved LCP compliance grounds that are already on the record and (2) suspend further processing of non-conforming lot applications until such time as the County has specific, certified policies to effectively manage them. Policy examples include (1) a proportionality rule to adjust the scale of what may be built on substandard lots (the County's so-called monster house ordinance in effect only does this for standard size lots); (2) accounting for substandard lots within the existing buildout limits established by the LCP; (3) creating incentives such as no fees, to merge adjacent substandard lots; and (4) a transfer of development rights (TDR) or equivalent mechanism by which substandard lot owners can realize at least some benefit for the diminished development potential such lots represent under the County's LCP and zoning ordinance.

If business as usual prevails, and resolution of substandard lot issues is left to sometime in the future when the County's LCP is fully revised, the coastal resources now being compromised by unmanaged development of those lots will be long gone by the time special rules are made. If that happens, both the County and City will be unnecessarily poorer for it. Regardless of what staff recommends from a short term perspective, a Planning Commission's land use responsibility allows it to act for the public interest with more far-sighted and beneficial effect.

Please include this input in the public record.

Councilman Dennis Coleman

Mayor Deborah Ruddock

Fax

Attachment I

Date: Tuesday, August 15, 2000
Time: 5:04:32 PM

To: Planning Commission c/o Kan Dee Rud Fax: 363-4849	From: A.M.(Steve) Marzano Fax: 650-712-9360 Phone:

Regarding: PLN 1999-00890/APN 048-013-750

An appeal has been made against the subject application.This message supports that position.
The Coastal Commission is very conerned aboutsea water intrusion into aquifers,including that in Miramar.The commission insisted destruction of wells be required whenever a CCWD connect was made available to the homeowner.This affected 200+ homes including the undersigned.Our wells have been destroyed yet the Planning Dept. approves adding wells in the same area.This is contrary to the Commission's direction and makes no sense.
All applications for wells in Miramar should be disapproved.Once CCWD connects are available,then the issue becomes moot.The aquifer must be preserved,not destroyed.
We are also concerned about the impact of developments such as that proposed on the area wetlands.These need to be preserved at all costs.
Finally,continued approval of building on substandard lots for the designated area will cause serious infrastructure problems since the coastal use plan buildout numbers will be exceeded.Pure havoc will result.We must remeber one of the primary purposes of the Coastal Act is to preserve coastal regions for use by all the citizens ofCalifornia.Development must therefore be constrained in line with the land use plans.
Respectfully
A.M.&S.J.Marzano
100 Mirada Rd
Miramar Section
Half Moon Bay,CA 94019 712-9360

With respect to Staff's Response regarding Item 6 (Use Permit Findings):

Please note that contrary to what the Staff Report suggests under Item 6, the Mid-Coast Community Council does not support full-scale development on small-scale lots. This is proven by paragraph two of the Mid-Coast Community Council's letter dated February 9, 2000 regarding the proposed project. This letter is in the file for this proposed project and I would like to know why it was not included in the Staff Report. (See attached)

With respect to Staff's Response to Steve Marzano's concerns about buildout on the Mid-Coast:

Granting another CDP on a sub-standard lot continues a precedent that threatens the integrity of the buildout numbers in the County's LCP, which are not based on sub-standard lots. The discretionary decisions of planning agencies are allowed to look beyond the individual projects and consider the long-term effects of their actions. This project has long term effects because it extends the sub-standard lot precedent West of SR 1 and accepts a new low of 44% lot area as being acceptable. There are good reasons for zoning lot minimums and they should be enforced, especially in the Coastal Zone.

I urge the Planning Commission, whose job it is it uphold and enforce the policies in the LCP, to deny this project which does not comply. Coastside residents and visitors rely on your careful judgment to protect and preserve the integrity of irreplaceable coastal resources and valued community character from exploitation such as this proposed project.

Please make this letter as Part of the Public Record.

Very truly yours,

Barbara K. Mauz

Barbara K. Mauz, Appellant
P.O. Box 1284
El Granada, CA 94018

Phone: (650) 726-4013

Attach.

January 24, 2001

David Bomberger, Chairman and
San Mateo County Planning Commission Members
455 County Center, 2nd Floor
Redwood city, CA 94063

Re: Appeal of Zoning Hearing Officer's Decision of August 3, 2000
PLN 1999-00890 APN: 048-013-570
Location: Coronado Ave., "Shore Acres" Miramar (West Side of SR1)
(Use Permit, Coastal Development Permit, Off-Street Parking Exception and allowance for three test wells)

Dear Chairman Bomberger and Planning Commission Members:

This appeal is being brought before you because it does not comply with the County's Local Coastal Plan (LCP) as outlined in my appeal. Careful enforcement of LCP policies and Zoning laws are needed. This is yet another example of a proposal that blatantly flouts LCP policies and Zoning laws in effect and totally ignores CEQA. As a reminder, County Mandated Measure A (LCP Policy 2.4*) regarding Ordinance Conformity states: "As a condition of Coastal Development Permit approval, special districts, public utilities and other government agencies shall conform to the County's zoning ordinance and the policies of the Local Coastal Program."

With respect to Staff's Response regarding appeal issues of lot legality and the "Medium Low Density" in this area that is being violated:

Just because a County planning person says it's a legal lot, doesn't make it so. In fact, the recent Circle K case decided that old lots are not necessarily legal by modern standards. The League of California Cities supports this view in a brief for that case. The County should research new legal decisions before taking action on this application based on old decisions.

With respect to Staff's Response regarding appeal issues of the required 10,000 sq.ft. zoning lot minimum for Miramar "Shore Acres":

The County's Local Coastal Plan (LCP) governs all Coastal Development Permit (CDP) decisions and it does not provide for making decisions based on average development density of a zoning district. On the contrary, it is a CDP requirement that every project comply with the County's zoning lot minimum ordinance, which says 10,000 sq.ft. in this case.

With respect to Staff's Response regarding appeal issues of contiguous land and the obligation for the applicant to purchase adjoining vacant land to make the lot conforming:

The bankruptcy of a project on adjacent land creates opportunity for the applicant to acquire more land at a reduced price. Rather than granting a CDP now on a non-conforming lot, why doesn't the County allow time for this to happen, thus preserving the integrity of its zoning lot minimum ordinance.

Continued.....

The worst excesses of over-developing have been inflicted in this Miramar area. Those who purchased conforming parcels or homes had a right to expect that zoning laws for future development would be enforced. No one seems to consider property rights and property values of existing owners, merely those of speculators trying for more than their legal share.

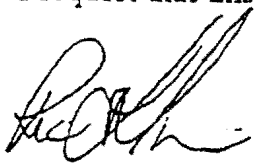
Locally, we are not legally able to require enforcement of zoning laws as those who live in incorporated areas can do. Existing residents expect the county to work and enforce on our behalf.

The relevant Measure A, CEQA, LCP, and all other relevant documents have been mentioned in each of these appeals, yet the county continues to ignore the word and intent of all of them. The county should be taking the GREATEST conservation stance in protecting its coastal resources, not the LEAST.

Continuing to micro-manage the coastal region on a lot by lot basis is simply hiding one's head in the sand and ignoring the obvious long range problems created by over exploitation of the water table and accelerating development beyond the numbers of the Local Coastal Plan. The policy is apparently to continue the approval of non-conforming lots until the build-out number is reached. At that time County Planning (Non-Planning, actually) will look around and say "Whoops, look what happened. I guess we have to go right past those build-out numbers, since we certainly can't tell all these remaining people with conforming lots, that they can't build".

Doesn't "planning" mean to look ahead and see the results of one's current policy?

I request that this appeal be upheld and the project be denied.



Ric Lohman

420 First Avenue
(Miramar)
Half Moon Bay, CA 94019
January 22, 2001

Item #5
Attachment
FA1

San Mateo County Planning Commission
County Government Center
Redwood City, CA 94063

RE: County File 1999-00890 (DaRosa)
APN048-013-570

Dear Commissioners:

I would like to add my voice to the appeals registered by Mr. La Mar and Ms Mauz. As you know, I am a member of the Midcoast Community Council and also serve on the Planning and Zoning Committee of that body.

I agree with all items in the above appeals but not with Staff responses to the appeal items. The main item of concern to me is County's lack of enforcement of the zoning density. The worst aspect of this immediate project area is that there was a contiguous parcel of the same size next to this parcel. The county's philosophy appears to be that an owner is merely required to attempt a purchase, not actually consummate one.

The major property owners in the area are free to spin off non-conforming parcels to buyers with the promise that zoning is not enforced and that they will be able to build whatever they like. No one is putting a gun to the heads of these buyers of non-conforming lots. They are gambling on the leniency of the county in not enforcing the local zoning rules.

The solution is for the county to investigate ALL surrounding lots at the time of a non-conforming project application. If there are adjacent open lots, the answer should be "No". The contiguous lot owners need to know that nothing can be built until the maximum merging that can occur, really does occur. New buyers would not then be able to gamble on county leniency.

Staff response to item 1. of the La Mar appeal is especially weak. "The General Plan designation seeks to reflect the average density including all parcels in the designated area." This would be fine if there were 12,000 and 15,000 sq. ft. lots being approved to 'average' with these tiny lots. The average is already far below 10,000 and this kind of development drives it further in the wrong direction.

February 9, 2000 Fax: 1 page

To: **Mr. Farhad Mortazavi**
San Mateo County Planning and Building Division
Mail Drop PLN122, 455 County Center
Redwood City, CA 94063
650.363.1831 - FAX: 650.363.4849

re: PLN 1999-00890 - CDP and Use permit for a new SFD on a substandard lot with 11' rear garage access. Coronado Ave., Miramar. APN 048-013-570

Mr. Mortazavi:

On 2/2/99, the Planning and Zoning committee of the MidCoast Community Council reviewed the above referenced permit application. We had the following comments:

1) The committee was not generally in favor of the external covered one-car parking structure at the rear of the house. We would suggest that if a variance is to be issued for this house, it be one that allows a tandem parking garage on the street level of the house (so that two cars could park in-line with other). This would keep the front face of the house from being covered with just a garage door and retain the interest of the stairway entrance that has been designed. It would also allow the house to have more space for yards on the side and rear and less paved surface around it.

2) The committee and the MCC do not recommend residential development on non-conforming lots until studies are completed that clarify the potential impact of these lots on LCP buildout numbers. This block is particular worrisome in that it contains 5 parcels of this size under separate ownership. Development on these lots tends to lead to trying to put too much in too little space, leading to variances like the one discussed with this project. We encourage the County and the owners to explore all possibilities to bring this parcel up to the recommended zoning minimum size (10,000 sf in the S-9 district) before allowing residential development including, if economically feasible, of the sale of parcels between neighboring owners to create parcels of the minimum zoning size or larger.

Thank you for your help with this project. Please keep us informed of any activities on this application.

Chuck Kozak
MCC Planning and Zoning Committee Chair
POB 370702, Montara CA 94037
Voice/FAX: 650.728.8239 Day: 650.678-0469
cgk@montara.com

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Richard Lohman
420 First Avenue
Half Moon Bay (Miramar) CA (650) 432 4385
Zip 94019 Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: DLN 1999-00890 Board of Supervisors San County

2. Brief description of development being appealed: APN 048-023-570
House with well on non-conforming parcel.

3. Development's location (street address, assessor's parcel no., cross street, etc.): Coronado Ave, Miramar

4. Description of decision being appealed:

a. Approval; no special conditions: X

b. Approval with special conditions: _____

c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

H5: 4/88

EXHIBIT NO. 7
APPLICATION NO. A-2-SMC-01-032
DA ROSA Appeal - Lohman

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

a. __Planning Director/Zoning Administrator

c. __Planning Commission

b. X City Council/Board of Supervisors

d. __Other_____

6. Date of local government's decision: Oct 30, 2001

7. Local government's file number (if any): PLN 1999-0890
2 SMC 00051

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

_____

_____

_____

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) _____

_____

_____

(2) _____

_____

_____

(3) _____

_____

_____

(4) _____

_____

_____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Lot is substandard - Lots empty next door.
Area not intended for wells - too near cliffs
House does not meet community standards.
Attempts to get full height allowance
for lot which is 44% of requirement
Lots are being manipulated to build similar homes
on neighboring lots. - Horrible precident
High Density, will overbuild community infrastructure.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date 29 Nov 01

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date _____

Ms Sara Wan, Chair and Commission Members
California Coastal Commission
c/o Sara Borchelt
Coastal Program Analyst
45 Fremont, Suite 2000
San Francisco, CA, 94015-2219

RE: Application 2-SMC-00-051 – De Rosa

Dear Chairman:

I would like to add my voice to others who are appealing this project. This project fails to even come close to meeting our local zoning standards. Since there numerous contiguous lots with this same non-conforming parcel size, approval of this project sets a horrible precedent and could lead to others demanding similar special treatment. Failing to require merging of these lots will result in a building rate of 227% of the designed density for the area. The owners of these sub-standard lots can not be allowed to all build individually because no one will sell out to another.

The applicant is attempting to pick and choose the zoning standards he wishes to meet. Even though the individual lot he wishes to develop is 44% of the minimum requirement, he stills wishes to build to the maximum height of 36'. This results in a project that is totally out of scale with area and doesn't even include adequate parking. The result is a reduction in property values for all the neighbors in the area.

No true water aquifer studies have been done in the area. Drilling wells this close to the ocean could pull salt water into the area.

The county is already allowing construction well above the rate designed into our LCP. This pushes that envelope even further. Allowing development at rates 227 % of the design for this area will soon create an issue where our infrastructure cannot support our population.

I ask that you deny this and future applications on these sub-standard parcels until the lots are merged into conforming parcels.

Ric Lohman

STATE OF CALIFORNIA—THE RESOURCES AGENCY

GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Larry Kay P.O. Box 394, Montara, CA. 94037

Zip (650) Area Code 712-9554 Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: San Mateo County

2. Brief description of development being appealed: Dwelling, Single Family, Sub-Standard Lot, With 3 Test Wells, Provide Covered & illegal Parking on Sub-Standard Lot

3. Development's location (street address, assessor's parcel no., cross street, etc.): APN 048-013-570

4. Description of decision being appealed:

a. Approval; no special conditions: San Mateo Co. BOS, 10/30, 2001

b. Approval with special conditions: San Mateo Co, BOS, 10/30, 2001

c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-2-SMC-01-092

DATE FILED: 11/29/01

DISTRICT: N/CC

H5: 4/88

EXHIBIT NO. 8
APPLICATION NO. A-2-SMC-01-032
DA ROSA
Appeal - Kay

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

a. __Planning Director/Zoning Administrator

b. ✓ City Council/Board of Supervisors

c. __Planning Commission

d. __Other__________

6. Date of local government's decision: Oct. 30, 2001 – 9:15 am

7. Local government's file number (if any): PLN 1999-00890

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:
Thomas Da Rosa – (APN 048-013-540)

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Larry King, 12 Sunset Terrace, Half Moon Bay, CA. Mailing address: PO Box 394, Montara, CA. 94037 (written input)

(2) Barbara Mauz, El Granada 94019

(3) Kathryn Carter Slater, Montara 94037

(4) Ric Lohman, Miramar, 94019

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

THIS REGARDS SAN MATEO COUNTY APPLICATION #2 — SMC-00-051 ON APN 040-013-570. THE LOCAL PERMIT # IS PLN 1999-00898 THIS PUBLIC HEARING BY THE BOS WAS NEVER NOTICED IN A NEWSPAPER OF GENERAL CIRCULATION AS IS REQUIRED BY CALIF. GOV. CODE 65090-65096. A FOLLOWING FAX THIS DATE (11-29-01) GIVES HISTORY AND VERIFIES MY WRITTEN INPUT TO BOS 10-30-01 HEARING AND SUBSEQUENT FACT GIVEN TO SMCO DIST. ATTY'S.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date Nov. 29, 2001

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date _____

November 29, 2001 4:20pm

THIS FAX TO: Sarah Borcheldt, California Coastal Commission
via Fax # 415-904-5400

SUBJECT: Addemdum to appeal filed earlier this same date via sarne fax #, and regarding San Mateo County application # 2-SMC-00-051 and San Mateo County Local Permit # PLN-1999-00890

FROM: Larry Kay

The following computer generated fax of 9-10 pages in length is sent to you in this form to present in chronological order related happenings to this appeal. My intent is to ask youk the California Coastal Commission, to overturn granting of the subject project by the SMCO BOS. Such granting was made under the illegal conditions described below.

For your convenience, this facsimile input on this matter will include the text of Gov. Code sections which I believe rquire the overturning by your Commission of the referred-to subject project.

Beneath the short 2 rows of plus (+++) marks I submit to you the following history and legal points.

County of San Mateo might claim they noticed this CDP hearing rather furtively in the "independent" a free newspaper with no paid subscription list and without county wide distribution. If so, that is true, and the basis for this appeal. The involved October 30, 2001 BOS hearing was not noticed in any other newspaper, therefore, was not noticed in a newspaper of GENERAL CIRCULATION.

Sincerely,

signed/ *Larry Kay*

12 Sunset Terrace
Half Moom Bay, Calif.
94019

Telephone (650) 712-9554

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November 2, 2001 (Dist Attny reception of fax confirmed by Dist Attny office via'phone at 4:30pm,Thursday, Nov 8, 2001)

Via Facsimile to Fax # 650-363-4873

To: Hon. James Fox, San Mateo County District Attorney

From: Larry Kay

shall be posted at least 10 days prior to the hearing in at least three public places within the jurisdiction of the local agency.

(b) The notice shall include the information specified in Section 65094.

(c) In addition to the notice required by this section, a local agency may give notice of the hearing in any other manner it deems necessary or desirable.

(d) Whenever a local agency considers the adoption or amendment of policies or ordinances affecting drive-through facilities, the local agency shall incorporate, where necessary, notice procedures to the blind, aged, and disabled communities in order to facilitate their participation. The Legislature finds that access restrictions to commercial establishments affecting the blind, aged, or disabled is a critical statewide problem; therefore, this subdivision shall be applicable to charter cities.

65091. (a) When a provision of this title requires notice of a public hearing to be given pursuant to this section, notice shall be given in all of the following ways:

(1) Notice of the hearing shall be mailed or delivered at least 10 days prior to the hearing to the owner of the subject real property or the owner's duly authorized agent, and to the project applicant.

(2) Notice of the hearing shall be mailed or delivered at least 10 days prior to the hearing to each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected.

(3) Notice of the hearing shall be mailed or delivered at least 10 days prior to the hearing to all owners of real property as shown on the latest equalized assessment roll within 300 feet of the real property that is the subject of the hearing. In lieu of utilizing the assessment roll, the local agency may utilize records of the county assessor or tax collector which contain more recent information than the assessment roll. If the number of owners to whom notice would be mailed or delivered pursuant to this paragraph or paragraph (1) is greater than 1,000, a local agency, in lieu of mailed or delivered notice, may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the local agency in which the proceeding is conducted at least 10 days prior to the hearing.

(4) If the notice is mailed or delivered pursuant to paragraph (3), the notice shall also either be:

(A) Published pursuant to Section 6061 in at least one newspaper of general circulation within the local agency which is conducting the proceeding at least 10 days prior to the hearing.

(B) Posted at least 10 days prior to the hearing in at least three public places within the boundaries of the local agency, including one public place in the area directly affected by the proceeding.

(b) The notice shall include the information specified in Section

65094.

(c) In addition to the notice required by this section, a local agency may give notice of the hearing in any other manner it deems necessary or desirable.

(d) Whenever a hearing is held regarding a permit for a drive-through facility, or modification of an existing drive-through facility permit, the local agency shall incorporate, where necessary, notice procedures to the blind, aged, and disabled communities in order to facilitate their participation in any hearing on, or appeal of the denial of, a drive-through facility permit. The Legislature finds that access restrictions to commercial establishments affecting the blind, aged, or disabled, is a critical statewide problem; therefore, this subdivision shall be applicable to charter cities.

65092. When a provision of this title requires notice of a public hearing to be given pursuant to Section 65090 or 65091, the notice shall also be mailed or delivered at least 10 days prior to the hearing to any person who has filed a written request for notice with either the clerk of the governing body or with any other person designated by the governing body to receive these requests. The local agency may charge a fee which is reasonably related to the costs of providing this service and the local agency may require each request to be annually renewed.

65093. The failure of any person or entity to receive notice given pursuant to this title, or pursuant to the procedures established by a chartered city, shall not constitute grounds for any court to invalidate the actions of a local agency for which the notice was given.

65094. As used in this title, "notice of a public hearing" means a notice that includes the date, time, and place of a public hearing, the identity of the hearing body or officer, a general explanation of the matter to be considered, and a general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing.

65095. Any public hearing conducted under this title may be continued from time to time.

65096. (a) Notwithstanding any other provision of law, whenever a person applies to a city, including a charter city, county, or city and county, for a zoning variance, special use permit, conditional use permit, zoning ordinance amendment, general or specific plan amendment, or any entitlement for use which would permit all or any part of a cemetery to be used for other than cemetery purposes, the city, county, or city and county shall give notice pursuant to Sections 65091, 65092, 65093, and 65094.

(b) Those requesting notice shall be notified by the local agency at the address provided at the time of the request.

(c) Notwithstanding Section 65092, a local agency shall not require a request made pursuant to this section to be annually renewed.

(d) "Cemetery," as used in this section, has the same meaning as that word is defined in Section 8100 of the Health and Safety Code.

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++++++++++++++++++++

CALIFORNIA CODES
GOVERNMENT CODE
SECTION 6000-6008

6000. A "newspaper of general circulation" is a newspaper published for the dissemination of local or telegraphic news and intelligence of a general character, which has a bona fide subscription list of paying subscribers, and has been established, printed and published at regular intervals in the State, county, or city where publication, notice by publication, or official advertising is to be given or made for at least one year preceding the date of the publication, notice or advertisement.

6001. A newspaper devoted to the interests, or published for the entertainment or instruction of a particular class, profession, trade, calling, race, or denomination, or for any number thereof, when the avowed purpose is to entertain or instruct such classes, is not a newspaper of general circulation.

6002. For a newspaper to be "established," it shall have been in existence under a specified name during the whole of the one-year period; provided, however, nothing herein contained shall prevent a modification of name in accordance with Section 6024 hereof where the modification of name does not substantially change the identity of

the newspaper.

6003. For a newspaper to be "printed," the mechanical work of producing it, that is the work of typesetting and impressing type on paper, shall have been performed during the whole of the one year period.

If a monthly average of at least 50 per cent of the work of typesetting and a monthly average of at least 50 per cent of the work of impressing type on paper is done in accordance with the other provisions of this article, the requirements embodied in "printed" are met.

6004. For a newspaper to be "published," it shall have been issued from the place where it is printed and sold to or circulated among the people and its subscribers during the whole of the one year period.

6004.5. In order to qualify as a newspaper of general circulation the newspaper, if either printed or published in a town or city, shall be both printed and published in one and the same town or city.

6005. "Printed" and "published" are not synonymous. Each relates to separate acts or functions necessary to constitute a newspaper of general circulation.

6006. Nothing in this chapter alters the standing of any newspaper which, prior to the passage of Chapter 258 of the Statutes of 1923, was an established newspaper of general circulation, irrespective of whether it was printed in the place where it was published for a period of one year as required.

6007. The status of a newspaper of general circulation remains unchanged in the event that the publication of the newspaper is discontinued by reason of economic or other conditions induced by any war to which the United States is a party and the publication is then renewed either while the war is still pending or within a period of one year from and after the date on which hostilities officially terminate.

6008. Notwithstanding any provision of law to the contrary, a newspaper is a "newspaper of general circulation" if it meets the following criteria:

(a) It is a newspaper published for the dissemination of local or telegraphic news and intelligence of a general character, which has a bona fide subscription list of paying subscribers and has been established and published at regular intervals of not less than weekly in the city, district, or judicial district for which it is seeking adjudication for at least three years preceding the date of adjudication.

(b) It has a substantial distribution to paid subscribers in the city, district, or judicial district in which it is seeking adjudication.

(c) It has maintained a minimum coverage of local or telegraphic news and intelligence of a general character of not less than 25 percent of its total inches during each year of the three-year period.

(d) It has only one principal office of publication and that office is in the city, district, or judicial district for which it is seeking adjudication.

For the purposes of Section 6020, a newspaper meeting the criteria of this section which desires to have its standing as a newspaper of general circulation ascertained and established, may, by its publisher, manager, editor, or attorney, file a verified petition in the superior court of the county in which it is established and published.

As used in this section:

(1) "Established" means in existence under a specified name during the whole of the three-year period, except that a modification of name in accordance with Section 6024, where the modification of name does not substantially change the identity of the newspaper, shall not affect the status of the newspaper for the purposes of this definition.

(2) "Published" means issued from the place where the newspaper is sold to or circulated among the people and its subscribers during the whole of the three-year period.

+++

END OF FAX TO BORSCHELT, CALIFORNIA COMMISSION, NOVEMBER 29, 2001

PLN 1999-00890
APPEAL
1/2

This appeal is for San Mateo County PLN 1999-00890: a 3 story home in R1/S9 as zoned for 10,000 square foot lots with urban services.

This is a 4,400 square foot lot with a groundwater well for its domestic water supply. There are 2 lots of this type already developed in the area, although one is in the R1/S-17 rather than the R1/S-9. It is my concern that the county has not looked at the cumulative impacts of the development of lots so far below the minimum on coastal resources. The resources are, specifically, o nearby sensitive habitats and ground water resources.

The land use designation for this area was arrived at after a careful assessment of the coastal resources. It is documented in the Montara-Moss Beach-El Granada Community Plan EIR, February, 1978-the base environmental document for the Local Coastal Program. As a part of establishing 'build-out' numbers the County evaluated the effect of different development densities on coastal resources. This area was evaluated under a higher level as well as the one selected. The higher levels of development were rejected as having to many negative impacts on our limited coastal resources.

There has been no environmental review of the effect of the higher density development in this area on the nearby sensitive habitats: existing dense willow stands, the Medio Creek and its environs, and species noted on San Mateo County General Plan Sensitive Habitats Map.

LCP Policy 1.5(a) incorporates the Community Plan into the LCP where necessary to meet LCP objectives.

One policy of the Community Plan states: "Prohibit or strictly control residential development in areas subject to danger from man-made hazards, unless mitigation measures are incorporated into the design to reduce risk to an acceptable level."

LCP Policy *7.3: Protection of Sensitive Habitats mirrors that policy. LCP Policy 7.5 Permit Conditions: [a] requires the applicant to prove that there is no significant impact on significant resources – this was not required by the County. Policy 7.34 [5] requires "mitigation if development is permitted... adjacent to identified habitats." No mitigations, including those as basic as a ground water monitoring program were required.

Given the great number of undeveloped substandard lots in the immediate area, as presented by Chuck Kozak at the San Mateo County Planning Commission hearing [but not in the documentation for the Board of Supervisors hearing] and the recommendations contained in the El Granada Water Supply Investigation it is obvious that a 'safe yeild' for that specific area be determined in order to assess the risk and develop protections for the resources.

Policy 1.3 defines an urban area as "served by sewer **and water** utilities...." Urban levels of development must not be permitted until full urban services are avail allow development which will result in buildout numbers in excess of those wl

EXHIBIT NO. 9
APPLICATION NO. A-2-SMC-01-032
DA ROSA
Late Comments Slater-Carter

district infrastructure is limited by will cause a permanent reliance on groundwater wells in the urban area. LCP Policy *2.6 limits the capacity of public works facilities to :a capacity which does not exceed that needed to serve buildout of the Local coastal Program". LCP Policy 2.7 requires that public works projects be limited and phased to "serving needs generated by development which is consistent with the Local Coastal Program Policies." . LCP Table 2.9 limits the water generation by Coastside County Water district to a specific number of gallons per day. This amount is apportioned between residential, commercial, agricultural, recreational, and essential public survices. The buildout numbers are predicated on, among other limiting factors, the zoning densities. If these are exceeded CCWD will not b e able to fully serve other, possibly more important, users. ." The buildout numbers are predicated on, among other limiting factors, the zoning densities. To ignore these will shortchange other priorities in the LCP.

Creating a policy to encourage development of these substandard lots is directly counter to the far-sighted efforts the Commission has made to reduce the number of new lots created in Half Moon Bay. Increases in the permitted levels of development in this area will have a deleterious impact on coastal resources – including diminishing the ability of visitors to reach the coast-and so must be examined before becoming policy.

December 11, 2001

Sara Wan, Chairman and Commission Members
California Coastal Commission
c/o Chanda Meek, Coastal Program Analyst
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

Re: Addendum to:
Appeal of PLN 1999-00890 - A-2-SMC-01-032 - Applicant: Thomas DaRosa
Location: Coronado Ave., Miramar - APN: 048-013-570
Appellants: Robert LaMar, Barbara K. Mauz, A.M. (Steve) Marzano & Ric Lohman

Dear Chairman Wan and Commission Members:

Please see attached Addendum to our Appeal - Exhibit 4 that is comprised of six pages and includes the following material for your review.

Plat Map of Subject Appeal Area showing all touching lots are vacant and ownership.

Letter dated July 17, 2000 from Thomas DaRosa claiming that he has made the required attempt to purchase adjacent vacant lots.

Letter dated April 30, 2001 from Jonathan Wittwer, Counsel, Granada Sanitary District regarding Tax Assessment Delinquency for APN 048-013-220 – Owner: Process Research. Please note that this lot is directly adjacent to the DaRosa Appeal site, which is to the East of the DaRosa lot, is vacant and should be acquired by Mr. DaRosa to merge with his lot - the opportunity is there now.

Ownership data regarding APN 048-013-580 (Hodge) which is directly adjacent and to the West of the Appeal site. The lot's ownership history has switched from Coastal Lots Golden Gate Assoc. to Thomas Bishop Trust and then to Mr. Hodge. There was a point in time that Mr. DaRosa could have acquired that lot plus APN 048-013-220 described above to create a CONFORMING parcel.

The last item in this addendum came from the Hodge file at County Planning Department. It is a concept of what Mr. Hodge believes this area is to look like including the plan for his lot directly adjacent to the DaRosa lot.

We ask you, Ms. Wan and Commissioners, is THIS what the Coastal Commission has in mind for the West side of SR1 in Miramar whose designated density is medium low and the Zoning Lot Minimum requirement is 10,000 sq.ft.? This is the prime example of the "Row Effect" common in places like San Francisco and Daly City. This view blocking, cancer-like development is NOT appropriate for this area of Mid-Coast and would only cause destruction of irreplaceable coastal resources and worsen already bad traffic problems, which could lead to health and safety dangers for residents and visitors to this beautiful area.

Please uphold our appeal and deny the DaRosa project.

Thank you, Barbara K. Mauz, ETAL
Bob LaMar, Barbara K. Mauz, Steve Marzano and Ric Lohman, Appellants

EXHIBIT NO. 10
APPLICATION NO. A-2-SMC-01-032
DA ROSA Additional information - Mauz

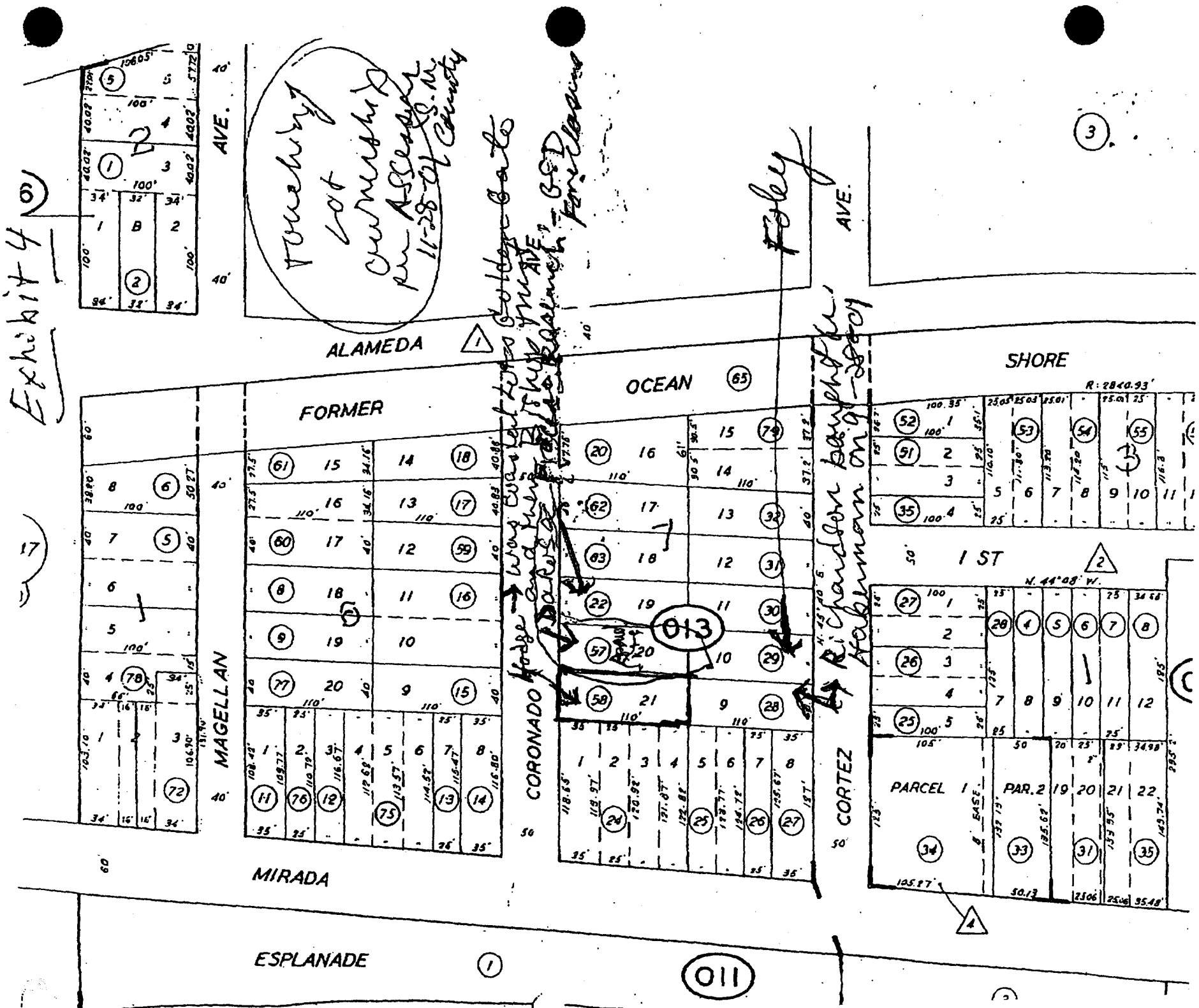


Exhibit 4

July 17, 2000

Farhad Mortazavi
San Mateo County
Planning and building Dept.
590 Hamilton Street
Redwood City, California 94063

Regarding : PLN99-00890

As per you department request, I have enclosed a background history of our attempts to purchase surroundings lots.

My wife and I began searching in 1998. We began negotiation 1999 on the subject lot (048-013-570) , We have made attempts to purchase one lot surrounding ours.

The lot just to the west of the subject 048-013-220 was purchase for development by Berry Swnsen in 1999, We understand he have no intention on selling.

X The lot to the east 048-013-580 is involved in litigation due to a builders bankruptcy and according to my Real Estate Agent the property in not transferable with no resonable solution in sight.

The lot to the rear 048-013-240 is also not available for sale and it wouldn't be practical to use that lot.

If you have any more question please call me direct @ 1-510-816-8320

Signed,

Thomas DaRosa
Applicant/Owner

SENT VIA FAX TO: FARHAD
REGARDING : PLN 99-00890

Exhibit 4

Jonathan Wittwer
William P. Parkin

WITTWER & PARKIN, LLP
147 SOUTH RIVER STREET, SUITE 221
SANTA CRUZ, CALIFORNIA 95060
TELEPHONE: (831) 429-4055
FACSIMILE: (831) 429-4057
E-MAIL: office@wittwerparkin.com

PARALEGAL
Jana Rinaldi

April 30, 2001

Process Research
P.O. Box 282160
San Francisco, CA 94128

Re: **Collection of Delinquent Special Assessments**
Assessor's Parcel Number: 048-013-220 (1999)
Record Owner: Process Research

Dear Assessee:

Our office serves as the General Counsel for the Granada Sanitary District. This letter will serve as a courtesy notice of any delinquent assessments due on the above referenced parcel.

Pertinent records regarding Granada Sanitary District assessments indicate that the amount of $511.83 is delinquent, due and payable on your property as of May 15, 2001. This amount includes each and every unpaid annual assessment, together with interest, penalties, costs and fees that have accrued. Enclosed for your reference is a breakdown of the amount due. Please pay this amount to the Granada Sanitary District by May 15, 2001. If this amount is not received in full by May 15, 2001, pursuant to provisions adopted to protect the bondholders in relation to the use of the assessment to repay the bonds, the District is required to pursue the remedy of foreclosure.

Pursuant to applicable law, the District may order foreclosure proceedings with respect to any properties with delinquent tax bills. Any failure of a property owner to pay the annual property tax bill results in a shortage of money to pay the bond and interest. The District has determined that to secure and protect the interests of its bondholders, the District will pursue all means available to secure the collection of any delinquent tax bills.

Therefore, if payment is not received by the Granada Sanitary District for the amount specified above, with respect to the parcel identified above, by May 15, 2001, the

District will commence foreclosure proceedings. Once foreclosure proceedings are commenced, applicable law provides that costs in the action shall be fixed and allowed by the Court and shall include a reasonable attorney's fee, interest, penalties and other charges or advances, including reasonable administrative costs incurred by the District and the County tax collector.

If you have recently made a payment to satisfy your County tax bill in full, please disregard this notice. Otherwise payments after the date of this letter are to be made payable to the Granada Sanitary District and hand delivered to 455 Avenue Alhambra, El Granada, California or mailed to Post Office Box 335, El Granada, CA 94018.

Your cooperation regarding this matter will be greatly appreciated. If you have any questions as to the status of your assessment, please contact the District Office at 650-726-7093.

Sincerely,

Jonathan Wittwer
WITTWER & PARKIN, LLP

encl. Record regarding unpaid assessment(s)

Exh. 6.F.4

APN : 048-013-580 TAX CODE AREA : 087-011

FIRST OWNER : COASTAL LOTS GOLDEN GATE ASSOC EXEMPTION CD : 00 00 00 00

SECOND OWNER : LAND VALUE : $21,427

CARE OF : C/O BARRY SWENSON BUILDER IMPROVEMENTS : $0

AILING ADDRESS : 701 N FIRST ST

CITY : SAN JOSE STATE : CA ZIPCODE : 95112

OCATION - STREET NUMBER : STREET NAME :

URRENT YEAR: 2000 STATUS: ACTIVE PAID OFF: NO ERU: 1.0000

SSESSMENT: $4,145.80 PAYMENT: $0.00 NET: $4,145.80

EMAINING PRINCIPAL: $3,908.50 REMAINING INTEREST: $3,743.40

C: $52.82 CBC: $52.82 CPIC: $1,094.16

UPI: $1,041.34 EPIC: $0.00

A: $48.86 CAA: $110.46 EAC: $0.00

COMMENT

Exhibit 4

MIRAMAR COTTAGE

A NEW RESIDENCE FOR DAVID HODGE (PH: 415-621-7300)
CORONADO AVENUE • APN: 048-013-580

COMET STUDIOS
100 7th St. • STUDIO #5 • SAN FRANCISCO

1.1 PROJECT INFORMATION

- Owner: David Hodge
- APN# 048-013-580
- Zone: R-1 / S-9
- Lot Area: (40 x 110) 4400 s.f.
- Lot Coverage (40% allowable)
  23.5% with a proposed 1034 s.f. footprint including decks and overhangs less than four feet deep.
  20% with a proposed 880 s.f. footprint excluding decks and overhangs less than four feet deep.
- Building Floor Area
  Maximum area allowed: 2200 s.f. (50% of the parcel area)
  Floor area of proposed home: 1555 s.f.
  Floor area of proposed garage: 271 s.f.
  Floor area of proposed carport: 314 s.f.
  Floor area of exterior decks: 158 s.f.
  total building floor area: 2,298 s.f.
  <allowance for garage> < 200 s.f.>
  Net building floor area: < 2,198 s.f. (48% of parcel area)
- On site covered parking (required for two cars)
  Proposed project includes a one car garage and a one car carport accessed from within the property. No garage door is required on the front of the house with this proposed solution.
- Federal Emergency Management Agency (FEMA) requirements
  The first story of the proposed project has been designed as non-habitable space with break-a-way walls and open metal privacy fencing. The structural design for this proposed project incorporates moment frame of structural steel columns, beams and Russell-free econometric drawing on sheet 9). With this system, a significant area of the first floor has been designed to remain open, minimizing potential flood impact. All habitable areas and their floor framing are above 27' ASL as required by FEMA

1.2 SITE LOCATION MAP

1.3 SHEET INDEX

MRC 03-02-00

AN ARCHAEOLOGICAL RECONNAISSANCE OF THE DA ROSA PARCEL (APN 048-013-057) ON CORONADO AVENUE IN THE COMMUNITY OF MIRAMAR, SAN MATEO COUNTY, CALIFORNIA

by

Matthew R. Clark
Registered Professional Archaeologist

March 2000

Report Prepared For

Thomas Da Rosa
35181 Buckingham Court
Newark, CA 94560

MRC CONSULTING
CULTURAL RESOURCE MANAGEMENT
El Granada, CA

INTRODUCTION AND PROJECT SUMMARY

During March 2000, MRC Consulting Cultural Resource Management completed an intensive surface reconnaissance for archaeological resources on a small parcel on Coronado Avenue in the San Mateo County Coastside unincorporated community of Miramar, just outside the City of Half Moon Bay. The Da Rosa Coronado Avenue parcel (APN 048-130-057) is owned by Mr. Thomas Da Rosa of Newark, California, who requested and authorized the reconnaissance. Mr. Da Rosa is planning construction of a single-family residence on the parcel, with, driveway, underground utility hookups, and ancillary facilities. Because the proposed construction Project involves earth-moving and construction impacts that would adversely impact any cultural resources on the Project Area, this archaeological reconnaissance and evaluation was required by the San Mateo County Planning Department under provisions of the California Environmental Quality Act (CEQA), specifically under procedures of Section 21083.2 and Appendix K of CEQA, as well as under San Mateo County Code Section 6324.5(a), County General Plan Policy 5.20, and under Local Coastal Program Policy 1.24.

The archaeological reconnaissance and initial evaluation of the Da Rosa parcel Project Area entailed three steps. A search of relevant records and maps maintained by the Northwest Information Center of the California Historical Resources Information System (CHRIS) at Sonoma State University was conducted by the staff of that facility to determine whether the property and/or areas nearby had been previously surveyed or contained previously recorded cultural resources. Additional archival research was undertaken using available documentary resources and informants. An on-foot reconnaissance of the Project Area was completed by the author. This report and the recommendations below constitute the third and final step of archaeological research for this Project Area.

No evidence of archaeological resources or historic properties of any kind was found at the Da Rosa Coronado Avenue Project Area parcel, either by archive research or during field survey. The proposed construction project on the Project Area should be enabled to go forward without adversely effecting significant cultural resources, subject to the proviso recommended at the end of this report.

THE PROJECT AREA

Location and Legal Description

The Da Rosa parcel on Coronado Avenue is located southwest of State Route 1/Cabrillo Highway, and the raised bed of the former Ocean Shore Railroad (OSRR) right-of-way; east of Mirada Road, fronting on Coronado Avenue at the north, outside the limits of the City of Half Moon Bay, on the San Mateo County ocean coast in the unincorporated community of Miramar. The small quadrilateral is located on the south side of Coronado Avenue with undeveloped parcels on the three sides; at this location, Coronado Avenue is a still an unmarked, unpaved "paper street." The parcel is designated by San Mateo County Assessor's Parcel Number (APN) 048-013-057 (see Map 2). The Da Rosa parcel is 40 feet wide (street frontage) and approximately 110 feet long, and thus comprises about 4400 square feet or about one-tenth acre.

The Da Rosa Project Area (DRPA) is contained on the U.S. Geological Survey 7.5 minute "Half Moon Bay, Calif." topographic quadrangle, a portion of which is reproduced here as Map 1. The Project Area was a part of the Spanish-era "Rancho Corral de Tierra (Palomares)" Land grant and so was not surveyed into the township-and-range survey system. The Pacific Ocean lies less than 50 meters from the Project Area, on the far side of Mirada Road and a riprap seawall (erroneously labeled "Miranda" Road on the topographic map).

Biophysical Description

The DRPA is on the narrow, relatively flat and level coastal terrace between the coastal hills and the beach at Half Moon Bay. Elevation ranges from about 19 to about 21 feet msl on the relatively flat and level parcel. The ocean cliff, riprap seawall, and beach are about 50 meters southwest of the Project Area; small but perennial Arroyo de en Medio (creek) is about 175 m to the southeast. Natural drainage on the parcel was probably directly to the ocean but may have been into the creek; currently area drainage (what there is of it) is controlled artificially by ditches. A small swale ran northwest/southeast down the middle of the parcel and contained standing water at the time of the reconnaissance.

Contours on the flat terrace are only interrupted by the raised OSRR railbed, running northwest/southeast about 60 m northeast of the parcel, and modern construction. The railroad causeway rises about a meter above the surrounding terrain, with a shallow swale or ditch next to the embankment. The shallow swale extends westward almost to the DRPA, is occupied by thickly grown berry vines, and contained surface water at the time of the survey. Surface soil on the entire subject parcel is a light yellow-brown fill soil, a silty clayey sand, apparently dumped and then graded onto the parcel. Two more recent piles of discarded fill soil are still humped up on the north end of the parcel. The entire Project Area has undoubtedly been plowed and disced repeatedly for more than 100 years; fields

along both sides of the railroad, right up to Mirada Road, were used for raising peas and other field crops as recently as the 1960s (Clark 1992, 1992a).

In prehistoric times this location would have been most likely covered by coastal mosaic vegetation, dominated by perennial bunch grasses, coyote bush, and wild berry vines. Currently the area is covered, quite thickly when not plowed down or where covered by fill, by a mixture of native and exotic vegetation. Plants noted on and near the DRPA include: curly dock, *Brassica* (wild mustards), *Rafanus* (wild radish, both black and white), several kinds of thistles, marsh grass (*Stipa*), oxalis, mallow or cheeseweed, sweet pea vines, and wild berry vines (*Rubus* sp.), and the ubiquitous annual weedy grasses of Eurasian origin, notably wild oats, fescue, and ryegrass. There were no trees, shrubs, or bushes on the Project Area.

The major historic impacts to the Da Rosa Project Area vicinity were caused by construction of the raised causeway that once carried the OSRR, and by subsequent development of a few commercial buildings such as the nearby Miramar Beach Inn and bed-and-breakfast. and numerous single-family homes. It appears that native soil was scooped up for the causeway, producing the shallow swale near the eastern parcel side; imported fill soil and rocks are also evident and have been spread by plowing onto adjacent parcels. The Da Rosa parcel was exactly located by surveyors stakes at known points; all four corners of the parcel were marked in the field. Overall, historic and recent disturbances appear to be surficial on the Project Area, with a plow zone approximately 30 cm/12 inches deep, now covered by one foot or less of the imported yellow-brown fill. Recently disturbed (plowed) native soil, with abundant recent and modern trash incorporated, was observed south of the DRPA.

Prehistoric Ethnographic Background

The Native Americans occupying the San Francisco Bay region, Santa Cruz Mountains and the Monterey Bay area at the Spanish arrival are now most commonly known as "Ohlones," taken from the name of a coastal village between Davenport and Half Moon Bay. Anthropologically these people have been known as "Costanoans," from the Spanish "costanos" or coast-dwellers, a linguistic term coined to describe groups speaking related languages, who owned the coast from the Golden Gate to Point Sur and inland to about the crest of the Diablo Range.

The natural resources of this area provided for nearly all the needs of the aboriginal populations. The prehistoric Ohlones were "hunters and gatherers," a term which may connote a transient, unstable and "primitive" life, materially poor, constantly fending off starvation; it should not. The Ohlones had adapted so well to the abundant local environment that some places were continuously occupied for literally thousands of years. Compared to modern standards, population density always remained relatively low, but the Ohlone area, especially around Monterey and San Francisco Bays, was one of the most densely lived-in areas of prehistoric California for centuries. The Ohlones had perfected living in myriad slightly differing environments, depending on location, some rich enough to

allow large permanent villages of "collectors" to exist, others less abundant and more encouraging of a more mobile "forager" way of life. Littoral (shoreline) environments were obviously much more productive and were therefore most sought out, most intensively utilized and occupied, and most jealously defined and guarded. Uplands and redwood areas were less productive and less intensively used and occupied than the ocean and Bay coasts. As throughout Central California, the acorn was the dietary staple of the Ohlones, but a huge number of floral and faunal resources were utilized.

The basic unit of Ohlone society was the "tribelet," a small independent group of usually related families occupying a specific territory and speaking the same language or dialect. The incredible diversity of languages that had evolved in Central California is evidence of centuries of in-place "speciation" of very small social groups. Early linguists encountered groups of only 50-100 people speaking distinct languages sometimes but not generally unintelligible to their neighbors. Inter-tribelet relationships were socially and economically necessary however, to supply both marriage partners and goods and services not available locally. Trade and marriage patterns were usually but not always dictated by proximity; traditional enemies were usually also defined by proximity. Regional festivals and religious dances would bring several groups together during periods of suspended hostilities.

Traditional trade patterns thousands of years old were in place at the Spanish arrival, supplying the Ohlones with products from sources sometimes several hundred kilometers distant and allowing export of products unique to their region. Of particular interest archaeologically are imported obsidian and exported marine mollusk shell beads and ornaments. Obsidian has the useful property of each source having a unique chemical "fingerprint," allowing obsidian artifacts to be sourced to a specific locality of origin, as well as being datable by technical methods. Obsidian was obtained by the Ohlones from the North Coast Ranges and Sierran sources, in patterns which changed through time. Shell beads and ornaments, a major export from the Ohlone regions, were made primarily from the shells of abalone (*Haliotis*), Purple Olive snail (*Olivella*), and Washington clam (*Saxidomus*), all ocean coast species. Shell beads and ornaments evolved through many different and definable types through the millennia, allowing chronological typing of these common artifacts to serve as a key to the age and relative cultural position of archaeological complexes. These beads have been found in prehistoric sites up and down California and many kilometers east, into the Great Basin, indicating that prehistoric peoples on the coast were tied into an "international" system of trade. At the time of the Spanish invasion, Central Californians had developed a system of exchange currency or "money" based on clam shell disk beads.

Absolute and relative dating of archaeological sites, the linguistic diversity, and demonstrably ancient trade patterns all indicate that the Ohlones had reached a state of demographic and social stability unimaginable to modern city-dwellers--a state in which the same families occupied the same location for hundreds or thousands of years with few if any changes in population size or profile.

RESEARCH METHODS

Archive Research

The initial archaeological evaluation of the DRPA was initiated by a search of relevant records, maps, data, and archives conducted by the staff of the Northwest Information Center (NWIC) of the California Historical Resources Information System (CHRIS) at Sonoma State University, revealing that the specific Da Rosa Coronado Avenue parcel had not been surveyed previously, nor were any historic or prehistoric resources recorded on or immediately adjacent to the Project Area. However, numerous surveys have been reported within 500 meters of the Project Area (ARM 1989, 1995; Bourdeau 1988, 1997, 1997a; Buss 1981; Cartier 1987, 1987a; Clark 1989, 1992, 1992a, 1992b, 1993, 1995, 1995a, 1996, 1997, 1998, 1998a, 1999, 1999a, Chavez 1988; Hylkema 1989; Neeley 1978; Runnings and Haversat 1990). A significant prehistoric archaeological site, CA-SMA-149, is recorded within about 70 m of the DRPA (Brown and Landry 1979; Chaloupka 1979, 1979a; Clark 1992, 1992a, 1995a; Holman and Clark 1979; Nissen and Swezey 1976; Moratto and Heglar 1973). The CHRIS Records Search File Number for the Da Rosa Project Area is 00-151. A copy of this report will be submitted for inclusion in the permanent archives of the NWIC/CHRIS.

Prehistoric site CA-SMA-149 is a large shell midden site east of the DRPA. The "Eberhart Site" was recorded in 1973, when human remains were found, recorded, and removed from a ditch on the east side of Highway 1 (Moratto and Heglar 1973). The site is quite apparent on the surface, with abundant marine shell fragments visible, along with fire-cracked and burnt rocks, flaked stone artifacts and debitage, burnt and unburnt bone, and ground stone/battered artifact fragments such as pestles and hammer stones. Following the recording of SMA-149, several other surveys have redefined the site extent and characteristics. Nissen and Swezey (1976) defined the western site boundaries during a survey along the OSRR alignment for potential waste water pipeline routes. The eastern site periphery was tested during sewer construction work in 1979 (Brown and Landry 1979; Chaloupka 1979). Based on surveys since 1979, the site appears to be slightly larger than currently recorded, but plowing and varying degrees of vegetative cover have made exact determination of site boundaries difficult.

Chavez (1988) surveyed a parcel fronting on nearby Magellan Avenue, on the eastern side of the OSRR causeway, and discovered no archaeological materials on that parcel. Cartier (1987), Baker and Smith (1988), and Clark (1989) conducted surveys on the south side of Medio Avenue, a block and a half to three blocks from the DRPA parcel; all three recorded no archaeological resources. Survey and a small scale test excavation near the seeming center of the archaeological concentration found apparently intact significant cultural deposits below the plow zone, and also found that the site extends to and across the OSRR route; this same project area on Alameda Avenue later was found to contain prehistoric burials (Clark 1992, 1992a). Clark (1993) surveyed three small parcels on the west side of the OSRR causeway that front on Magellan Avenue, a block from the subject

parcel; no archaeological materials were detected. In 1995 another parcel at Alameda and Cortez Avenues was found to contain additional prehistoric human burials and other significant archaeological deposits (Clark 1995a). The documented presence of human remains confers significance *per se* to site SMA-149 under current State environmental and public resources law. However, a parcel on Cortez Avenue surveyed in 1995, contiguous with the DRPA, contained no evidence that SMA-149 extended that far to the west (Clark 1995).

Field Inspection

The author conducted an "intensive surface reconnaissance" (cf. King, Moratto, and Leonard 1973) of the relatively small Da Rosa parcel. The Project Area was precisely located by pacing from known points (marked parcel corners); the entire property was closely inspected. The entirety of the property has been filled over; it is elevated approximately 50-75 cm above the property adjacent to the north, east, and south, by yellow-brown gritty silty clay fill lighter in color than surrounding topsoil. Since the nearby prehistoric site (SMA-149) is quite apparent on the surface (many marine shell fragments, bleached white, stand out on the dark soil), the ability to inspect surrounding parcels and the occasional rodent burrow and small open area allowed adequate inspection of the survey parcel.

RESULTS AND RECOMMENDATION

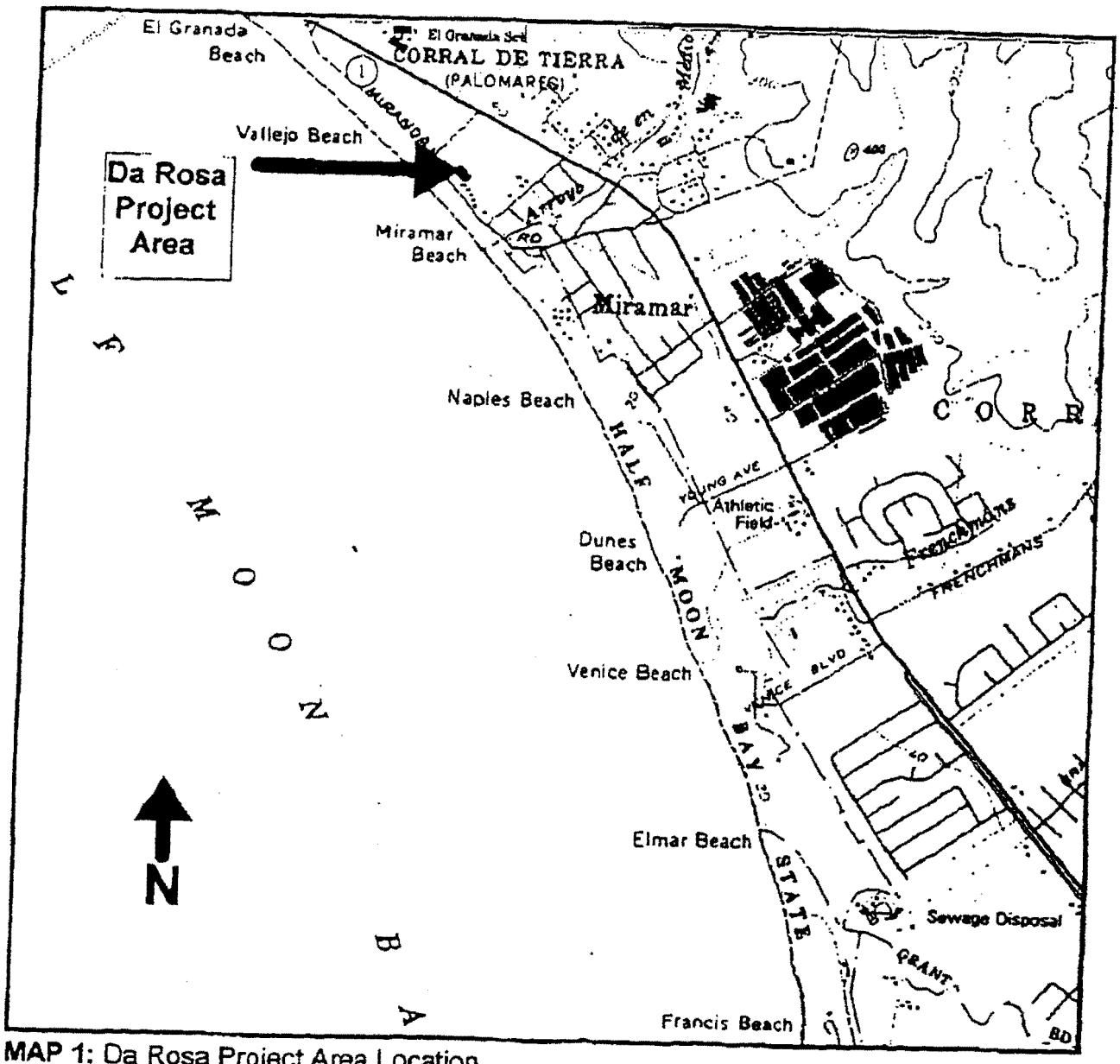
No evidence of prehistoric or historic archaeological materials was found on the Da Rosa parcel. The parcel was found to contain scant native (?) and abundant imported subangular gravels and pebbles, and the yellow sandy-silty-clayey fill, as well as many recent discards. Bottles and bottle fragments, window glass fragments, beverage and other cans, lumber fragments, concrete and asphalt chunks, PVC pipe, rusted metal, paper, linoleum fragments, and miscellaneous junk was common on the surface of the filled portion. The two recent piles of fill contained additional broken concrete and asphalt, lumber, and other construction gravels. No prehistoric cultural or ecofactual items were found on the parcel, nor were any historic artifacts noted. A large "U" shaped area had been staked and strung out on the parcel at the time of the reconnaissance.

Though no archaeological materials were found on the Da Rosa Project Area, scouting around the vicinity revealed that easily visible prehistoric archaeological materials of SMA-149 extend to within approximately 70 m east of the parcel. Site materials from SMA-149 do not appear to extend onto the ungraded portion of Coronado Avenue on the west side of the railroad causeway, but scant indications of archaeological deposits were found on the west side of the OSRR causeway south of Coronado. Since this area has been disturbed on the surface for many years, and construction of the OSRR railbed significantly altered the local topography, the following recommendation is given in recognition of the possibility that historic or prehistoric materials might be found on the parcel.

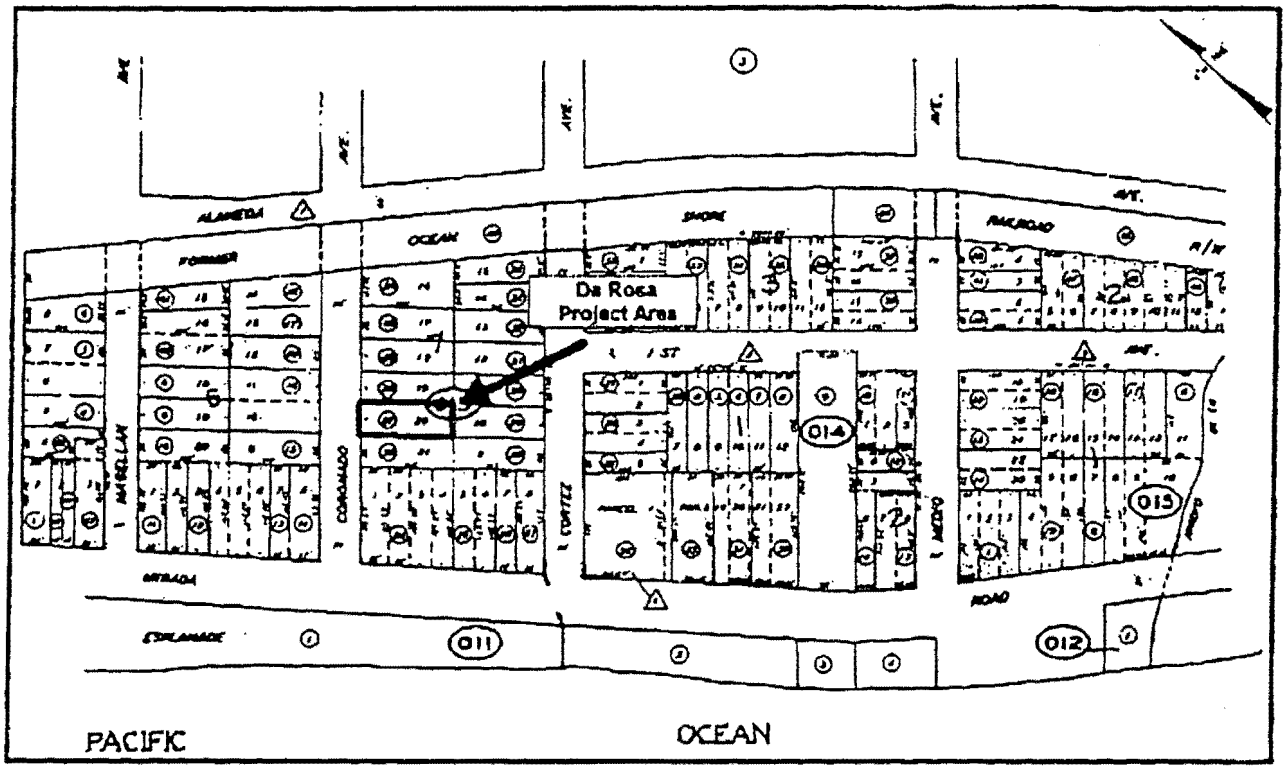
Recommendations

Although no archaeological resources were found on the Da Rosa property, it is possible that subsurface deposits may exist or that evidence of such resources has been obscured by more recent natural or cultural factors--such as filling over the majority of the parcel. Prehistoric site SMA-149 is close by, contains significant intact subsurface deposits, and contains human remains. Archaeological resources and human remains are protected from unauthorized disturbance by State law, and supervisory and construction personnel should therefore be made aware of the possibility of encountering archaeological materials in this sensitive zone. In this area, the most common and recognizable evidence of prehistoric archaeological resources are deposits of marine shell, usually in fragments (mussels, clams, abalone, crabs, etc.), and/or bone, usually in a darker fine-grained soil (midden); stone flakes left from manufacturing stone tools, or the tools themselves (mortars, pestles, bi-pitted hammer stones, arrowheads and spear points), and human burials, often as dislocated bones. Historic materials may also have scientific and cultural significance and should be more readily identified. Artifacts resulting from the Ocean Shore Railroad era (1905-1920) may occur on the property--the 1906 Miramar railroad station was quite close to the Project Area.

If during the proposed construction project any such evidence is uncovered or encountered, all excavations within 10 meters/30 feet should be halted long enough to call in a qualified archaeologist to assess the situation and propose appropriate measures.



MAP 1: Da Rosa Project Area Location.
(Source: USGS "Half Moon Bay" 7.5 minute topographic quadrangle, 1991)



MAP 2: Da Rosa Project Area Parcel Map.
(Source: San Mateo County Assessor's Parcel Map; not at scale shown)