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COASTAL DEVELOPMENT PERMIT APPLICATION

Application number.....**2-02-028, Half Moon Bay Golf Links Seawall**

Applicant.....Ocean Colony Partners, L.P.

Project Location.....2450 South Cabrillo Highway Half Moon Bay, (San Mateo County).

Project Description.....Construction of a 270-foot long riprap and concrete seawall ranging in height from 16 to 40 feet high on the beach and coastal bluff adjacent to the 18th green of the Half Moon Bay Golf Links. The proposed seawall would be constructed using an existing unpermitted riprap revetment, which would be grouted in place, secured with a tie-back system into the bluff, covered with structural concrete, and covered with colored shotcrete.

File Documents.....CCC Coastal Development Permit file; and previous Consent Order CCC-02-CD-02 .

Summary of Staff Recommendation:

The Applicant proposes to protect the 18th green of the Half Moon Bay Golf Links from erosion of the coastal bluff with a new seawall. Staff recommends denial of the proposed seawall because the project would substantially alter the natural landform of the coastal bluff and would result in significant adverse impacts to visual resources, shoreline sand supply, and public access in conflict with Chapter 3 policies of the Coastal Act.

Coastal Act Section 30235 requires the Commission to approve the construction of protective devices that alter the shoreline when they are required to protect existing structures in danger from erosion, even if the protective structure would conflict with other Chapter 3 policies. However, Section 30235 only

requires the Commission to approve shoreline armoring projects when no less environmentally damaging alternative is available to protect an existing structure in danger from erosion and when impacts to sand supply are eliminated or mitigated.

In this case the proposed seawall is not required to protect an existing structure in danger from erosion because even without the seawall the 18th green is set back a sufficient distance from the bluff edge so that it is not presently in danger from erosion. Based on analysis by the Commission's staff geologist, it appears that only the edge of a concrete "foundation" structure underlying the green and a minor portion of the rough and edge of the green nearest the bluff edge are potentially threatened by erosion at this time. Damage to the seaward edge of the foundation, rough, and green would not threaten the green itself in that such damage would have little if any effect on the continued use and function of the green in its present location.

Furthermore, if in the future the 18th green is endangered by bluff erosion, less environmentally damaging feasible alternatives appear to be available to protect the green that would not require alteration of the bluff or armoring of the shoreline. Such alternatives include minor reconfiguration of the green in its existing location or more substantial reconfiguration of the golf course to relocate the green further inland. Preemptive removal of the edge of the concrete foundation underlying the green as it becomes exposed would protect the public from any hazard presented by the foundation without requiring shoreline armoring.

Finally, even if shoreline protection was needed to protect an existing structure in danger of erosion, the proposed seawall is not the least environmentally damaging feasible alternative as the design of the proposed seawall does not minimize impacts to public access or visual resources The proposed seawall encroaches substantially further seaward than is necessary and impedes lateral shoreline access during most tidal stages. Instead, a vertical seawall could feasibly be designed to avoid or minimize such impacts. In addition, unlike some recently permitted seawall projects, the proposed project is not designed to mimic the form of the adjacent natural bluff and would not therefore minimize visual impacts.

List of Exhibits

Exhibit A	Regional Location Map
Exhibit B	Site Vicinity Map
Exhibit C	Oblique Aerial Photograph
Exhibit D	Aerial Photograph from May 1973 showing 18th Green area
Exhibit E	Vertical Aerial Photograph
Exhibit F	Letter from Peter Cosentini, City Manager, the City of Half Moon Bay to Jo Ginsberg, Enforcement Manager, California Coastal Commission, May 22, 2002
Exhibit G	Consent Agreement and Cease and Desist Order CCC-02-CD-02, October 2002
Exhibit H	Map showing locations of vertical access to the shoreline near project site

Exhibit I	Photograph showing lateral access along beach at low tide
Exhibit J	Cross Sections of Proposed Seawall
Exhibit K	Visual Simulation of Proposed Project
Exhibit L	Visual Simulation of Proposed Project
Exhibit M	Geotechnical Review Memorandum, Mark Johnsson, Staff Geologist, January 19, 2005
Exhibit N	Applicant's Alternatives Analysis

I. STAFF RECOMMENDATION:

The staff recommends denial of Coastal Development Permit Application No. 2-02-28.

MOTION: *I move that the Commission approve Coastal Development Permit No. 2-02-028 for the development proposed by the applicant.*

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY THE PERMIT:

The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

Findings and Declarations

The Commission finds and declares as follows:

Project Location & Background

The Half Moon Bay Golf Links (HMBGL) is an oceanfront golf course located along the shore of Half Moon Bay, approximately 8 miles south of Pillar Point. See Exhibit A for regional location map, Exhibit B for site vicinity map, and Exhibit C for an aerial photograph (showing the project site). The Old Course, formerly known as the Links Course, at HMBGL was originally designed by Francis Duane and Arnold Palmer and redesigned by Arthur Hills in 2000. The HMBGL originally opened in October 1973, and following renovation in 2000; re-opened in mid-April 2001.

Construction of the 18th green of the Half Moon Bay Links, begun in April 1972 and completed on or before February 1, 1973, included a concrete slab, extending from the top edge of the bluff to the inland edge of the green, supporting the seaward edge of the 18th green turf and a twelve-foot high, 24-foot long, two-foot wide concrete retaining wall at the base of the bluff below the 18th green (see Exhibit D). The site is underlain by the Purisima Formation, a siltstone and mudstone unit that is moderately susceptible to coastal erosion. This bedrock unit is overlain by approximately 15 feet of marine terrace deposits consisting of sand and clay, which is in turn overlain by 3 to 10 feet of artificial fill in the project area. The contact between the bedrock and the marine terrace deposits occurs at an elevation of

approximately 25 feet in the roughly 40 foot high coastal bluff. The concrete slab beneath the 18th green is approximately 12 inches thick and serves as a foundation for the green underlying the artificial fill.

The 18th green complex includes the green, green surround ("rough") and sand traps. The western edge of the 18th green currently comes within approximately ten feet of the bluff edge. The Ritz-Carlton Hotel is located approximately 120 feet to the east and 200 feet southeast of the green. A 10-foot wide coastal access pathway is located between the hotel and the green, and is located approximately 70 feet from the northeast edge of the green, and approximately 50 feet from the southeast edge of the green (Exhibit E).

Portions of the bluff in the vicinity of the 18th green have episodically eroded, slumped and retreated; the most recent event occurred in 1998. Bluff erosion gradually undermined the concrete slab beneath the 18th green and by 1995 portions of the concrete slab were exposed and hanging over the beach. Portions of the hanging slab broke off and fell to the beach during the winter of 1995-1996. To stabilize the bluff, Ocean Colony Partners constructed a riprap structure in late 1998. As described below, this riprap structure was constructed without first obtaining a Coastal Development Permit or emergency permit.

On July 27, 1996, the City of Half Moon Bay[1] granted CDP 08-96 for repairs along the bluff at the 18th green, authorizing the placement of riprap backfill behind the concrete retaining wall and on the bluff face, and repair of the bluff top concrete slab as originally constructed in 1973. Project plans indicated that the area approved in CDP 08-96 for riprap covered an area of approximately 1,700 square feet, and no riprap was to be placed on the beach. The City staff report indicated that as permitted in 1996, no sandy beach area would be lost and that the approved project limits would not exceed anything originally constructed or currently in place.

In August of 1998, Ocean Colony submitted to the City of Half Moon Bay plans for additional bluff stabilization measures along the 18th green. A September 10, 1998 letter from the City's planning director at that time indicated that the work as proposed was exempt from coastal permitting because it "would not result in an addition to, or an enlargement or expansion of, the green repair authorized by CDP 08-96."

In January 1999, the Coastal Commission received reports of an alleged Coastal Act violation near the 18th green of the Half Moon Bay Links. Commission staff visited the site and verified that riprap had been placed on the beach and bluff face within the Commission's original permit jurisdiction. The City directed Ocean Colony to apply for an after-the-fact CDP, and noted that the Coastal Commission staff had also recently contacted Ocean Colony regarding the portion of the unpermitted riprap located within the Commission's permit jurisdiction that also required a CDP. In February 2001, the Commission staff directed Ocean Colony to submit a CDP application to the City by March 15, 2001 for the portion of the development located within the City's jurisdiction, and within 60 days of the permit action by the City, to submit a CDP application to the Commission for that portion of the development located in the

1 The Implementation portion of the City of Half Moon Bay's Local Coastal Program (LCP) was certified on December 13, 1995 and it assumed permit-issuing authority on April 24, 1996.

Commission's jurisdiction. The Commission staff indicated to Ocean Colony that its applications should be for either retention or removal of the unpermitted development.

In May 2002, the City of Half Moon Bay formally requested that the Commission assume the primary enforcement role in resolving the violation regarding the unpermitted riprap that had been installed in 1998 in both the City's and the Commission's jurisdictions (Exhibit F). The City reiterated that the riprap installed by Ocean Colony in 1998 was not placed pursuant to a valid CDP.

Following negotiations with Ocean Colony Partners, the Commission approved Consent Agreement and Cease and Desist Order CCC-02-CD-02 in October 2002. The Order required the immediate removal of approximately half of the unpermitted riprap to reduce the impacts of the unpermitted riprap to public access along the sandy beach, and authorized interim retention of the remainder of the riprap, conditioned on the timely submission by Ocean Colony of a complete CDP application requesting Commission authorization for a permanent protective structure. To mitigate in part the adverse impacts on public access that occurred because of the riprap, the Consent Agreement and Cease and Desist Order requires Ocean Colony to construct a vertical beach access path and stairway at the end of Redondo Beach Road and to contribute funds for the maintenance of this accessway.

As required by the Consent Agreement, the riprap was removed in accordance with an approved removal plan in two phases beginning in the spring of 2003 and was completed in the spring of 2004. Additionally, Ocean Colony is currently working with the City of Half Moon Bay to permit construction of a vertical beach access path and stairway near the end of Redondo Beach Road, as required by the Consent Agreement. A copy of the Consent Agreement is provided in Exhibit G.

Project Description

The proposed development includes the construction of a permanent shoreline protection structure (seawall) to protect approximately 270 linear feet of bluff located adjacent to the 18th green of the HMBGL. As described above, following storms in 1998, portions of the bluff in this vicinity eroded, slumped and retreated. An approximately 270 linear foot riprap structure consisting of 4-ton rock was placed without coastal development permit authorization to protect the bluff. In accordance with Consent Agreement and Cease and Desist Order CCC-02-CD-02, approximately half of the unpermitted riprap installed in 1998 was removed and the remainder of the riprap was authorized on an interim basis, conditioned on the timely submission by Ocean Colony of a complete CDP application requesting Commission authorization of a permanent protective structure. This application satisfies the condition for submittal of a complete CDP as required by Consent Agreement and Cease and Desist Order CCC-02-CD-02.

The proposed development includes (1) grouting the current riprap structure in place at a 1:1 slope, (2) securing the structure with a tieback system (utilizing approximately 69 tiebacks on 8-foot centers) into the bluff, (3) installation of a drain system to relieve hydrostatic pressure, (4) installation of a 3-foot wide by 5-foot deep sheer key system at the toe of the seawall, (5) covering the secured structure with a steel mesh made of rebar, (6) covering the entire structure with structural concrete, and (7) placement of an architectural sculpted concrete (shotcrete) colored to blend in to the surrounding bluffs.

Requirement for Coastal Development Permit

Prior to the applicant and the Commission entering into the Consent Agreement, the applicant indicated that they believed they have a vested right to bluff protection. The claim is based on the prior existence of a 12-foot high by 24-foot long by 2-foot wide concrete seawall on the face of the bluff at the 18th green (Exhibit D). In order for any applicant to claim a vested right, they must make a request for a determination of vested rights in accordance with California Coastal Commission Administrative Regulations Title 14, Division 5.5 Section 13200 which states:

> Any person claiming a vested right in a development and who wishes to be exempt from the permit requirements of the Act pursuant to Public Resources Code Section 30608 must substantiate the claim in a proceeding before the Commission under this subchapter. In such a proceeding the claimant shall assume the burden of proof.

Additionally, Section 13201 specifically states:

> Any person who claims that a development is exempt from the permit requirements of Public Resources Code, Section 30600 or 30601 by reason of a vested right under Public Resources Code, Section 30608 must file a claim of vested rights with the commission and obtain approval under this subchapter.

To date, the applicant has not filed an application for a claim of vested rights for the pre-existing 12 by 24 foot seawall.. In order to support a claim of vested rights for bluff protection, the applicant would have to prove that the 12 by 24 foot seawall was legally constructed prior to February 1, 1973 (the effective date of the California Coastal Zone Conservation Act of 1972).

However, even if the Commission could find that a claim of vested rights for the 12 by 24 foot seawall is substantiated and the applicant had not subsequently abandoned the structure or relinquished any claim, the vested rights claim would be limited to the original 12-foot high, 24-foot long, two-foot wide concrete retaining wall at the base of the bluff below the 18th green. Such an action would neither legalize the existing unpermitted riprap structure nor the proposed project. The applicants themselves have indicated that the pre-existing 12 by 24 foot seawall would not serve as an effective long-term solution.

In addition, even if the Commission finds that a claim of vested rights is substantiated for the original 12-foot high, 24-foot long, 2-foot wide concrete seawall, the Coastal Act's limitations on the scope of repair and maintenance activities would also require the applicant to obtain a coastal development permit. Coastal Action Section 30610 (d) confines repair and maintenance activities to those which do not result in an enlargement or expansion of the original 12-foot high, 24-foot long, 2-foot wide structure.

> Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.

Furthermore, Commission regulations confine repair and maintenance activities to those which involve less than 50% of the seawall. Section 13252(b) states:

> (b) Unless destroyed by natural disaster, the replacement of 50 percent or more of a single-family residence, seawall, revetment, bluff retaining wall, breakwater, groin or any other structure is not repair and maintenance under section 30610(d) but instead constitutes a replacement structure requiring a coastal development permit.

Since the proposed project would replace 50% or more of the existing structure, the proposed development is considered new development and must conform to all Coastal Act policies and requirements.

Finally, the 12-foot high by 24-foot long seawall was not destroyed by natural disaster and therefore, does not qualify for a disaster replacement exemption to permit requirements. Also, as with the other types of permit exemptions, a disaster replacement exemption only allows the existing structure to be replaced and does not permit a significant expansion or authorize new development.

In the case of the proposed development, the existing unpermitted riprap and the applicant's proposed project both far exceed the length, width, height, bulk and scale of the original concrete seawall. As now proposed, the 12-foot high, 24-foot long, and 2-foot wide seawall would be replaced by the construction of a 270-foot long riprap and concrete seawall ranging in height from 16 to 40 feet high, and extending 10 to 45 feet from the base of the bluff.

The Commission therefore concludes that the proposed project is new development, and is not subject to exemptions from permitting requirements allowed under vested rights claims, repair and maintenance activities, or disaster replacement provisions.

Consistency with Chapter 3 of the Coastal Act:

Public Access

Coastal Act Section 30211 states:

> Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

The proposed seawall would significantly interfere with the public's right of access to the sea and along the shoreline. As further discussed below, the seawall would both block lateral access along the shoreline and overtime would substantially reduce the sandy beach area at the project site. As such the proposed seawall is inconsistent with Coastal Act Section 30211.

The shoreline in the project area consists of a sandy beach at the base of a coastal bluff. Most of this sandy beach area is public trust land. Although no formal survey has been done, it is clear that the toe of bluff and the base of the riprap have been periodically inundated with wave action. In fact, at high tide, this sandy beach area is completely impassable. A tide pool system is located immediately to the south of the project site and seaward of the beach. Vertical access to the shoreline is available via an access stairway approximately 1,600 feet to the south of the project site and an informal trail system near Redondo Beach Road approximately 2,000 feet to the north (Exhibit H). As stated above, to mitigate in part the on going adverse impacts on public access that have occurred because of the riprap, the Consent Agreement and Cease and Desist Order requires Ocean Colony to construct a vertical beach access path and stairway at the end of Redondo Beach Road and to contribute funds for the maintenance of this accessway.

Unimpeded lateral access along the beach is available on either side of the proposed seawall. However the existing remaining unpermitted riprap, which extends from 10 feet to 40 feet seaward of the base of the bluff, currently blocks lateral access along the beach during most tidal stages (Exhibit I). The applicant proposes to construct a keyway in front to the toe of the existing structure, and cover the existing riprap with structural concrete and shotcrete, which would extend the toe of the structure approximately 4 ½ feet further seaward resulting in increased impacts to lateral shoreline access. As such, the proposed seawall would significantly interfere with the public's right of access along the shoreline in conflict with Coastal Act Section 30211.

Presently, it is possible to traverse the shoreline in front of the existing unpermitted riprap during low tides. However, over time, the proposed seawall would reduce the amount of sediment otherwise supplied to the beach and fix the back beach area at the project site. These changes would change the long-term erosion patterns at the site and result in further loss of the sandy beach. As shoreline erosion continues the remaining beach area in front of the seawall would be lost overtime because the back

beach would no longer retreat landward. As such the proposed seawall would eventually lead to the total loss of lateral shoreline access at the site even at low tides.

According to the applicant, the proposed 270 linear feet of seawall would cover approximately 6,675 square feet of beach area, extending approximately 10 to 45 feet onto the beach seaward from the toe of the bluff. Assuming that the average erosion rate remains constant at the current rate of 0.75 feet per year, passive erosion would reduce the beach width seaward of the 18th green by at least 37 feet within 50 years, and by approximately 52 feet within 70 years. Since the beach width at low tide varies between 10 and 70 feet wide, the beach in front of the seawall would be mostly removed within 50 years, and could be completely lost within 70 years. This would result in the eventual loss of another approximately 10,000 square feet of public beach over approximately 50 years.

In summary, the proposed seawall would interfere with the public's right of access to the sea including the use of dry sand through both the immediate loss of lateral access along the shoreline except during low tide and the loss of approximately 6,675 square feet of beach, the long term loss of all lateral shoreline access at the site even during low tides and the loss of another approximately 10,000 square feet of public beach. Therefore the Commission denies the permit application on the grounds that the proposed seawall is inconsistent with Coastal Act Section 30211.

Visual Resources & Landform Alteration

Coastal Act Section 30251 states:

> The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The proposed seawall would substantially alter the natural landform and shoreline resulting in significant visual impacts in conflict with Coastal Act Section 30251. Rather than conform the seawall to the shape of the natural bluff, the proposed project would incorporate the existing unpermitted riprap at the site, and extend from 10 to 45 feet seaward of the toe of the bluff. The resulting 1:1 slope of the proposed seawall would not approximate the natural slope of the bluff face in the area, which is generally steeper than the project design. Both the substantial mass and bulk of the proposed 270-foot long by 16 to 40 foot high and 10 to 45 foot wide seawall and the change in the slope of the bluff face would significantly alter the appearance of the bluff and shoreline and would not be visually compatible with the character of the surrounding area. Through passive erosion, the seawall would gradually become more visually prominent as the surrounding shoreline recedes, further degrading the scenic quality of the area over time. Cross sections and visual simulations provided by the applicant illustrating the visual impacts of the proposed seawall are provided in Exhibits J, K and L.

The applicant proposes to reduce the visual impacts of the seawall by covering it with an architectural sculpted concrete (shotcrete) colored to blend with the surrounding bluffs. The application of colored and sculpted shotcrete is an accepted method for softening the appearance and reducing the visual impacts of seawalls and similar structures, but even the best examples of this mitigation technique fall short of reducing the visual impacts of such structures to less than significant. This method is most successful when applied to walls that are designed with a shallow cross section and that conform as closely as possible to the natural landform. Even in these cases, the application of such visual treatments serves only to soften the appearance rather than fully mitigate the visual impacts of the structure by successfully disguising it as a natural bluff or cliff. In this case, the proposed visual treatment would be less effective in reducing the visual impacts of the seawall because the seawall is not designed with a shallow profile that conforms to the face of the natural bluff but instead would result in a massive alteration of the natural landform.

Therefore, the Commission denies the permit application on the grounds that the proposed development is not designed to minimize the alteration of the natural landform and would have significant adverse impacts on visual resources in conflict with Section 30251 of the Coastal Act.

Construction Altering Natural Shoreline

Section 30235 of the Coastal Act states, in part:

> Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Coastal Act Section 30235 acknowledges that seawalls, revetments, cliff retaining walls, groins and other such structural or "hard" methods designed to forestall erosion also alter natural landforms and natural shoreline processes. As demonstrated above, the proposed seawall would result in significant adverse impacts to public access and visual resources in conflict with Coastal Act Sections 30211 and 30251. Nevertheless, pursuant to Section 30235, the proposed seawall must be approved if the Commission determines that (1) the seawall is necessary to protect an existing structure that is in danger from erosion and (2) that the project is designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

The seawall is not required to protect an existing structure in danger of erosion.

In evaluating whether an existing structure is in danger from erosion as that term is used in Coastal Act Section 30235, each case is evaluated based upon its own particular set of facts. The Commission has previously interpreted *in danger* to mean that the structure would be unsafe to occupy or use within the next two or three storm season cycles (generally, the next few years) if there were no shoreline protective device. The western edge of the 18th green currently comes within approximately ten feet of the bluff edge. If the revetment were not present, the Commission Staff Geologist has concluded that the seaward edge of the green could be affected by a major erosion episode similar to ones that have occurred in the recent past (see Exhibit M). The concrete slab underlying the green would also be

affected by erosion with the next major erosion episode. However, the majority of the green is setback a sufficient distance from the bluff edge to prevent any damage from bluff erosion at this time. Damage to the seaward edge of the slab and the western edge of the green would not render the green unsafe to occupy or use or otherwise compromise its golfing function. As such, the Commission finds that the 18th green is not in danger from erosion.

The proposed seawall is not required to protect an existing structure because even if some protective device was needed to protect an existing structure in danger of erosion, the proposed seawall is not the least environmentally damaging alternative.

Under Section 30235, even when some form of protection is needed to protect an existing structure that is in danger from erosion, a shoreline armoring project is only required if it is the least environmentally damaging feasible alternative.[2] In this case, the 18th green is not presently in danger from erosion and the Commission is not therefore required to approve the proposed seawall. However, even if an existing structure were in danger from erosion, the Commission would still not be required to approve the proposed seawall because it is not the least environmentally damaging feasible alternative.

For example, reconfiguration of the green in its existing location or more substantial reconfiguration of the golf course to relocate the green further inland would avoid altogether the significant adverse impacts of the proposed project. Preemptive removal of the edge of the concrete foundation underlying the green as it becomes exposed would protect the public from any hazard presented by the foundation without requiring shoreline armoring. If in the future the Commission were to determine that the green is in danger from erosion and that reconfiguration of the green or golf course were not feasible alternatives to a shoreline armoring project, the proposed seawall would still not represent the least environmentally damaging feasible alternative because it is not designed to minimize impacts to public access or visual resources as discussed above. Rather than cover the existing riprap with concrete and shotcrete as the applicant proposes, a vertical or near vertical seawall with a shallow cross section and minimal footprint would substantially reduce impacts to both public access and visual resources. Unlike the proposed project, such a seawall could be designed to better mimic the natural landform of the surrounding bluffs, minimize the direct loss of beach by the area covered by the wall, and would allow continued lateral access along the shoreline in front of the wall. Although such a wall would still result in significant adverse impacts over time through the eventual loss of lateral access and beach due to the effects of passive erosion, by minimizing the footprint and reducing the seaward encroachment of the wall, this alternative would forestall these inevitable impacts of shoreline armoring for as long a time as possible.

In response to staff's request for an alternatives analysis, the applicant reviewed the following alternatives (a copy of the full analysis of these alternatives by the applicant is provided in Exhibit N):

1) The proposed project.

2 Note that Coastal Act Section 30108 defines feasibility as follows: "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

2) Remove all riprap and construct a new concrete sculpted wall below the 18th green.
3) Leave the existing riprap as removed and stabilized by the Interim Plan.
4) Construct a seawall similar to the one built in 1973.
5) Remove all riprap and provide no bluff protection.
6) Half Moon Bay Golf Links should modify and/or relocate the 18th green.

The Commission does not concur with the analysis of alternatives provided by the applicant. Specifically, alternatives 1 through 4 will have an adverse effect on coastal resources. As discussed below, these alternatives would adversely affect shoreline processes in similar ways, resulting in the loss of beach area and sand supply. Additionally, the Commission believes that alternatives 5 and 6 are less environmentally damaging alternatives and could be implemented in such a way as to protect the continued use and function of the 18th green without significantly altering the configuration of the hole or impacting the adjacent coastal access improvements. The Commission's response to the applicant's alternatives analysis is provided below.

1) *The proposed project.*

Alternative 1, is the proposed project, and as discussed above, will result in significant adverse impacts on visual resources, would interfere with the public's right of access to the sea including the use of dry sand, and is not necessary to protect an existing structure in danger from erosion. Also, the proposed project is not the least environmentally damaging alternative available to protect the green, should that be necessary.

2) *Remove all riprap and construct a new concrete sculpted wall below the 18th green.*

Alternative 2 is a vertical seawall alternative to the proposed project. As previously discussed, an alternative such as this with a shallow cross section and minimal footprint would substantially reduce impacts to both public access and visual resources. Unlike the proposed project, such a seawall could be designed to better mimic the natural landform of the surrounding bluffs, minimize the direct loss of beach by the area covered by the wall, and would allow continued lateral access along the shoreline in front of the wall. Although such a wall would still result in significant impacts over the long term through the eventual loss of lateral access and beach due to the effects of passive erosion that would need to mitigated concurrent with the project by minimizing the footprint and reducing the seaward encroachment of the wall, this alternative would reduce some of the impacts of shoreline armoring.

However, the 18th green is not presently in danger from erosion and the Commission is not therefore required to approve a shoreline protective device. Even if an existing structure were in danger from erosion, the reconfiguration of the green in its existing location or a more substantial reconfiguration of the golf course to relocate the green further inland would avoid altogether the significant adverse impacts of the shoreline armoring, including Alternative 2. Preemptive removal of the edge of the concrete foundation underlying the green as it becomes exposed would protect the public from any hazard presented by the foundation without requiring shoreline armoring. Therefore, while Alternative 2

is not the least environmentally damaging feasible alternative, it is less damaging than the proposed project.

3) *Leave the existing riprap as removed and stabilized by the Interim Plan.*

Alternative 3 would result in essentially the same impacts to public access as the proposed project, and would significantly interfere with the public's right of access to the sea and along the shoreline. As previously discussed, the existing unpermitted riprap extends from 10 feet to 40 feet seaward of the base of the bluff blocking lateral access along the beach during most tidal stages. The proposed project would further extend the toe of the seawall another approximately 3.5 feet seaward resulting in even greater impacts to public access than Alternative 3 would. Nevertheless, the existing riprap covers approximately 5,600 sq. ft. of sandy beach and this alternative, similar to the proposed project, would substantially reduce the sandy beach area at the project site through passive erosion. As such, Alternative 3 would significantly interfere with the public's right of access along the shoreline in conflict with Coastal Act Section 30211.

Like the proposed project, Alternative 3 would significantly alter the appearance of the bluff and shoreline and would not be visually compatible with the character of the surrounding area. The 1:1 slope of this alternative would not approximate the natural slope of the bluff face in the area, which is generally steeper than the existing unpermitted riprap. Both the substantial mass and bulk of this alternative would change the slope of the bluff face, would significantly alter the appearance of the bluff and shoreline, and would not be visually compatible with the character of the surrounding area. Through passive erosion, the riprap structure proposed under Alternative 3 would gradually become more visually prominent as the surrounding shoreline recedes, further degrading the scenic quality of the area over time. In addition and as noted in the applicant's alternatives analysis, under Alternative 3 the existing riprap would not be covered with colored shotcrete and would therefore be even more visually obtrusive than the proposed project. For all of these reasons, Alternative 3 would have significant adverse impacts on visual resources in conflict with Section 30251 of the Coastal Act.

Alternative 3, similar to the proposed project, is not necessary to protect an existing structure in danger from erosion. For the same reasons discussed previously under the analysis of the proposed alternative, Alternative 3 would not be the least environmentally damaging feasible alternative available to protect the green, should that be necessary. Reconfiguration of the green in its existing location or a more substantial reconfiguration of the golf course to relocate the green further inland would avoid altogether the significant adverse impacts of the shoreline armoring, including Alternative 3. Preemptive removal of the edge of the concrete foundation underlying the green as it becomes exposed would protect the public from any hazard presented by the foundation without requiring shoreline armoring. Finally, even if shoreline armoring does become necessary to protect an existing structure in the future, a vertical or near vertical seawall designed to have a shallow profile and minimal footprint sculpted and colored to mimic the natural bluff would result in substantially reduced impacts to both public access and visual resources.

4) *Construct a seawall similar to the one built in* 1973.

Alternative 4 would result in the construction of a twelve-foot high, 24-foot long, two-foot wide concrete retaining wall at the base of the bluff below the 18th green. Alternative 4 would result in a vertical seawall substantially smaller than the proposed project, with a shallow cross section and minimal footprint and would substantially reduce impacts to public access. Unlike the proposed project, Alternative 4 would minimize the direct loss of beach by the area covered by the wall, and would allow continued lateral access along the shoreline in front of the wall. Although such a wall would still result in significant impacts over the long term through the eventual loss of lateral access and beach through the effects of passive erosion, by minimizing the footprint and reducing the seaward encroachment of the wall, this alternative would reduce these inevitable impacts of shoreline.

Alternative 4 would, however, significantly alter the appearance of the bluff and shoreline and would not be visually compatible with the character of the surrounding area. The concrete retaining wall provided by this alternative would not approximate the natural slope of the bluff face in the area, and would not be visually compatible with the character of the surrounding area. Through passive erosion, Alternative 4 would gradually become more visually prominent as the surrounding shoreline recedes, further degrading the scenic quality of the area over time. Alternative 4 would have significant adverse impacts on visual resources in conflict with Section 30251 of the Coastal Act.

As stated above, the 18th green is not presently in danger from erosion and the Commission is not therefore required to approve a shoreline protective device. Even if the green were in danger from erosion, the Commission would still not be required to approve Alternative 4 because there are other less environmentally damaging feasible alternatives.

Reconfiguration of the green in its existing location or a more substantial reconfiguration of the golf course to relocate the green further inland would avoid altogether the significant adverse impacts of the shoreline armoring, including Alternative 4. Preemptive removal of the edge of the concrete foundation underlying the green as it becomes exposed would protect the public from any hazard presented by the foundation without requiring shoreline armoring. Finally, even if shoreline armoring does become necessary to protect an existing structure in the future, a vertical or near vertical seawall sculpted and colored to mimic the natural bluff would result in substantially reduced impacts to visual resources. Although Alternative 4 is better than the proposed project, it is not the least environmentally damaging feasible alternative.

5) *Remove all riprap and provide no bluff protection*

The applicant has evaluated and rejected Alternative 5 asserting that eliminating bluff protection in this area would have significant long-term impacts on coastal resources, including:

- Undermining the concrete structure below the 18th green constructed in 1973, creating a safety hazard for the public using the beach below.
- As bluff erosion progressed landward, erosion would threaten the coastal access improvements

constructed as part of the Half Moon Bay Resort hotel (The Ritz Carlton - Half Moon Bay).

The 18th green's concrete sub-structure contains rebar and concrete footings, and a slab that is approximately 10-12 inches thick. The applicant believes that coastal users would feel threatened by the concrete overhangs of the substructure. Also, as portions fell, users of the beach would be required to walk around or over sections creating additional risk from the exposed rebar. The applicant also indicates that allowing these fallen pieces of concrete to remain on the beach would impact coastal resources and would be unsightly with jagged ends and exposed rebar.

The applicant also asserts that, under Alternative 5, bluff erosion progressing landward would threaten the coastal access improvements and that there is a limited amount of land between the bluff top and the hotel project. The applicant also believes that "(u)ltimately, bluff protection would be required to protect the existing coastal access improvements. If we were to consider the modification of the 18th green and move it landward, this would also threaten coastal path users with the increased risk of being struck by an errant golf ball."

The Commission does not concur with the applicant's analysis of Alternative 5. As discussed above, the western edge of the 18th green currently comes within approximately ten feet of the bluff edge. If the revetment were not present, the Commission Staff Geologist has concluded that the seaward edge of the green could be affected by a major erosion episode similar to ones that have occurred in the recent past (see Exhibit M). The concrete slab underlying the green would also be affected by erosion with the next major erosion episode. However, the majority of the green is setback a sufficient distance from the bluff edge to prevent any damage from bluff erosion at this time. Damage to the seaward edge of the slab and green would not render the green unsafe to occupy or use nor impair its function. As such, the Commission finds that the 18th green is not in danger from erosion and that Alternative 5 is feasible.

Furthermore, reconfiguration of the green in its existing location appears possible and would extend its use and function without need for shoreline armoring. Preemptive removal of the edge of the concrete foundation underlying the green as it becomes exposed would protect the public from any hazard presented by the foundation without requiring shoreline armoring. Should any pieces of concrete actually fall on the beach below, they could quickly be removed before they became a hazard to the public.

The Commission also rejects the applicant's assertion that the 10-foot wide coastal access pathway, located between the hotel and the green, would ultimately be threatened in the future and therefore requires shoreline protection. As shown in Exhibit E, the Ritz-Carlton Hotel is located approximately 120 feet to the east and 200 feet southeast of the green. The coastal access pathway is located between the hotel and the green, and is located approximately 70 feet from the northeast edge of the green, and approximately 50 feet from the southeast edge of the green. The pathway is located approximately 110 to 160 feet from the edge of the bluff as it passes along the eastern side of the 18th green. However, as the pathway passes to the south of the 18th green, it turns towards the bluff and comes to within approximately 10 feet of the bluff edge. At this time, the coastal access pathway is not in danger from erosion as the pathway would not be unsafe to occupy or use within the next two or three storm cycles if

there were no shoreline protective device. In accordance with the Commission Geologist's analysis the coastal access pathway, located further inland from the green, is not presently in danger from erosion.

As discussed above, Alternatives 5 can be implemented in such a way as to protect the continued use and function of the 18th green. The proximity of the hotel structure and the coastal access improvements between the hotel and the 18th green provide some constraints, but, as described above, space exists for adjustment of the location of the 18th green inland, away from the bluff and eliminating the need for shoreline protection. A minor realignment of the 18th green 20-30 feet inland towards the northeast would allow continued use and function of the 18th green while maintaining an approximately 40 to 50-foot buffer from the coastal access pathway. Additional measures such as signage and public education measures, fencing or safety screening, among others, can reduce the potential for the possibility of errant golf balls striking coastal access users and hotel guests. Additionally, Alternative 5 would not interfere with the public's right of access to the sea and along the shoreline, nor impact the visual and scenic resources in the area. As such, the Commission finds that Alternative 5 is the least environmentally damaging feasible alternative.

6) *Half Moon Bay Golf Links should modify and/or relocate the 18th green.*

The applicant has evaluated and rejected Alternative 6 asserting that modifying or relocating the 18th green would:

- not alleviate the potential problems with the concrete sub-structure of the 18th green and the bluff erosion in this area.
- impact the "signature" hole for the golf course.

According to the applicant,

> "(a) signature hole is usually described as the best and/or most memorable hole on a golf course. In this case, it is even more important. The 18th greenhole of the HMBGL has been named as one of the best 100 holes in the country by Golf Magazine. This distinction is very rare and unique. This hole has been favorably compared to the famous 18th greenhole at Pebble Beach Golf Links. The 18th holegreen has garnered such fame and prominence that visitors from all over the country identify this hole as one of the main reasons to play HMBGL. … The value to HMBGL to have our golfers end their golf round on a hole that has received such acclaim and notoriety is immeasurable. *(We should note that the HMBGL is an important visitor serving use open to the public and a significant factor in drawing individuals to the San Mateo coast.)*
>
> "The original architects identified the beauty and challenge of this golf hole. In fact, as described above, the architects and developers clearly understood the value of this golf hole and implemented the shoreline protection systems including the seawall and the concrete structure for the 18th holegreen. The 18th holegreen as part of this golf hole with its proximity to the bluff top and the ocean below is equally unparalleled. The Half Moon Bay Resort designed important

components of their public space and hotel rooms to take advantage of this landscape. The exterior patios enjoyed by hotel guests and coastal visitors were also designed to view the green. Again, many of the reviews and articles written about the Ritz Carlton - Half Moon Bay discuss the views of the 18th holegreen and the ocean beyond. The value of the 18th holegreen in its current location and design is invaluable to Ocean Colony Partners. The modification and/or relocation of the 18th holegreen would have such a negative impact that it should not be considered a viable option.

"Beyond the important economic factors for maintaining the 18th holegreen in its current configuration, the opportunity for relocating or modifying the hole is very limited. The proximity of the hotel structure and, as raised above, the coastal access improvements between the hotel and the 18th holegreen leave very little space for any relocation. In addition, if the hole was brought closer to the coastal access trail and the hotel structure including the exterior patios, the possibility of errant golf balls striking coastal access users and hotel guests would be increased. This coastal trail is connected to the coastal access improvements of the South Wavecrest project and provides a further link to the north and the south for potential extensions of the local coastal trail. In fact, the Commission revised the original proposal of the Half Moon Bay Resort to locate the coastal access trail from the landward side of the resort to the to the ocean side of the hotel. They clearly intended the coastal users to have a safe, unobstructed view of the ocean and bluff areas. Therefore, any potential modification would only adversely impact existing coastal improvements and users and would be limited in scope given the existing structures of the hotel and coastal trail."

The Commission does not concur with the applicant's analysis of Alternative 6. Consistent with the Commission's geologist determination, the Commission finds that the 18th green is not in danger from erosion requiring shoreline armoring to continue its use and function. Additionally, if in the future the 18th green is endangered by bluff erosion, a minor realignment of the 18th green and relocation 20-30 feet inland towards the northeast may allow for the continued use and function of the 18th green, without significantly altering the configuration or aesthetic appeal of the 18th hole for golfers or hotel guests, nor impact the views and scenic resources in the area. Such realignment would maintain an approximately 50-foot buffer from the coastal access pathway, which currently exists near the southeast edge of the green. Additional measures such as signage and public education measures, fencing or safety screening, among others, could reduce the potential for the possibility of errant golf balls striking coastal access users and hotel guests. A minor realignment under this alternative would not require shoreline armoring and would be a less environmentally damaging alternative than the proposed project for the reasons previously discussed.

The Proposed Seawall Will Not Mitigate Adverse Impacts on Shoreline Sand Supply

As shown above, the Commission is not required to approve the proposed seawall pursuant to Coastal Act Section 30235 because: (1) the 18th green is not in danger from erosion and (2) because the proposed seawall is not the least environmentally damaging alternative. However, even if the 18th green was in danger from erosion and the proposed seawall was the least environmentally damaging feasible

alternative means to protect the green, the Commission would still not be required to permit the proposed seawall under Coastal Act Section 30235 because it is not designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Some of the effects that the proposed seawall would have on the local shoreline sand supply can be quantified. Three of the effects from the proposed seawall that can be quantified are 1) loss of the beach area on which the structure is located; 2) the long-term loss of beach which will result when the back beach location is fixed on an eroding shoreline; and 3) the amount of material which would have been supplied to the beach if the back beach or bluff were to erode naturally.

According to the geotechnical report (Bay Area Geotechnical Group 2002), which examined bluff retreat adjacent to the 18th green by photogrammetric analysis, the bluff retreated approximately 30 feet in the ten years between 1963 and 1973, apparently largely as the result of a dramatic erosion event in the winter of 1972-1973. Since 1973 and until the site was armored in 1998, an additional 10 to 15 feet of erosion occurred. The report indicates that the long-term average erosion rate (1963 to 2000) is 0.75 feet per year, but most erosion seems to have been highly episodic. As previously discussed, erosion behind the seawall constructed as part of the construction of the 18th green in 1973 resulted in failure both of the seawall and a portion of the concrete slab beneath the green, and lead to the placement of the riprap now present at the site.

According to the geotechnical report, which examined bluff retreat adjacent to the 18th green by photogrammetric analysis, the bluff retreated approximately 30 feet in the ten years between 1963 and 1973, apparently largely as the result of a dramatic erosion event in the winter of 1972-1973. Since 1973 and until the site was armored in 1998, an additional 10 to 15 feet of erosion occurred. The report indicates that the long-term average erosion rate (1963 to 2000) is 0.75 feet per year, but most erosion seems to have been highly episodic. Erosion behind the seawall constructed as part of the construction of the 18th green in 1973 resulted in failure both of the seawall and a portion of the concrete slab beneath the green, and lead to the placement of the riprap now present at the site.

According to the applicant, the proposed 270 linear feet of seawall will cover approximately 6,675 square feet of beach area, extending approximately 24 feet onto the beach from the bluff. Assuming that shoreline erosion rates stay constant at the current erosion rate of 0.75 feet per year, passive erosion will reduce the beach width seaward of the 18th green by at least 37 feet within 50 years, and by approximately 52 feet within 70 years. Since the beach width at low tide varies between 10 and 70 feet wide, the beach in front of the seawall will be mostly removed within 50 years, and could be completely lost within 70 years.

Based on review of the proposed seawall application, the Commission finds that the following impacts on beach sand supply would result from construction of the proposed seawall: the proposed seawall, which is approximately 270 ft. long by 24 feet wide at the base, will encroach onto and permanently displace an estimated 6,675 sq. ft. of public beach area that is currently available for public use. Through passive erosion, additional public beach in front of the seawall will also be permanently lost. Assuming that shoreline erosion rates stay constant at the current erosion rate of 0.75 feet per year, passive erosion will reduce the beach width seaward of the 18th green by at least 37 feet within 50 years,

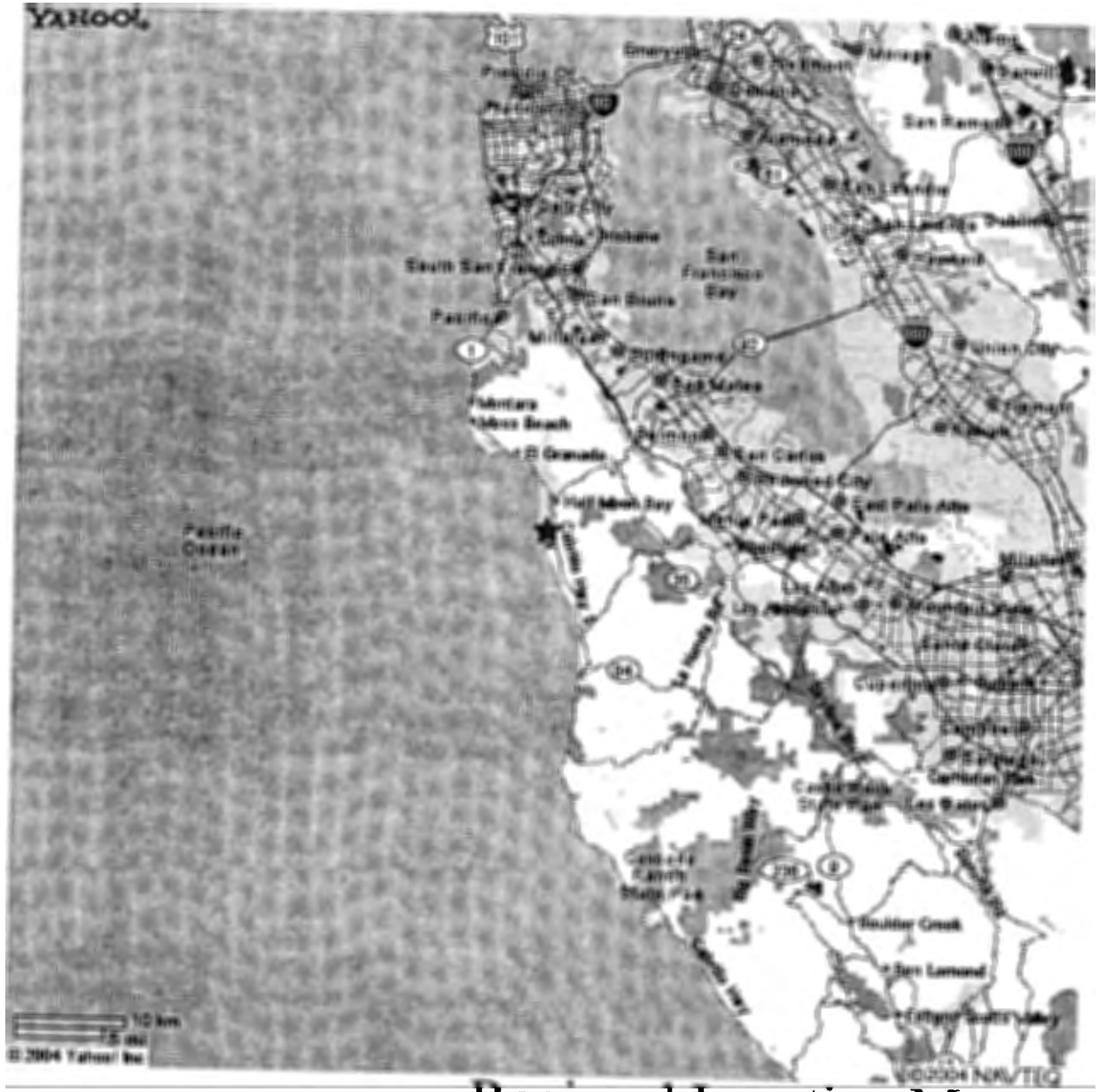
resulting in the permanent loss of another 9,990 sq. ft. of public beach. The combined loss of public beach resulting from the area displaced by the seawall (6,675 sq. ft) and passive erosion (9,990 sq. ft.) will result in the loss of 16,665 sq. ft. of public beach over 50 years (approximately 1/3 acre). Finally, a sand supply study supplied by the applicant indicates that approximately 40 cubic yards of beach quality sand will be deprived from the beach annually over the life of the seawall due to the seawall's alteration of the natural erosion of the bluff. The Commission also finds that there are other alternatives available that could reduce the risk from erosion, while not requiring the construction of shoreline altering structures and their associated impacts on beach sand supply. Such alternatives include, but are not limited to, minor reconfiguration of the green in its existing location or more substantial reconfiguration of the golf course to relocate the green further inland. Preemptive removal of the edge of the concrete foundation underlying the green as it becomes exposed would protect the public from any hazard presented by the foundation without requiring shoreline armoring.

In summary, while it is clear that the toe of the bluff below the 18th green is subject to wave action, the applicants have not documented that the 18th green complex is in present danger from erosion or subsequent bluff failure such that a seawall is the only feasible alternative, and is therefore required. Thus, the Commission is not required to approve the proposed development. In addition, as noted above, the proposed seawall will deplete sand supply, occupy public beach and fix the back of the beach. Additionally, there are other less damaging alternatives available to reduce the risk from bluff erosion and allow the continued use and function of the 18th green. Therefore, the Commission finds that the proposed seawall is not required to be permitted pursuant to Section 30235.

California Environmental Quality Act (CEQA)

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project is inconsistent with the visual quality, shoreline processes, public access, and recreation policies of the Coastal Act. As detailed above, There are a variety of less-environmentally damaging feasible alternatives available to address the applicant's concerns including a vertical seawall, signage and public education measures to reduce the risk to the public, minor reconfiguration of the green in its existing location or more substantial reconfiguration of the golf course to relocate the green further inland. Preemptive removal of the edge of the concrete foundation underlying the green as it becomes exposed would protect the public from any hazard presented by the foundation without requiring shoreline armoring. Therefore, the Commission finds that the proposed project is not the least environmentally-damaging feasible alternative and cannot be found consistent with the requirements of the Coastal Act to conform to CEQA because there are feasible alternatives and mitigation measures which would lessen significant adverse impacts that the proposed project would have on the environment.



Regional Location Map

EXHIBIT NO. A
APPLICATION NO. 2-02-028
OCEAN COLONY PARTNERS

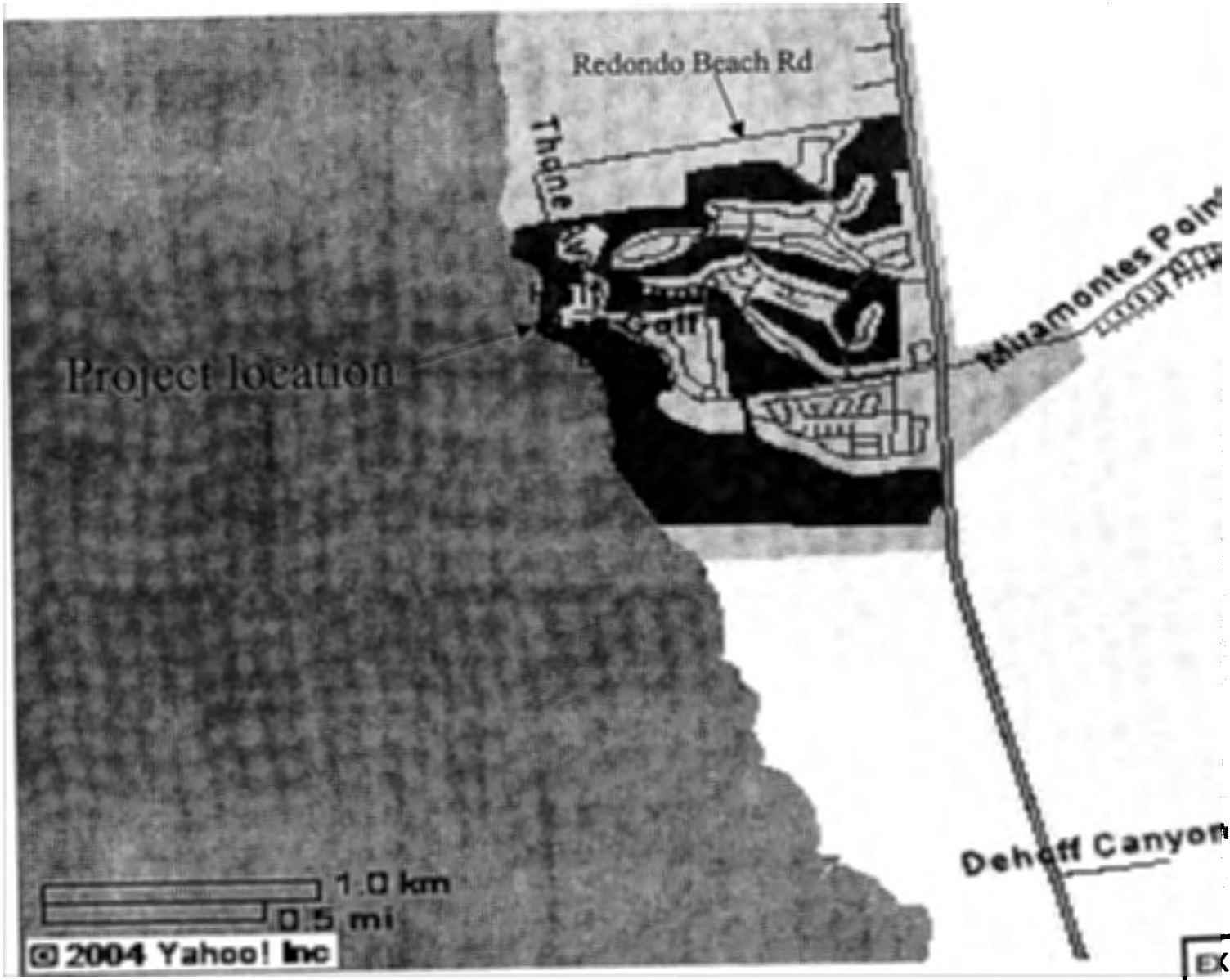
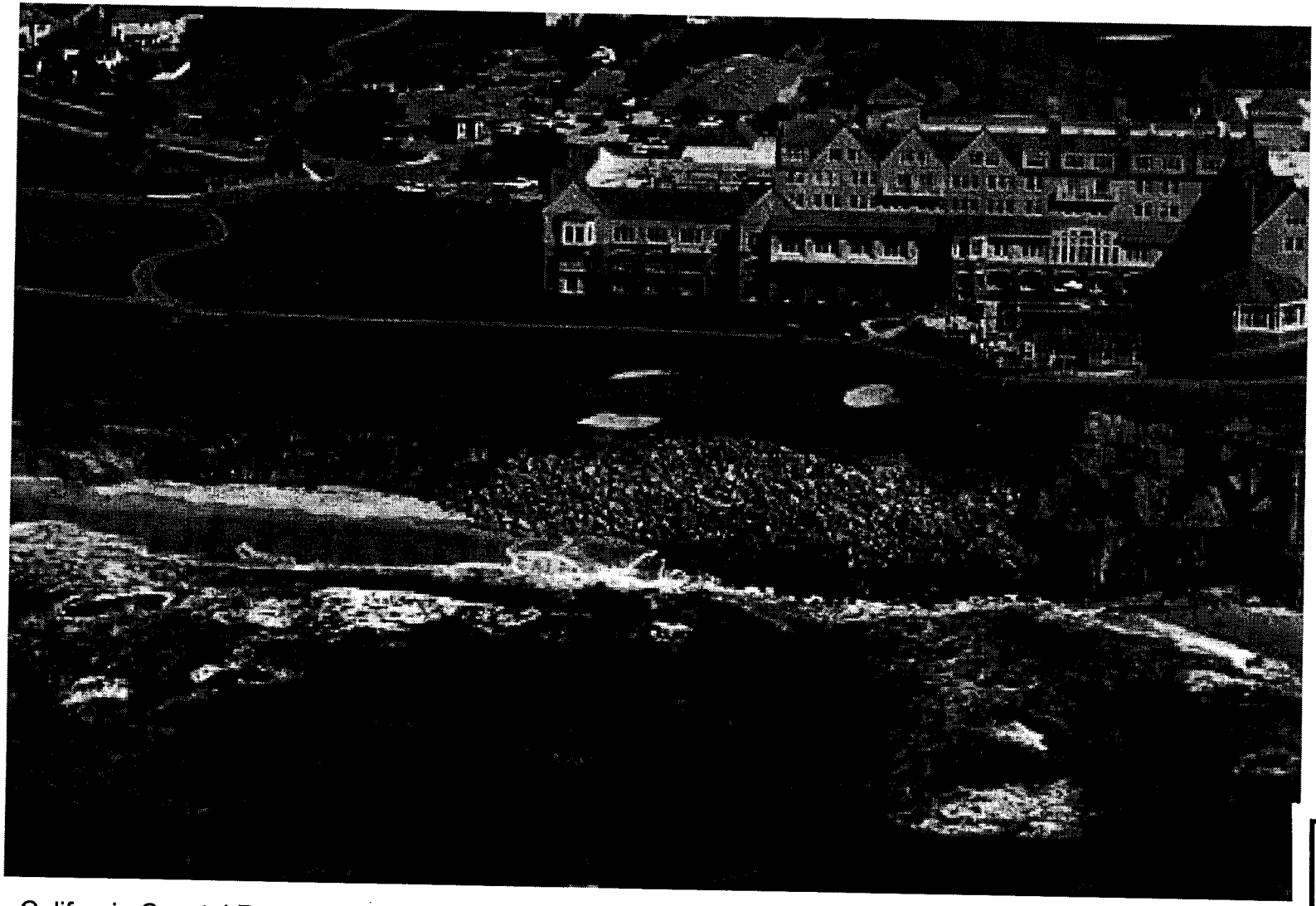


EXHIBIT NO. B
APPLICATION NO. 2-02-028
OCEAN COLONY PARTNERS

Oblique aerial photograph of the project site - September 2004



California Coastal Records Project N37 26.01 W122 26.80 Image 200400744 Tue Sep 21 14:26:05 2004

EXHIBIT NO. C
APPLICATION NO. 2-02-028
OCEAN COLONY PARTNERS

Aerial Photograph showing original seawall, May 1973

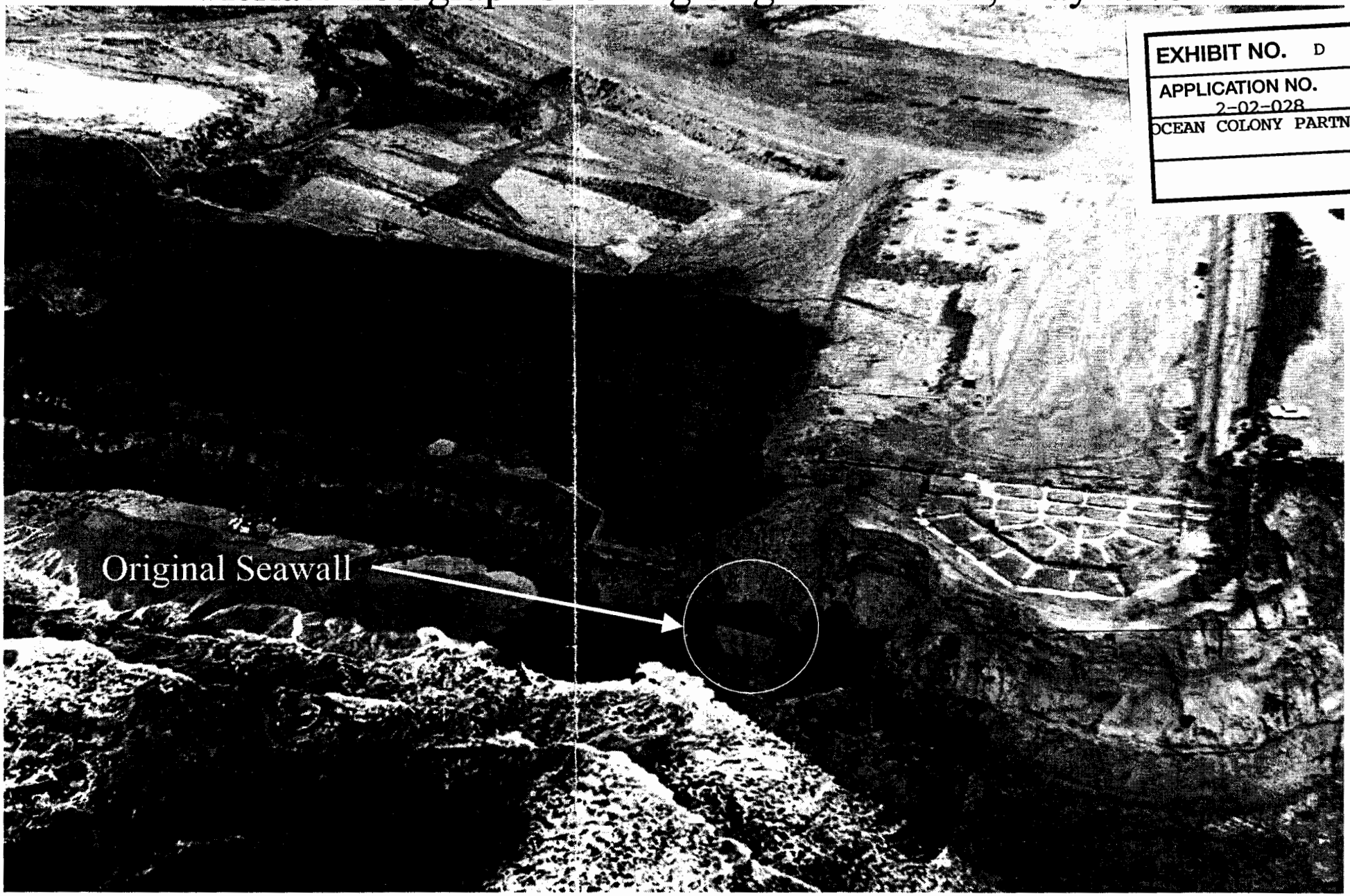


EXHIBIT NO. D
APPLICATION NO. 2-02-028
OCEAN COLONY PARTNERS

Vertical aerial photograph of project site

EXHIBIT NO. E
APPLICATION NO. 2-02-028
OCEAN COLONY PARTNERS
2004

CITY OF HALF MOON BAY

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

May 22, 2002

Ms. Jo Ginsberg
Enforcement Manager
Statewide Enforcement Program
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Dear Ms. Ginsberg:

This letter is being sent pursuant to Government Section 30810(a) (1), to authorize the California Costal Commission to act on behalf of the City of Half Moon Bay with respect to the violation of the Coastal Act regarding the placement of rip-rap granite below the 18th green of the Ocean Colony golf course properties during the winter of 1998/1999. The placement of such rip-rap was not pursuant to a valid Coastal Development Permit.

It is hoped that the enforcement proceedings of the Coastal Commission may prompt the property owner or his representative o correct this violation.

The City hereby requests the Coastal Commission to act on behalf of the City pursuant to section 30810(a) (1) regarding the violation of the Coastal Act at the 18th green of the Ocean Colony properties.

The Half Moon Bay City Council would like to be kept informed of these proceedings. Thank you for your assistance in this matter.

Sincerely,

Peter A. Cosentini
City Manager

cc: City Council
Ken Curtis
Adam Lindgren

EXHIBIT NO. F
APPLICATION NO. 2-02-028
OCEAN COLONY PARTNERS

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

TH 4

Staff: SMR - SF
Staff Report: September 20, 2002
Hearing Date: October 10, 2002
CCC Action: **Approved with modifications 9-0**

ADOPTED FINDINGS FOR CONSENT AGREEMENT AND CEASE AND DESIST ORDER

CONSENT AGREEMENT AND CEASE AND DESIST ORDER: CCC-02-CD-02

RELATED VIOLATION FILES: V-1-99-03

PROPERTY LOCATION: 2450 South Cabrillo Highway, Half Moon Bay, San Mateo County APN 066-092-720 **(Exhibit 1)**

DESCRIPTION OF PROPERTY : Coastal property in Half Moon Bay west of Highway 1, between Redondo Beach Drive and Miramontes Point Road.

PROPERTY OWNER: Ocean Colony Partners, L.P.

AGENTS/REPRESENTATIVES: Patrick Fitzgerald
Executive Vice President
Ocean Colony Partners
2002 Fairway Drive
Half Moon Bay, CA 94019

Tom Jamison, Esq.
Fenton & Keller, Attorneys at Law
2801 Monterey-Salinas Highway
Monterey, CA 93942

VIOLATION DESCRIPTION: Unpermitted construction of riprap revetment on bluff face and beach below the 18th Hole of the Half Moon Bay Golf Links.

SUBSTANTIVE FILE DOCUMENTS: Consent agreement and cease and desist order file No. CCC-02-CD-02
Background exhibits 1 through 17

CEQA STATUS: Exempt (CEQA Guidelines (CG) §§ 15061 (b) (1) and (3)) and Categorically Exempt (CG §§ 15061 (b) (2), 15037, 15038 and 15321)

EXHIBIT NO. G
APPLICATION NO. 2-02-028
OCEAN COLONY PARTNERS

I. SUMMARY

Commission staff contends that Ocean Colony Partners, L.P. (Ocean Colony) has undertaken development (as that term is defined in Section 30106 of the Coastal Act) without a coastal development permit in violation of Section 30600 of the Coastal Act. This development consists of the construction of an unpermitted rock revetment located on the bluff top, bluff face, and on the beach below the 18th Hole at Half Moon Bay Golf Links. The rock revetment was constructed during the winter of 1998/1999.

The terms of the proposed Consent Agreement and Cease and Desist Order would require the immediate removal of approximately half of the unpermitted riprap to restore public access along the sandy beach consistent with an approved plan, and would authorize interim retention of the remainder of the riprap, conditioned on the timely submission by Ocean Colony of a complete CDP application for a proposed replacement shoreline/bluff protective structure. To mitigate in part the adverse impacts on public access that have occurred because of the riprap, the Consent Agreement and Cease and Desist Order requires Ocean Colony to construct a public beach access path and stairway at the end of Redondo Beach Road and to contribute funds for the maintenance of the stairway as proposed by Ocean Colony.

Commission staff is recommending that pursuant to Coastal Act Section 30810, the Commission issue a consent agreement and cease and desist order (hereinafter referred to as "Consent Order") to resolve the violations.

II. HEARING PROCEDURES

In light of Ocean Colony's desire to resolve the violation through a Consent Order, Ocean Colony has agreed to waive its right to a hearing to contest the Coastal Act violation alleged in the notice of intent (NOI) dated June 20, 2002 and agree to a hearing solely for the purpose of authorizing this Consent Order. The procedures for a hearing on a proposed Cease and Desist Order are outlined in Section 13185 of the California Code of Regulations (CCR), Title 14, Division 5.5, Chapter 5, Subchapter 9. The hearing procedures are similar in most respects to the procedures that the Commission utilizes for permit and LCP matters.

III. RESOLUTION OF ISSUANCE

On October 10, 2002, the Commission voted to issue Consent Agreement and Cease and Desist Order No. CCC-02-CD-02, with the following modifications:

1. Insert to Exhibit 16, Page 5:

   New paragraph 1.9(f): If the Executive Director determines it is necessary, Ocean Colony shall work with the Coastal Conservancy, and, if necessary, have the Coastal Conservancy become the applicant for the project. Therefore, the path and stairway project (referenced in this Section 1.9) would be a project of the Coastal Conservancy. In such an event, Ocean Colony's other obligations to fund and construct this project remain in place.

2. Renumber old paragraph 1.9(f) to be 1.9(g).

3. On Page 5 of Exhibit 16, in Section 1.9(e), the reference to 1.7 should be 1.9.

RESOLUTION TO ISSUE CEASE AND DESIST ORDER:

The Commission hereby issues Consent Agreement and Cease and Desist Order No. CCC-02-CD-02 set forth in Exhibit 16 of this report and adopts the findings set forth below on grounds that development has occurred without a coastal development permit and is inconsistent with Chapter 3 policies of the Coastal Act.

IV. ADOPTED FINDINGS

A. DESCRIPTION OF UNPERMITTED DEVELOPMENT

Ocean Colony has undertaken development (as that term is defined in Section 30106 of the Coastal Act) without a coastal development permit (CDP) in violation of Section 30600 of the Coastal Act. This development consists of the construction of an unpermitted rock revetment located on the bluff top, bluff face, and on the beach below the 18th Hole at Half Moon Bay Golf Links. The rock revetment was constructed during the winter of 1998/1999.

B. BACKGROUND AND ATTEMPTS AT ADMINISTRATIVE RESOLUTION

Construction of the 18th Hole of the Half Moon Bay Links in 1973 included a concrete slab along the top edge of the bluff supporting the seaward edge of the 18th Hole turf and a twelve-foot high, 24-foot long, two-foot wide concrete retaining wall at the base of the bluff below the 18th Hole (**Exhibit 2**). Bluff erosion gradually undermined the concrete slab and by 1995 portions of the concrete slab were exposed and hanging over the beach. Portions of the hanging slab broke off and fell to the beach during the winter of 1995-1996. Portions of the original concrete slab are still evident in a 1999 photograph of the site (**Exhibit 3**).

On July 27, 1996, the City of Half Moon Bay[1] granted CDP 08-96 for repairs along the bluff at the 18th Hole, authorizing the placement of riprap backfill behind the concrete retaining wall and on the bluff face, and repair of the blufftop concrete slab as originally constructed. Project plans indicated that the area approved in CDP 08-96 for riprap covered an area of approximately 1,700 square feet, and no riprap was to be placed on the beach. The City staff report indicated that as permitted in 1996, no sandy beach area would be lost and that the approved project limits would not exceed anything originally constructed or currently in place.

In August of 1998, Ocean Colony submitted to the City of Half Moon Bay plans for additional bluff stabilization measures along the 18th Hole. A September 10, 1998 letter from the City's planning director at that time indicated that the work as proposed was exempt from coastal permitting because it "would not result in an addition to, or an enlargement or expansion of, the green repair authorized by CDP 08-96" (**Exhibit 4**).

The Coastal Commission initially received reports of an alleged Coastal Act violation near the 18th Hole of Half Moon Bay Links in January 1999. Commission staff visited the site and verified that riprap had been placed on the beach, apparently within the Commission's permit jurisdiction, and along the bluff face. A photograph taken in 2002 depicts the extent of the riprap (**Exhibit 5**). In a letter to Ocean Colony dated January 13, 1999, Commission staff explained that any portion of the development within the Commission's jurisdiction required a CDP from the Commission (**Exhibit 6**). Ocean Colony responded

[1] The Implementation portion of the City of Half Moon Bay's Local Coastal Program (LCP) was certified on December 13, 1995 and it assumed permit-issuing authority on April 24, 1996.

in a letter dated January 29, 1999 that it had received an exemption from the City for the repair work (**Exhibit 7**). On February 17, 2000 the Commission sent another letter to Ocean Colony, explaining that the portion of the riprap on the beach at the base of the bluff required a permit from the Coastal Commission and requesting that Ocean Colony submit a CDP application to the Commission by March 10, 2000 (**Exhibit 8**).

In a letter dated February 24, 2000 from the City of Half Moon Bay to Ocean Colony, City staff stated that the repair work performed by Ocean Colony in 1998 was not in compliance with the 1998 plans that the City had determined to be exempted from the coastal permitting requirements of the LCP (**Exhibit 9**). The City found that Ocean Colony did not install the work as proposed, but installed riprap only, covering a substantially more extensive area than was indicated on the proposed plans. The City stated that the work performed by Ocean Colony in 1998 was therefore not exempt, but rather was in violation of the City's Municipal Code. The City directed Ocean Colony to apply for a retroactive CDP, and noted that the Coastal Commission staff had also recently contacted Ocean Colony regarding the portion of the unpermitted riprap located in Commission's permit jurisdiction also requiring a CDP.

After correspondence and debate between Ocean Colony and Commission staff regarding the location of the Mean High Tide Line (MHTL) and the location of the respective permit jurisdictions, the Commission staff informed Ocean Colony that the exact location of the MHTL was not a critical point, because the City and the Commission staff were in concurrence that all of the riprap placed in 1998 was unpermitted and required a CDP. In a letter dated February 2, 2001, the Commission staff directed Ocean Colony to submit a CDP application to the City by March 15, 2001 for the portion of the development located in the City's jurisdiction, and then within 60 days of permit action by the City, to submit a CDP application to the Commission for that portion of the development located in the Commission's jurisdiction (**Exhibit 10**). The Commission staff indicated to Ocean Colony that its applications should be for either retention or removal of the unpermitted development.

On March 14, 2001, Ocean Colony submitted a CDP application to the City of Half Moon Bay, proposing partial removal and partial retention of the riprap that was installed in 1998. On April 5, 2001, the City informed Ocean Colony that its application was incomplete and requested (among other information) project plans indicating 1) the amount and location of riprap initially placed in 1996 pursuant to CDP 08-96, 2) the portion of the riprap subsequently placed in 1998 that Ocean Colony proposed to retain, and 3) the portion it proposed to remove. The City sent a second letter to Ocean Colony on July 23, 2001 informing it that the application was still incomplete (**Exhibit 11**).

On August 30, 2001, Ocean Colony submitted modified plans to the City of Half Moon Bay, proposing to construct a vertical sea wall covered with shotcrete in addition to the plans for partial removal and partial retention of the existing riprap. In October 2001, the Commission staff learned that City staff had determined that Ocean Colony's modified proposal for a vertical seawall and riprap would require California Environmental Quality Act (CEQA) review, and that the City would not be able to act on issuing a permit for approximately one year. Since this would significantly delay resolution of the violation, on March 11, 2002, Commission staff directed Ocean Colony to submit by April 11, 2002 its application for a CDP for removal or retention of the portion of the riprap in the Commission's jurisdiction to address the outstanding violation, rather than waiting first for local approvals as previously directed (**Exhibit 12**). On December 21, 2001, Ocean Colony submitted a Waiver of Legal Argument form to the Commission staff, stating its wish to resolve the matter administratively (**Exhibit 13**).

In a letter to the Commission dated May 22, 2002, the City of Half Moon Bay formally requested that the Commission assume the primary enforcement role in resolving the violation regarding the unpermitted riprap that had been installed in 1998 in both the City's and the Commission's jurisdictions (**Exhibit 14**).

The City reiterated that the riprap installed by Ocean Colony in 1998 was not placed pursuant to a valid CDP.

C. SUMMARY OF PERMITTED DEVELOPMENT

Construction of the 18th Hole of Half Moon Bay Golf Links in 1973 consisted of a concrete slab along the top edge of the bluff supporting the seaward edge of the 18th Hole turf and a twelve-foot high, 24-foot long, two-foot wide concrete retaining wall at the base of the bluff below the 18th Hole. In 1996, CDP 08-96 authorized the placement of riprap behind the concrete retaining wall and on the bluff face. CDP 08-96 also authorized reconstruction of the concrete slab along the top edge of the bluff. Development aside from the 12x24 foot concrete retaining wall, concrete slab supporting the 18th Hole turf, riprap behind the concrete retaining wall and concrete slab repairs performed pursuant to CDP 08-96 is unpermitted development. The riprap placed in 1998 is not permitted development and is not exempt from permitting requirements. Additionally, it should be noted that even if the original development is exempt, repair and maintenance work to that structure requires a CDP.

D. BASIS FOR ISSUANCE OF CEASE AND DESIST ORDER

The statutory authority for issuance of the proposed cease and desist order is provided in §30810 of the Coastal Act, which states, in relevant part:

> *(a) If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist. The order may also be issued to enforce any requirements of a certified local coastal program or port master plan, or any requirements of this division which are subject to the jurisdiction of the certified program or plan, under any of the following circumstances:*
>
> *(1) The local government or port governing body requests the commission to assist with, or assume primary responsibility for, issuing a cease and desist order.*
>
> (b) *The cease and desist order may be subject to such terms and conditions as the commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material or the setting of a schedule within which steps shall be taken to obtain a permit pursuant to this division.*

The development was performed without obtaining the required CDP. The unpermitted development is also inconsistent with Chapter 3 policies of the Coastal Act, specifically Sections 30210-30211 and 30240(b) (Public Access and Recreation), Sections 30235 and 30253(2) (Natural Shoreline and Landform Alteration), and Section 30251 (Visual Quality).

E. DEFENSES: MITIGATION FACTORS/REBUTTAL EVIDENCE

By letter dated June 20, 2002, Commission staff issued a notice of intent (NOI) to conduct cease and desist and restoration order proceedings for the unpermitted revetment on the property. While Ocean Colony initially submitted a Statement of Defense form to the Commission in response to the NOI, Ocean Colony representatives and Commission staff met on August 2, 2002 to discuss possible terms for a Consent Order to resolve the Coastal Act violation regarding the riprap. Ocean Colony provided plans drafted by its engineers proposing immediate removal of the maximum amount of riprap possible to

restore public access while maintaining the stability of the concrete slab underneath the 18th Hole. Ocean Colony proposed to grout the remaining riprap for interim retention during the review of its pending CDP application for a proposed replacement shoreline/bluff protective structure. In a letter dated September 19, 2002, (**Exhibit 15**), Ocean Colony subsequently withdrew the Statement of Defense that it had originally submitted in response to the NOI. Commission staff and Ocean Colony have agreed upon terms for the proposed Consent Order (**Exhibit 16**). As part of the Consent Order, Ocean Colony has proposed to construct a public access stairway and improve the existing informal pathway from the parking lot at the end of Redondo Beach Road to the beach in Half Moon Bay as generally depicted in the conceptual plans submitted by Ocean Colony dated September 12, 2002 (**Exhibit 17**). In recognition of the value of resolving this matter in a timely manner and for the purposes of agreeing to the issuance and enforcement of the Consent Order, the parties agree not to raise contested allegations, defenses, mitigating factors, rebuttal evidence and other unresolved issues pursuant to California Code of Regulations Section 13183.

Exhibits

1. Site Map and Location.
2. 1973 photograph of site showing 12-foot tall, 24-foot wide concrete seawall at base of bluff.
3. January 1999 photograph of site showing concrete slab at top of bluff.
4. Letter dated September 10, 1998 from City of Half Moon Bay to Ocean Colony.
5. May 2002 photograph of site showing riprap on bluff face and beach along the 18th Hole of the Half Moon Bay Golf Links.
6. Notice of violation letter dated January 13, 1999 from Commission to Ocean Colony.
7. Letter dated January 29, 1999 from Ocean Colony to Commission claiming that the City of Half Moon Bay exempted 1998 installation of riprap.
8. Letter dated February 17, 2000 from Commission to Ocean Colony requesting that Ocean Colony submit a CDP application to the Commission by March 10, 2000.
9. Letter dated February 24, 2000 from City of Half Moon Bay to Ocean Colony explaining that the riprap placed 1998 was not exempt from coastal development permit requirements.
10. Letter dated February 2, 2001 from Commission to Ocean Colony describing jurisdictional boundaries and requesting that Ocean Colony submit a CDP application to the City of Half Moon Bay by March 15, 2001.
11. Letter dated July 23, 2002 from City of Half Moon Bay to Ocean Colony reiterating request for completion of CDP application.
12. Letter dated March 11, 2002 from Commission to Ocean Colony requesting that Ocean Colony apply to the Commission for removal or retention of the portion of the unpermitted riprap within the Commission's permit jurisdiction.
13. Waiver of Legal Argument form sent by Ocean Colony to Commission dated December 21, 2001.
14. Letter dated May 22, 2002 from City of Half Moon Bay to Commission, formally requesting that Commission enforce permit requirements for the riprap located in both the City's and the Commission's jurisdictions.
15. Letter from Ocean Colony dated September 19, 2002 withdrawing Statement of Defense.
16. Consent Agreement and Cease and Desist Order No. CCC-02-CD-02.
17. Conceptual plans for proposed public access path and stairs submitted by Ocean Colony dated September 12, 2002.

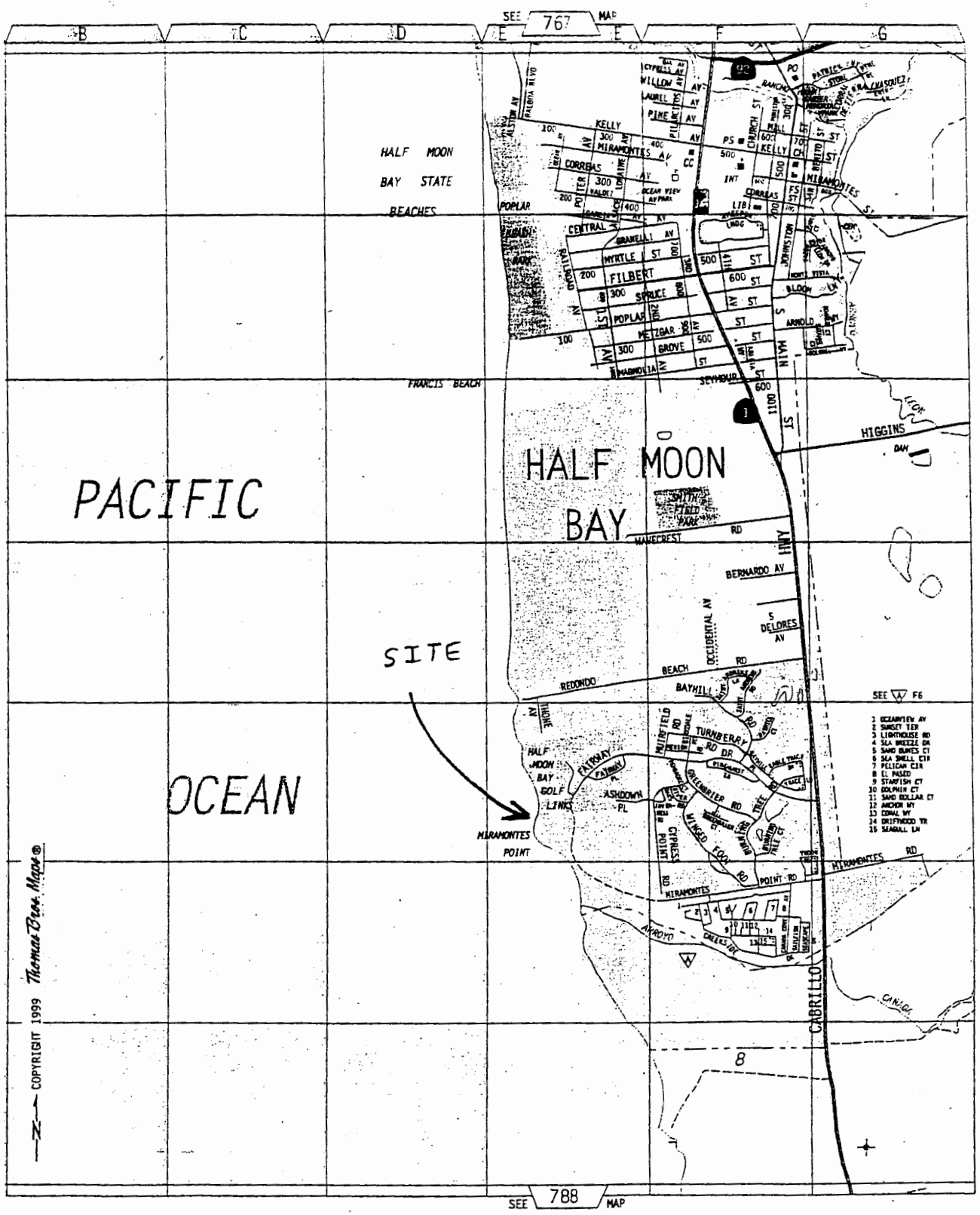


Exhibit 1
CCC-02-CD-02 (Ocean Colony Partners)

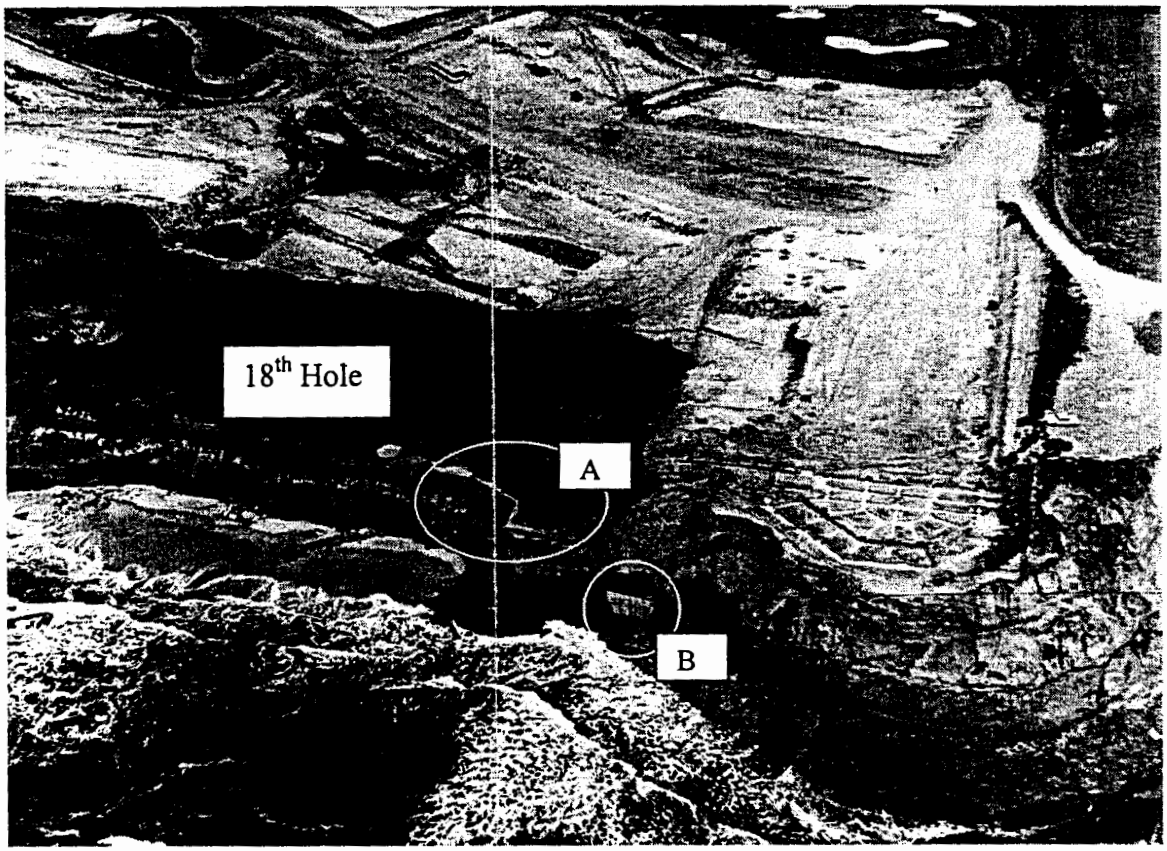


Exhibit 2. 1973 aerial photograph looking generally east towards the 18th Hole at Half Moon Bay Golf Links. The white oval labeled A by staff is drawn around the area where the edge of the concrete slab supporting the 18th Hole turf is visible as a thin gray line. The white circle labeled B by staff is drawn around the 12-foot high, 24-foot long concrete retaining wall at the base of the bluff, below the south end of the 18th Hole.

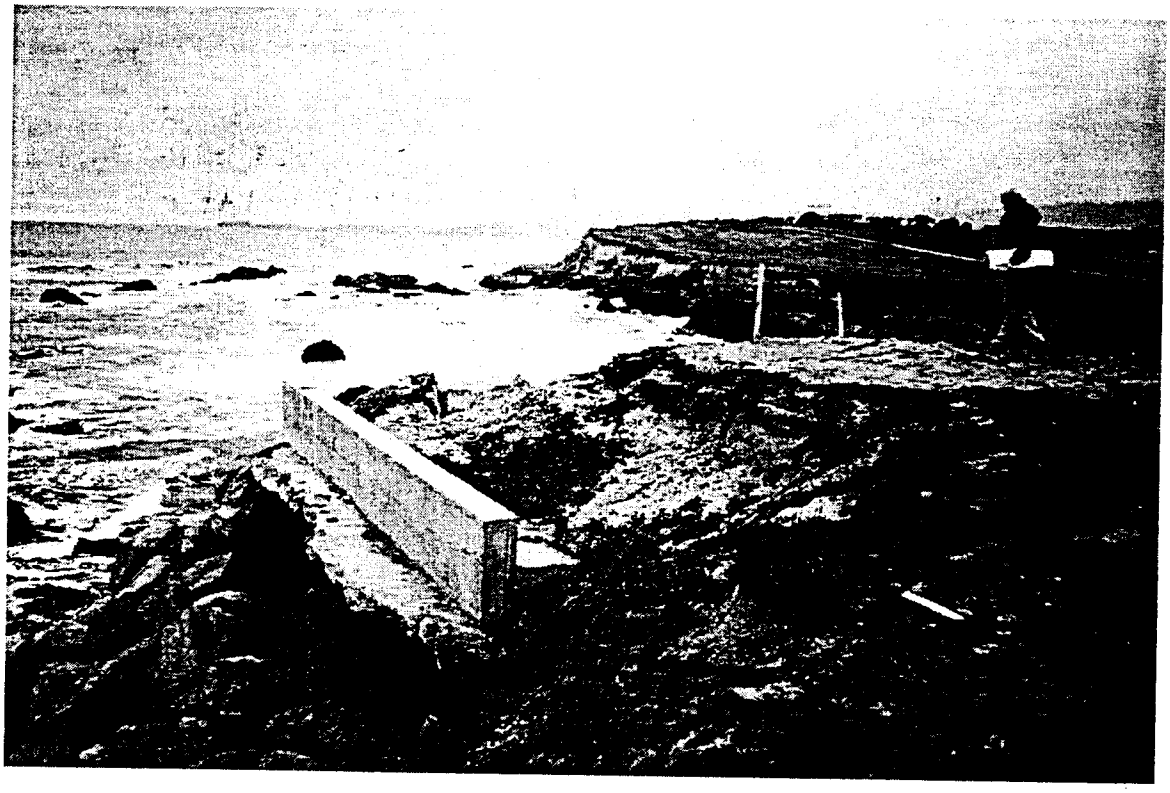


Exhibit 3. 1999 photograph of bluff edge at the southern end of the 18th Hole at Half Moon Bay Golf Links.

CITY OF HALF MOON BAY

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

September 10, 1998

Mr. Bill Barrett
Ocean Colony Partners
2002 Fairway Drive
Half Moon Bay, CA 94019

Subject: Coastal Development Permits for the 18th Green and Tee Reconstruction

Dear Mr. Barrett:

The purpose of this letter is to follow up on the conversation about the Coastal Development Permit processing for the repair and maintenance of the18th tee box and the 18th green of September 8, 1998.

A Coastal Development Permit (CDP-08-96) for repair of storm damage on the 18th green was processed on June 27, 1996. The Planning Department has determined that the current requested storm damage repair would not result in an addition to, or enlargement or expansion of, the green repair permitted in CDP-08-96, and is exempt from further coastal permitting.

Please submit the technical drawings to the Building Department for a determination of whether a grading permit will be required for this activity prior to commencement of the work.

Our records indicate that no coastal permitting has been processed for repair of the 18th tee box. A Coastal Development Permit will be required for this activity. Some part of the tee box repair may be performed below mean high water, an area that is an original jurisdiction of the Coastal Commission. We need to

schedule a meeting to determine whether the Coastal Development Permit will be processed by the Coastal Commission or the City of Half Moon Bay.

If you have any questions, please feel free to call.

Sincerely,

Anthony J. "Bud" Carney, AICP
Planning Director

AJC/bas

Cc: Gary Whelan, Half Moon Bay Building Official

Exhibit 5. 2002 aerial photograph looking generally east towards the 18th Hole at Half Moon Bay Golf Links. Note that riprap extends across sandy beach.

STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION
NORTH COAST AREA
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
(415) 904-5260

NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL ACT

January 13, 1999
CERTIFIED and REGULAR MAIL

Pat Fitzgerald
Ocean Colony Partners
2002 Fairway Drive
Half Moon Bay, CA 94019

PROPERTY LOCATION: Ocean Colony Golf Course, 18th hole
VIOLATION FILE NO. V-1-99-02

Dear Mr. Fitzgerald:

We have received several reports of apparently unpermitted placement of rock in the vicinity of the 18th hole of the Ocean Colony Golf Course. On Thursday, January 7, 1999 Bill Smith of Half Moon Bay City Planning and I visited the site and confirmed that a large amount of rock had been placed on the beach and up the bluff north of the area covered in the previously issued City Coastal Development Permit (CDP) # 08-96. The placement of this material constitutes a development under the Coastal Act.

Development is defined under the Coastal Act (Section 30106) as:

> "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density of intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Ziberg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).
>
> As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line,

and electrical power transmission and distribution line. (PRC sect. 30106).

The development site appears to be bisected by the boundary between the City's and the Coastal Commission's coastal development permit jurisdiction. The Commission's jurisdiction includes any tidelands or public trust lands at the base of the bluff. The City has jurisdiction over areas landward of the Commission's jurisdiction. This development requires Coastal Development Permits from the City of Half Moon Bay for the portion within its jurisdiction and from the Coastal Commission for the portion within our permanent jurisdiction.

Please do not proceed with any additional unpermitted work, and immediately begin the process of completing Coastal Development Permit applications for the work already undertaken, and any future related work planned.

Mr. Smith has informed me that you have presented plans for construction of a new vertical seawall in the area behind where the unpermitted rock has been placed. Your applications should address the entire scope of proposed work in this area. For example, if the unpermitted rock is intended as some sort of interim measure eventually to be replaced by a new vertical seawall, your applications should describe the phasing of the project, including where, when and how the vertical seawall will be built, how and when the unpermitted rock will be removed, and any restoration planned for the bluff or beach.

For your convenience, I have enclosed an application form for Commission-issued CDPs, as well as a description of the additional information required for shoreline development projects such as yours. The application for the City's CDP can be obtained from Mr. Smith at the Half Moon Bay Planning Department. Commission regulations require that local CDP approval be obtained and submitted before the Commission can file as complete its CDP application. To expedite your application process, Mr. Smith and this office will coordinate our reviews as much as possible.

Please note that pursuant to Coastal Act Section 30600, any development in the coastal zone requires a coastal development permit authorizing such development. Unauthorized development without a coastal development permit is a violation of the Coastal Act (PRC Sect. 30000 et.seq.).

Coastal Act Section 30820(a) provides that any person who violates any provision of the Coastal Act may be subject to a penalty not to exceed $30,000. Section 30820(b) states that a person who intentionally and knowingly undertakes development that is in violation of the Coastal Act may be civilly liable in an amount which shall not be less than $1,000 and not more than $15,000 per day for each day in which the violation persists.

Please contact me at our North Coast Area Office, (415) 904-5267, to discuss the next steps in this matter.

Sincerely,

JACK LIEBSTER
Coastal Planner

Enclosures.

cc: Nancy Cave, Statewide Enforcement Supervisor
Bill Smith, Half Moon Bay City Planning
Jon Van Coops, Mapping

H/Nor Co/Oc Col

Ocean Colony Partners
Limited Partnership

January 29, 1999

Mr. Jack Liebster
California Coastal Commission
45 Fremont Street
San Francisco, CA 94105-2219

Dear Mr. Liebster:

This letter serves to follow up our conversation and your letter of January 13, 1999. As I stated to you it was our understanding that the City of Half Moon Bay had reviewed our plans and approved the work at our 18th green. Enclosed please find two letters to Bill Barrett from the City of Half Moon Bay. The first letter dated September 10, 1998 followed a discussion between Bill Barrett of Ocean Colony Partners and Anthony "Bud" Carney, the City's Planing Director regarding the work proposed at the 18th green. As described in the letter, he states that the proposed work "would not result in an addition to, or enlargement or expansion of, the green repair permitted in CDP-08-96, and is exempt from further coastal permitting." He also states that Ocean Colony Partners should submit drawings to the City to determine if a grading permit is required.

The second letter is from Gary Whelan, Chief Building Official with the City of Half Moon Bay to Bill Barrett regarding the grading permit application. It was determined that a grading permit for the work was not required.

I hope this correspondence aids in your review of the issue. To summarize, it was our understanding from Bill Barrett's discussion with the City and the letters enclosed that the work was authorized by the City and not in violation of any permit. Please let me know how you would like to move forward from this point.

Sincerely,

Patrick K. Fitzgerald
Executive Vice President

Cc: Bill Barrett
Bruce Russell

2002 Fairway Drive · Half Moon Bay · CA 94019 · Tel (650) 726-

STATE OF CALIFORNIA—THE RESOURCES AC Y 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

17 February 2000

SENT BY CERTIFIED MAIL
No. P 121 002 852

Patrick K. Fitzgerald
Executive Vice President
Ocean Colony Partners
2002 Fairway Drive
Half Moon Bay, CA 94019

RE: Alleged violations on Ocean Colony Partners Property:
V-1-99-03, unpermitted rock revetment at 18th green of golf course at Ocean Colony
V-2-00-02, condition compliance with CDP 1-94-04 regarding access improvements at South Wavecrest

Dear Mr. Fitzgerald:

I am writing concerning several alleged Coastal Act violations on property owned by Ocean Colony Partners, as described below.

1. Ocean Colony. We understand that the City of Half Moon Bay issued a coastal permit or a coastal permit exemption to you for repair of an existing seawall on the bluff at the 18th green of the Ocean Colony golf course. We further understand that what was constructed included a rock revetment on the bluff face, not just on the bluff, and that this revetment is blocking public access to the beach. It is our conclusion that this rock revetment, as constructed, is sited within the Coastal Commission's area of original permit jurisdiction, and not within the City's coastal permit jurisdiction. Thus, we consider the rock revetment to be unpermitted development within the Coastal Commission's permit jurisdiction. As such, it constitutes a Coastal Act violation.

Pursuant to the definition of "development" in section 30106 of the Coastal Act, development "means, on land, in or under water, the placement or erection of any solid material or structure;...grading, removing...or extraction of any materials; change in the density or intensity of the use of land,...change in the intensity or use of water, or of access thereto..." As such, the construction of a rock revetment constitutes development under the Coastal Act. Section 30600(a) requires that any person wishing to perform or undertake development in the coastal zone must obtain a coastal development permit, in addition to any other permit required by law. Any development activity conducted in the coastal zone without a valid coastal development permit constitutes a violation of the Coastal Act.

I am obligated to inform you that the Coastal Act contains many enforcement remedies for Coastal Act violations. Coastal Act section 30809 states that if the executive director determines that any person has undertaken, or is threatening to undertake, any activity that may require a permit from the Coastal Commission without first securing a permit, the executive director may issue an order directing that person to cease and desist. Coastal Act section 30810 states that the Coastal Commission may also issue a cease and desist order. A cease and desist order may be subject to terms and conditions that are necessary to avoid irreparable injury to the area or to ensure compliance with the Coastal Act. A violation of a cease and desist order can result in civil fines of up to $6,000 for each day in which the violation persists. Moreover, Section 30811 authorizes the Commission to order restoration of a site where development occurred without a coastal development permit from the commission, is inconsistent with the Coastal Act, and is causing continuing resource damage.

Sections 30803 and 30805 of the Coastal Act authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a)(1) of the Coastal Act provides that any person who violations any provision of the Coastal Act may be subject to a penalty amount not to exceed $30,000. Coastal Act section 30820(a)(2) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs any development in violation of the Coastal Act can be subject to a civil penalty of not less than $1,000 nor more than $15,000 for each day in which the violation persists.

The reported activity has the potential to result in significant resource damage as the rock revetment appears to block public beach access, and may have adverse impacts on visual resources. In addition, this rock revetment could potentially create a geologic hazard by causing or exacerbating erosion.

To resolve this violation on your property, you may follow one of two main courses of action. You may choose to apply for a permit to remove the unpermitted rock revetment, or you may choose to apply for an after-the-fact coastal development permit to authorize the unpermitted development. A permit application is enclosed.

Should you seek approval to retain the unpermitted structure, please note that it is likely that the Commission would not approve a permit for a rock revetment that blocks public access. In addition, the Commission may only approve shoreline or bluff protective devices necessary to protect existing structures, and it does not appear that the unpermitted rock revetment is protecting a "structure" as such. Furthermore, it would have to be demonstrated to the Commission that this protective device is the least environmentally damaging alternative.

Please indicate in writing which course of action you wish to pursue. Please respond by March 1, 2000. Please submit by March 10, 2000 a complete permit application either for after-the-fact authorization for retention of the rock revetment, or for removal of the structure. Your failure to comply with either of these provisions will force us to elevate this case to our Statewide Enforcement Unit for appropriate enforcement action.

In addition, please submit a copy of the City's coastal permit or permit exemption for repair of the existing seawall, and copies of any other local permits you may have authorizing construction of the rock revetment near the 18th green.

2. **South Wavecrest**. Coastal Permit No. 1-94-04 for development of an 18-hole public golf course included in its project description a number of public access improvements, plus a special condition requiring submittal of a final public access plan showing the designs, locations, and construction schedule for the various proposed access improvements. The relevant portion of the approved project description reads as follows:

> (11) *Constructing public access improvements (including a 15-car public parking lot off Miramontes Point Road, two portable toilets permanently located near the parking lot, vertical trails between the parking lot and the bluff, and a lateral blufftop trail with three scenic overlooks and a connecting stairway to beach).* (Emphasis added)

Special Condition No. 3 of the Coastal Permit requires project conformance with "the various proposed access improvements as described by the applicant (section IV.B. of the December 2, 1994 staff report) in the proposed Public Access Component's items 1 through 3." This Public Access Component was proposed by the applicant and approved by the Coastal Commission. Item 1.c describes (on pages 9 and 10 of the 12/94 staff report) "three blufftop observation areas connected to the lateral blufftop trail located along the north and south portions of the trail and at the site of the vertical accessway to the beach." Item 3 states that "all access improvements will be constructed concurrent with project completion and opening."

The golf course and trails have been open for at least two years now. However, it has been reported to us that some of the required access improvements have not been completed. The lateral blufftop trail has been constructed, but apparently only one of the three required scenic overlooks has been completed—the one at the top of the stairs. The scenic overlooks with viewing platforms that were to be constructed at the north and south ends of the trail have not yet been constructed. This is inconsistent with the approved Public Access Plan, with Special

Condition No. 3 of the coastal permit, and with the project description proposed by the applicant and approved by the Commission, constituting a Coastal Act violation.

In addition, there is no signage for the public parking lot, or to indicate where the public restrooms are located, or for the access trail so that the public will know that they can use the trail.

To resolve this violation, you must complete the required coastal access improvements immediately. If these improvements are not constructed by April 1, 2000, we will elevate this case to our Statewide Enforcement Unit for appropriate enforcement action.

Furthermore, in the plans approved by the Commission (Exhibit No. 5 of CDP 1-94-04), the access stairway is shown to be wooden, while the actual stairway that was constructed is concrete. In addition, there is some unpermitted rip-rap at the base of the stairs that was not shown on the approved plans. I understand that there is a coastal permit amendment currently pending to address some additional unpermitted development at this site, including unpermitted landscaping, construction of an unpermitted restroom in the middle of the golf course, and unpermitted grading in association with the golf maintenance facility. To resolve the violation created by the placement of unpermitted rip-rap, and the construction of a concrete rather than wooden stairway, you could revise the project description of your pending amendment request to include a wooden stairway rather than concrete stairs, and to include rip-rap at the base of the stairs (if not already included). However, please be aware that the Coastal Commission may not approve these proposed changes, and, if that is the case, any existing unpermitted development would need to be removed.

If you have any questions, please don't hesitate to call. Thank you for your cooperation.

Sincerely,

JO GINSBERG
Enforcement Analyst

Enclosure: Coastal Permit Application

cc: Nancy Cave
Chris Kern
Bill Ambrosi Smith

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

CERTIFIED MAIL

February 24, 2000

Mr. Pat Fitzgerald
Ocean Colony Partners
2002 Fairway Drive
Half Moon Bay, CA 94019

Subject: Notice of Required Correction of an LCP/Zoning Violation - Rip Rap on 18th Green of the Original Golf Course at Ocean Colony

Dear Mr. Fitzgerald,

The purpose of this letter is to inform you that the existing rip rap placed on the 18th green during the winter of 1998/1999 was not placed pursuant to a valid Coastal Development Permit and to direct OCP to submit a retroactive Coastal Development Permit application for the work.

The history of permit activities on the 18th green is as follows. In 1996 the original support structure of the green failed and a Coastal Development Permit (CDP-08-96) was processed. The permit authorized a matrix of retaining wall and tiebacks that were intended to support the green. It appears that at this time the location of the green was also slightly modified. In the winter of 1998/1999, the structure that was approved in 1996 also failed. Ocean Colony Partners requested and received a repair and maintenance exemption under Chapter 18.20.030.C.2.a. of the Zoning Code (Coastal Development Permit Implementation Ordinance):

> "repair and maintenance necessary for on-going operations of an existing facility which does not expand the footprint, floor area, height, or bulk of an existing facility, and the minor modification of existing structures required by governmental safety and environmental regulations, where necessary to preserve existing structures which does not expand the footprint, floor area, height, or bulk of an existing structure."

The plans submitted to support this repair and maintenance exemption were substantially the same as those submitted in 1996. Analysis of the differences and similarities of the two plans suggested that no new material would be required to complete the repair.

Subsequent to issuance of the repair and maintenance exemption, it became clear that the work that was performed was not in compliance with the plans submitted. In fact, it appeared that a temporary road had been constructed in the riparian corridor in the middle of the 18th fairway to provide access to the beach and that rock had been placed from the beach as well as from above. As a consequence, there was impact to the beach from the construction. In addition, the rip-rap extended considerably further seaward than the plan showed. This modification has resulted in a limitation on lateral beach access.

Please be advised that any development undertaken without first obtaining a Coastal Development Permit for said development constitutes a violation of Section 18.20.025 of the Half Moon Bay Municipal Code. In order to begin the process of correction of this violation, you must apply for a retroactive Coastal Development Permit within 30 days of the receipt of this letter. Please be aware that the issuance of this permit is dependent on a finding that the project is consistent with the Half Moon Bay Certified Local Coastal Program. Significant redesign of the project may be required in order for the project to comply with the Policies of the LCP. You should especially review the Policies of Chapters 2, 3, 4, and 7 in this regard.

The City of Half Moon Bay has received a copy of the letter sent to Ocean Colony Partners from the Coastal Commission Enforcement Division on February 17, 2000, regarding two issues, one of which is the rip rap placed on the 18th green. Since it appears that there is joint jurisdiction between the City and the Coastal Commission, we believe that it would be beneficial to have a meeting in the near future to resolve these inter-jurisdictional matters in order to facilitate your submission of a Coastal Development Permit application within the required 30 days. A site plan showing the exact work that was performed will be necessary for this meeting.

If you have any questions, please feel free to call me at (650) 726-8251.

Sincerely,

Bill Ambrosi Smith

Bill Ambrosi Smith
Senior Planner

STATE OF CALIFORNIA— THE RESOURCES AG

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

2 February 2001

Bill Barrett, President
Patrick K. Fitzgerald,
Executive Vice President
Ocean Colony Partners
2002 Fairway Drive
Half Moon Bay, CA 94019

RE: Alleged Coastal Act violations on Ocean Colony Partners Property:
V-1-99-03, unpermitted rock revetment at 18th green of golf course at Ocean Colony
V-2-00-02, condition compliance with CDP 1-94-04 and CDP 1-95-47 regarding access improvements at South Wavecrest

Dear Mr. Barrett and Mr. Fitzgerald:

I am writing in response to your most recent letters (one dated 12/29/00, one undated) concerning the above-referenced alleged Coastal Act violations on property owned by Ocean Colony Partners (OCP), including unpermitted riprap at the 18th green of the Ocean Colony golf course and lack of conformance with terms and conditions of Coastal Permit No. 1-94-04 for development at South Wavecrest.

1. **Jurisdiction**: In our letter of 6 April 2000, we requested that OCP submit to the Commission a site plan showing the topography of the subject site prior to the 1998/99 installation of the riprap, so that our cartography staff could do a precise boundary determination, delineating the exact location of the Commission's area of original permit jurisdiction. You did not provide us with this information, without which it is not possible for our staff to do a precise boundary determination, since the unpermitted placement of riprap altered the natural topography and altered the landfall of the mean high tide line. Since we do not have the necessary requested information, our mapping staff has concluded that the Commission's area of original permit jurisdiction is the beach, and the City's permit jurisdiction is the blufftop and bluff face.

In your recent letter, you disagree with this Commission staff assertion, and indicate that you believe only a small portion of the riprap lies within the Commission's area of original permit jurisdiction, as you believe that the current mean high tide line establishes the limits of the Commission's original permit jurisdiction, and that the mean high tide line is located approximately two feet above sea level in the vicinity of the 18th green. You also assert that the vast majority of the riprap is landward of this mean high tide line and "was the subject of the City's 1996 coastal development permit or the 1998 exemption determination." In other words, OCP believes that most of the riprap was previously approved by the City, and that only a small portion of it is unpermitted development within the Coastal Commission's area of original jurisdiction.

However, the City of Half Moon Bay has already determined that the riprap placed by OCP near the 18th green within the City's jurisdiction was NOT previously approved by the City's 1996 coastal permit or 1998 permit exemption determination, contrary to OCP's assertion (see attached letter from Bill Smith). I have also confirmed with Ken Curtis, the City's Planning Director, that this is still the City's position. It is our understanding that the City approved some kind of revetment on the bluff, but never approved riprap down the bluff face or on the beach. Thus, the as-built riprap within City jurisdiction is a violation of the City's certified LCP and requires a coastal development permit from the City for removal or retention, just as the portion of the riprap within the Coastal Commission's permit jurisdiction is a Coastal Act violation and requires a coastal permit from the Commission for removal or retention.

Since the City is in agreement with the Commission staff concerning the need for coastal permits from both the City and the Commission for removal or retention of the unpermitted riprap, we do not feel that it is crucial to determine the exact boundary between the City's and the Commission's permit jurisdiction. The City concurs with Coastal Commission staff that for purposes of coastal permitting, we will consider the portion of the unpermitted riprap located on the beach to be within the Commission's coastal permit jurisdiction, and the portion of the unpermitted riprap placed on the blufftop and bluff face to be within the City's coastal permit jurisdiction, and that since a coastal development permit is necessary from both the City and the Commission, that determining the exact boundary is not necessary.

2. **Alleged Coastal Act and LCP Violations**: Pursuant to Coastal Act Section 30810(a)(1), the City of Half Moon Bay has requested that the Coastal Commission take the lead on the above-referenced alleged Coastal Act and LCP violation, which is located on lands situated within the coastal permit jurisdictions of both the City of Half Moon Bay and the Coastal Commission. The Commission, thus, now has primary responsibility for pursuing appropriate enforcement of the alleged violation in both jurisdictions.

As we have previously indicated, you may follow one of two main courses of action to resolve this violation. You may choose to apply for a permit to remove the unpermitted riprap, or you may choose to apply for an after-the-fact coastal development permit to authorize the unpermitted development. Since we are taking the lead on enforcement for the violation, we are requesting that you submit to the City by March 15, 2001 a complete coastal permit application for removal or retention of the portion of the riprap within City permit jurisdiction (blufftop and bluff face). Please send us a copy of this application. Please note that any approval by the City would be appealable to the Coastal Commission.

We are further requesting that a complete coastal permit application be submitted to the Commission for the portion of the riprap within the Commission's permit jurisdiction (beach) within 60 days of permit action by the City. As we have previously mentioned, should you seek approval to retain the unpermitted riprap, it is likely that the Commission would not approve a permit for any development that blocks public access.

If OCP does not submit these applications within the deadlines as requested, Commission staff is prepared to seek a cease and desist order from the Commission ordering OCP to obtain compliance with our mutual permit requirements.

3. **South Wavecrest**: In your correspondence of 28 April 2000, you indicated that you had been unable to find a copy of the court decision in the Sierra Club lawsuit concerning whether a coastal permit was necessary for construction of the original golf course and hotel. You stated that you would send us a copy as soon as you found it within your archives. We have still not received this material. Please send us this material as soon as possible.

Concerning the overlooks at South Wavecrest, please let us know when the northern overlook has been completed, and when the benches for the southern overlook have been replaced.

Concerning signage at South Wavecrest, in your letter of 19 May 2000 you indicate that you believe the access signage in place at South Wavecrest is "consistent with or exceeds the requirements" of your permit. We have discussed your position with North Central permit staff and Commission staff does not agree and believes additional signage is necessary. In your letter of 29 December 2000, you indicate that there are two brown coastal access signs on Highway One, which adequately meets the requirements of Coastal Permit No. 1-94-04 for signage visible from Highway One denoting public access. However, there is still the matter of signage denoting public parking, and signage on the trail itself denoting public access.

Special Condition No. 3 of CDP 1-94-04 requires the submittal of a final access plan depicting various access improvements described in Section IV.B of the December 2, 1994 staff report for 1-94-04. This section describes the public access component of the project, and provides for, among other things, "**signs located along Highway 1 and all public accessways identifying access routes and public parking, as provided in condition 4 of the City's vesting parcel map approval.**"(Subsection 1(g)) (Emphasis added.) Condition 4(a) of the City's vesting parcel map approval requires that "**all vertical and lateral public accessways shall have clearly posted signs specifying the public's right to use these areas,**" and Condition 4(b) requires that "signs visible from Highway 1 shall be provided identifying the access routes **and public parking.**" (Emphasis added.) Further, the Comprehensive Public Access Plan submitted by OCP in compliance with Special Condition No. 3 of CDP 1-94-04 depicts signage on Highway One with a notation that states "Directional signage located on Highway 1 near site denotes public coastal access **and public parking.**" (Emphasis added.)

In addition, Coastal Permit No. 1-95-47-E3 (formerly CDP 3-91-71) for what is now the Ritz-Carlton Hotel Resort contains a special condition concerning public access. Special Condition No. 2(h) of CDP 1-95-47 concerns signage for public access, and requires that "**Access routes, public parking, Miramontes Pt. overlook, and public restrooms shall be clearly marked for public use.**" (Emphasis added.)

It is thus our conclusion that Coastal Permit No. 1-94-04 for the golf course and Coastal Permit 1-95-47 for the hotel require signs denoting public parking. As far as I can tell, the public access signs on Highway One do not denote public parking, and there is no sign *in* the parking lot itself designating that the lot is for public use. Furthermore, it is our conclusion that CDP 1-94-04 requires clearly posted signs *on* the public accessways (trails) specifying public access. As far as I can tell, the beach access signs along the trail do not indicate that the trail is for public use as well as for use by golf carts.

We thus request that to comply with the requirements of CDP No. 1-94-04 and CDP No. 1-95-47, OCP shall do the following:

a. Post additional signage on Highway One indicating that there is public parking;
b. Post additional signage in the parking lot itself indicating that the lot is for public use; and
c. Post additional signage along the lateral trail itself indicating that the trail is for public use.

Please indicate in writing when such signage will be erected. We expect the signage to be in place no later than March 15, 2001.

If you have any questions, please don't hesitate to call. Thank you.

Sincerely,

JO GINSBERG
Enforcement Analyst

Enclosure

cc: Ken Curtis
Chris Kern
Nancy Cave
Linda Locklin
Virginia Esperanza

CITY OF HALF MOON BAY

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

July 23, 2001

Pat Fitzgerald
Ocean Colony Partners
330 Purissima Street
Half Moon Bay, CA 94019

Subject: PDP-38-01 – Placement of Riprap at the 18th Green

Dear Mr. Fitzgerald:

The purpose of this letter is to remind you that the City has still not received information required to process your Coastal Development Permit application for the retention and/or removal of riprap at the 18th green. Attached is a copy of the letter dated April 5, 2001 that list the material necessary to complete the application.

Given the history of the project, you must pursue the Coastal Development Permit application with all due diligence. If the required materials are not received by September 14, 2001, the matter will be scheduled for the Planning Commission as an incomplete application. If you have any questions or would like to discuss this matter, please contact me at (650) 726-8251, or come by City Hall at 501 Main Street.

Sincerely,

Michael Martin
Associate Planner

cc: Jo Ginsberg
California Coastal Commission
43 Fremont St., STE 2000
San Francisco, CA. 94105

Exhibit 11
CCC-02-CD-02 (Ocean Colony Partners)

ATE OF CALIFORNIA—THE RESOURCES AGENCY GRAY DAVIS, GOVERNOR

ALIFORNIA COASTAL COMMISSION
FREMONT, SUITE 2000
N FRANCISCO, CA 94105-2219
OICE AND TDD (415) 904-5200
AX (415) 904-5400

11 March 2002

Patrick K. Fitzgerald
Executive Vice President
Ocean Colony Partners
2002 Fairway Drive
Half Moon Bay, CA 94019

RE: Alleged **Coastal Act Violation No. V-1-99-03**, unpermitted rock revetment below the 18th hole at Half Moon Bay Golf Links

Dear Mr. Fitzgerald:

I am writing to you regarding the above-referenced alleged Coastal Act violation. I would like to change the direction we previously have given to you with respect to desired resolution of this case. You have submitted an incomplete coastal development permit (CDP) application to the City of Half Moon Bay for retention of the portion of the unpermitted rock revetment located in the City's coastal permit jurisdiction. Our understanding is that you wish to modify the existing revetment and install a vertical seawall, which will require extensive environmental review by the City. Should the City approve a coastal permit for a seawall or retaining wall at this site, it would be appealable to the Coastal Commission.

As you know, part of the existing unpermitted revetment is located in the Coastal Commission's area of original jurisdiction and is subject to Coastal Commission coastal permitting authority. As we have previously discussed, it is unlikely that Commission staff would ever support approval of any shoreline armoring at this site, including a request to retain the existing unpermitted revetment.

We had directed that within 60 days of final coastal permit action by the City for the portion of the unpermitted riprap in City coastal permit jurisdiction, you submit a coastal permit application to the Coastal Commission for retention or removal of the portion of the unpermitted riprap on the beach, which is within the Coastal Commission's area of original jurisdiction. Since we gave you this direction, you have decided to change the nature of your pending permit request to

include consideration of a wholly different shoreline armoring project from the existing unpermitted rock revetment. City consideration of this new design will take substantially more time than we envisioned when we directed you to submit a CDP application for Commission review within 60 days of City action on your permit request. Therefore, since Commission staff is unlikely to ever support approval of a coastal development permit for retention of the existing rock revetment, we now recommend that you submit a CDP application to the Commission, proposing removal of the riprap located within the Commission's permit jurisdiction.

Commission staff requests that you expedite resolution of this matter by applying directly to the Coastal Commission at this time for any portion of the proposed unpermitted development that is located seaward of the mean high tide line.

We are thus requesting that you submit to the Commission within 30 days of the date of this letter a coastal permit application for retention or removal of the portion of the riprap on the beach, within the Coastal Commission's area of original permit jurisdiction. I am enclosing a coastal development permit application for you to fill out and return by April 11, 2002. If you have any questions concerning this application, you may contact Peter Imhof at (415) 904-5268. If you have questions about the alleged violation, please contact me at (415) 904-5269.

Thank you.

Sincerely,

JO GINSBERG,
Enforcement Analyst

Enclosure: Coastal Development Permit Application

cc: Chris Kern
Peter Imhof
Ken Curtis

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

WAIVER OF LEGAL ARGUMENT

Coastal Commission staff determined that unpermitted development had been undertaken below the 18th hole at Half Moon Bay Golf Links in Half Moon Bay, San Mateo County. The unpermitted development is described as the placement of a rock revetment on the beach. Commission staff notified Ocean Colony Partners ("OCP") of the unpermitted status of this activity by letter dated January 13, 1999.

Commission staff has informed OCP that they would prefer to resolve this matter administratively, but may have to pursue resolution through a court of law should OCP fail to agree on an administrative resolution to the alleged violation.

OCP has stated that OCP does not want the Commission to institute enforcement litigation to resolve this alleged Coastal Act violation pending the conduct of settlement negotiations with Commission staff. Accordingly, OCP hereby waives its right to rely upon any time subsequent to the date of OCP's execution of this document, as noted below, up to the date of OCP's termination of this waiver as a basis for any argument or defense in a court of law, including, but not limited to: (1) any applicable statute of limitation; (2) laches; and/or (3) estoppel.

In exchange for OCP's agreement to such a waiver, OCP understands that the Commission staff will not submit this Coastal Act violation file to the Office of the Attorney General for appropriate legal action until, at minimum, the earlier to occur of the following events: (1) the expiration of 30 days written notice to the other party by either the signatory hereto or the Commission staff of an intent to terminate this waiver; or (2) the date of final Commission disposition of any application OCP may submit for a coastal development permit or amendment thereto (or OCP's withdrawal of that application, if OCP so chooses) pursuant to agreement arising out of the aforementioned settlement negotiations.

Ocean Colony Partners

Property Owner

Signature

Patrick K. Fitzgerald

12/21/01

Date

Exhibit 13
CCC-02-CD-02 (Ocean Colony Partners)

CITY OF HALF MOON BAY

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

May 22, 2002

Ms. Jo Ginsberg
Enforcement Manager
Statewide Enforcement Program
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Dear Ms. Ginsberg:

This letter is being sent pursuant to Government Section 30810(a) (1), to authorize the California Costal Commission to act on behalf of the City of Half Moon Bay with respect to the violation of the Coastal Act regarding the placement of rip-rap granite below the 18th green of the Ocean Colony golf course properties during the winter of 1998/1999. The placement of such rip-rap was not pursuant to a valid Coastal Development Permit.

It is hoped that the enforcement proceedings of the Coastal Commission may prompt the property owner or his representative to correct this violation.

The City hereby requests the Coastal Commission to act on behalf of the City pursuant to section 30810(a) (1) regarding the violation of the Coastal Act at the 18th green of the Ocean Colony properties.

The Half Moon Bay City Council would like to be kept informed of these proceedings. Thank you for your assistance in this matter.

Sincerely,

Peter A. Cosentini
City Manager

cc: City Council
Ken Curtis
Adam Lindgren

Exhibit 14
CCC-02-CD-02 (Ocean Colony Partners)

CHARLES R. KELLER
RONALD F. SCHOLL
THOMAS H. JAMISON
LARRY E. HAYES
MARK A. CAMERON
JOHN S. BRIDGES
DENNIS O. MCCARTHY
JACQUELINE P. MCMANUS
CHRISTOPHER E. PANETTA
DAVID C. SWEIGERT
VIRGINIA E. HOWARD
DANIEL J. DE VRIES
JENNIFER M. PAVLET
SARA E. BOYNS
CHRISTINE C. BRESN
R. DAVID HWANG

OF COUNSEL

LEWIS L. FENTON

FENTON & KELLER
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
2801 MONTEREY-SALINAS HIGHWAY
POST OFFICE BOX 791
MONTEREY, CALIFORNIA 93942-0791
TELEPHONE (831) 373-1241
FACSIMILE (831) 373-7219

SANTA CRUZ
COUNTY OFFICE

FIRST NATIONAL BANK BUILDING
635A MAIN STREET
WATSONVILLE, CA 95076
TELEPHONE (831) 761-2494
FACSIMILE (831) 761-2135

FROM SALINAS

TELEPHONE (831) 757-8937

September 19, 2002

THOMAS H. JAMISON

TJamison@FentonKeller.com
ext. 230

VIA FACSIMILE

Peter Douglas, Executive Director
California Coastal Commission
Attn: Lisa Haage, Chief Enforcement Officer
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: Ocean Colony Partners - Consent Agreement and Cease and Desist Order No. CCC-02-CD-02
Our File: 31973.28687

Dear Mr. Douglas:

Our firm is legal counsel for Ocean Colony Partners, L.P. ("Ocean Colony") on the above referenced proceeding. Ocean Colony hereby withdraws its Statement of Defense Form and waives its right to a hearing to contest the factual and legal basis for the California Coastal Commission's issuance and enforcement of Consent Agreement and Cease and Desist Order No. CCC-02-CD-02 based on the agreement between Commission Staff and Ocean Colony on the terms of the Consent Agreement and Cease and Desist Order No. CCC-02-CD-02 attached to the Executive Director's Staff Report and predicated upon the Commission's adoption thereof. Should the Commission not adopt the Consent Order, this withdrawal and waiver will not be effective, and Ocean Colony retains its rights to a full evidentiary hearing and argument on the matters alleged.

Very truly yours,

FENTON & KELLER
A Professional Corporation

Thomas H. Jamison

Thomas H. Jamison

cc: William E. Barrett
Patrick K. Fitzgerald

H:\documents\lrg.47nqa2g.doc

Exhibit 15
CCC-02-CD-02 (Ocean Colony Partners)

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

CONSENT AGREEMENT AND CEASE AND DESIST ORDER NO. CCC-02-CD-02

1.0 TERMS AND CONDITIONS

Pursuant to its authority under Public Resources Code Section 30810, the California Coastal Commission (hereinafter referred to as the "Commission") hereby orders and authorizes Ocean Colony Partners, L.P. (hereinafter referred to as "Ocean Colony"), its employees, agents, and contractors, and any persons acting in concert with any of the foregoing, to undertake the activities specifically required by this consent agreement and cease and desist order (hereinafter referred to as "Consent Order") and to cease and desist from continuing to violate the Coastal Act through its failure to obtain the required coastal development permits for placement of riprap on the bluff face and beach below the 18th Hole of the Half Moon Bay Golf Links except as specifically provided herein. By its execution of this Consent Order, Ocean Colony (without admitting that it has violated the Coastal Act) agrees, and agrees to cause its employees, agents, and contractors, and any persons acting in concert with any of the foregoing, to comply with the following terms and conditions:

1.1 Within 45 days of the issuance of this Consent Order, Ocean Colony shall submit to the Executive Director for review and written approval, plans that provide sufficient detail and address the elements set forth below for removal of the old retaining wall that has collapsed onto the beach, partial removal of the riprap below the 18th Hole as depicted on the plans dated September 19, 2002 provided by Ocean Colony and labeled in the legend as "Proposed Rock Removal Area", and for grouting the remaining riprap that is to remain in place pending a decision on an application for a permanent shoreline/bluff protective structure. The plans shall include, but not necessarily be limited to, the following elements:

a. Project Description: A detailed description of the proposed project is required, including an identification of: (1) the amount (approximate total volume and weight) of rock to be removed, (2) the proposed method of removal, (3) the proposed method

of grouting the remaining riprap, (4) any proposed means of beach access for construction personnel and equipment, (5) all dates and times when removal and grouting or any other activities would take place, (6) total amount and location of any fill placement or grading in connection with any proposed, temporary beach access ramp or other project component, and, if applicable, removal of temporary access ramp and (7) ultimate storage and/or disposal plans for the rock removed. If the disposal site is located within the coastal zone, a Coastal Development Permit (CDP) for such disposal shall be issued prior to such disposal. The Executive Director reserves the right to postpone if necessary the permissible dates and times for construction specified in this Consent Order based on his/her evaluation and considerations related to protection of the environment.

b. Project Plans: Detailed project plans, certified by a licensed engineer, are required for all aspects of the project, showing (1) any proposed beach access for construction equipment, (2) exact present location in plan view and cross-section of the rock to be removed in relation to the beach and (3) equipment and materials staging areas. For all plans, please submit both large scale plans (1 inch = 10 feet) and reduced (8.5" x 11") copies

c. Erosion Control Plan: The erosion control plan shall demonstrate that (1) during removal activities, erosion on the site shall be controlled to avoid adverse impacts on adjacent resources, (2) temporary erosion control measures such as hay bales and silt fences shall be used during removal activities. The plan shall include a narrative report describing all temporary erosion control measures to be used during removal activities, plans showing the locations of the erosion control measures on large scale (1 inch = 10 feet) and reduced (8.5" x 11") site plans, and a description of the proposed schedule for installation and removal of the temporary erosion control measures.

d. Road Impacts: A description of the timing and estimated number of truck trips on Miramontes Point Road.

1.2 Within 30 days from issuance of the Executive Director's written approval of the plans referenced in Section 1.1, Ocean Colony shall commence work in compliance with the approved plans for removal of the old retaining wall that has collapsed onto the beach, partial removal of the riprap and grouting the remaining riprap. Ocean Colony shall undertake the removal and grouting work in strict compliance with the final project and erosion control plans as approved by the Executive Director.

1.3 Within 90 days of commencement of work, Ocean Colony shall complete the removal of the old retaining wall that has collapsed onto the beach, the partial removal of the riprap and grouting the remaining riprap.

1.4 If road damage occurs to Miramontes Point Road as a result of the removal activities, Ocean Colony shall restore the road surface to the same conditions that existed prior to the removal of the riprap within 30 days of the completion of the work.

1.5 Within 90 days of the date of issuance of this Consent Order (by **January 10, 2003**) or other such time as may be agreed to under Section 8.0, Ocean Colony shall submit a complete CDP application to the Commission for a proposed permanent shoreline/bluff protective structure where the grouted rock riprap remains. The Commission has asserted, and Ocean Colony does not contest for purposes of this Consent Order or the CDP referenced herein (as further explained in Section 4.0), that the Commission has jurisdiction to accept, process, and act on the CDP application required by this Section 1.5, and any subsequent amendments to or enforcement of the terms and conditions of such CDP, and Ocean Colony agrees not to contest that jurisdiction. The application shall conform to all applicable requirements of the Coastal Act and any other relevant laws, and shall include, but not necessarily be limited to, the following elements:

a. Project Description: A detailed description of the proposed project is required, including (1) total amount and location of material to be used in construction of the proposed protective structure, (2) proposed method of construction of the protective structure, (3) any proposed means of beach access for construction personnel and equipment and (4) all dates and times construction activities would take place.

b. Project Plans: Detailed project plans, certified by a licensed engineer, are required for all aspects of the project, showing (1) any proposed beach access for construction equipment and personnel, (2) detailed cross-sections of the proposed protective structure and (3) equipment and materials staging areas. For all plans, please submit both large scale plans (1 inch = 10 feet) and reduced (8.5" x 11") copies.

c. Construction Erosion Control Plan: The erosion control plan shall demonstrate that (1) during construction activities, erosion on the site shall be controlled to avoid adverse impacts on adjacent resources, (2) temporary erosion control measures such as hay bales and silt fences shall be used during construction activities. The plan should include a narrative report describing all temporary erosion control measures to be used during construction activities, plans showing the locations of the erosion control measures on large scale (1 inch = 10 feet) and reduced (8.5" x 11") site plans, and a description of the proposed schedule for installation and removal of the temporary erosion control measures.

d. Geotechnical Study: A geotechnical study of the proposed protective structure by a licensed civil engineer or engineering geologist evaluating the stability of the bluff and historical erosion at this location, the necessity for and adequacy of the proposed structure to insure stability of the bluff, and the effects of the proposed structure on local sand supply and the adjacent bluffs.

e. Road Impacts: A description of the timing and estimated number of truck trips on Miramontes Point Road.

f. Alternatives: A detailed analysis of potential project alternatives including modification and/or relocation of the 18th Hole of Half Moon Bay Golf Links.

1.6 This Consent Order and the Commission's agreement to consider a CDP application for a proposed permanent shoreline/bluff protective structure does not in any way indicate whether any structure, including that to be proposed by Ocean Colony, is approvable under the Chapter 3 policies of the Coastal Act or any other relevant authorities, or bind the Commission to approve any CDP application for coastal protection at this site. This Consent Order does not constitute a CDP for the riprap; it allows retention of a portion of existing riprap pending a decision on an application for a shotcrete wall or other permanent shoreline/bluff protective structure. Ocean Colony agrees that it will not argue at any time or in any proceeding that the Commission's issuance of this Consent Order constitutes evidence that the portion of the riprap that is allowed to temporarily remain is consistent with the Coastal Act or is development for which Ocean Colony has a vested right. Ocean Colony retains the rights provided under the Coastal Act, however, to judicial review of any Commission decision with respect to a CDP for a permanent shoreline/bluff protective structure, but will not challenge the Commission's jurisdiction as provided in Section 1.5 above.

1.7 If Ocean Colony does not file a complete CDP application for proposed shoreline protection for the 18th Hole by **January 10, 2003**; the Commission does not approve the CDP application; if a CDP is not issued within the time specified in the CDP approval; if Ocean Colony does not timely meet "prior to issuance" conditions specified in the CDP; or if Ocean Colony does not carry out the development authorized in a CDP within the time specified in the CDP, then the issuance of this Consent Order does not in any way waive or limit the Commission's right to take enforcement action seeking removal of the portion of the riprap allowed to remain temporarily pursuant to this Consent Order, or to remedy any violations then existing at the site or any future violations.

1.8 Pursuant to California Code of Regulations Title 14, Section 13053, the Executive Director of the Commission hereby waives the requirement for preliminary local approvals, if any, for the proposed permanent shoreline/bluff protective structure.

1.9 Ocean Colony shall construct a public access stairway and improve the existing informal pathway from the parking lot at the end of Redondo Beach Road to the beach in Half Moon Bay as generally depicted in the conceptual plans submitted by Ocean Colony dated September 12, 2002 (**Exhibit 17**). Within 60 days of the issuance of this Consent Order, Ocean Colony shall submit to the City of Half Moon Bay a complete CDP application addressing the application requirements for such public access path and stairway in accordance with the following (Ocean Colony shall also submit a copy of the complete CDP application to Commission staff at the time of submittal to the City):

a. Project Description and Plans: The plans shall include (1) total amount and location of material to be used in construction of the path and stairway, (2) proposed method of construction of the path and stairway, (3) any proposed beach access for construction personnel and equipment, (4) equipment and materials staging areas, and (5) all dates and times construction activities would take place.

b. Within 60 days of issuance of a CDP for the path and stairway, Ocean Colony shall commence their construction.

c. Ocean Colony shall provide evidence that it possesses sufficient rights to construct the path and stairway and that public use of said path and stairway will be allowed immediately upon completion of construction. If the applicable land on which the improvements are to be constructed is owned by any one or more public entities or agencies and Ocean Colony provides evidence of such ownership by public entities or agencies, this requirement will be satisfied. Ocean Colony will also work diligently with the landowner to make all necessary arrangements for the access to be opened, and will provide evidence of these efforts to the Commission. Upon completion of construction, Ocean Colony shall identify the entity that has accepted responsibility for the long-term maintenance and repair of the path and stairway. If no entity has been designated upon completion of construction, Ocean Colony shall assume such responsibility until such time as such responsibilities are effectively transferred to another entity. Ocean Colony's responsibility for maintenance and repair of the stairway and path shall not exceed three (3) years, irrespective of whether another entity has accepted responsibility.

d. Ocean Colony agrees to contribute a total of $50,000 for the long-term maintenance and repair of the public access path and stairway. Upon completion of the construction of the path and stairway, or six months from the effective date of this Consent Order, whichever is sooner, Ocean Colony shall deposit the maintenance and repair funds into an account controlled by the entity that has been designated responsible for the maintenance and repair of the stairway. If no entity has been designated by such time, Ocean Colony shall be responsible for the maintenance and repair of the path and stairway until such time as another responsible entity is designated, but in no event longer than 3 years. If an entity is later designated and accepts responsibility for repair and maintenance of the stairway, Ocean Colony shall transfer $50,000 to that entity.

e. Ocean Colony shall have the rights provided under the Coastal Act to seek review of any decision on the CDP referenced in this Section 1.9 without being in violation of the terms of this Consent Order.

f. If the Executive Director determines it is necessary, Ocean Colony shall work with the Coastal Conservancy, and, if necessary, have the Coastal Conservancy become the

applicant for the project. Therefore, the path and stairway project (referenced in this Section 1.9) would be a project of the Coastal Conservancy. In such an event, Ocean Colony's other obligations to fund and construct this project remain in place.

g. If, for any reason, this proposed path and stairway project is demonstrated to the Executive Director's satisfaction to not be feasible, Ocean Colony shall, within 60 days of the Executive Director's written determination, propose to the Commission an alternative project that provides equivalent public benefits at a cost no greater to Ocean Colony than $250,000 (which amount includes expenses equivalent to those described in subparagraph d. above), subject to Commission approval, and shall seek Commission approval for such an alternative to be embodied in an amendment to this Consent Order, and shall implement such alternative project in compliance with the terms of such amendment.

2.0 IDENTIFICATION OF THE PROPERTY

The property that is the subject of this consent order is described as follows:

2450 South Cabrillo Highway, Half Moon Bay, San Mateo County, APN 066-092-720 and the bluff face and beach below the 18th Hole of the Half Moon Bay Golf Links.

3.0 DESCRIPTION OF ALLEGED COASTAL ACT VIOLATION

Unpermitted development consisting of the construction and maintenance of a riprap revetment on the bluff face and beach below the 18th Hole of the Half Moon Bay Golf Links.

4.0 COMMISSION JURISDICTION

The Commission has jurisdiction over this alleged Coastal Act violation pursuant to Public Resources Code Section 30810. The City of Half Moon Bay has formally requested that the Commission assume the primary enforcement role pursuant to Public Resources Code § 30810(a)(1) regarding this alleged Coastal Act violation. In addition, the Commission has asserted, and Ocean Colony does not contest for purposes of the Commission accepting, processing, and acting upon the CDP application required by Section 1.5 (including any amendments to or enforcement of the terms and conditions of such CDP), that the base of the bluff below the 18th Hole of Half Moon Bay Golf Links is at times subject to wave action; that a portion of the proposed permanent structure as depicted in draft project plans is located on public tidelands where the Commission has permit jurisdiction; and because the proposal is for one integrated structure, the Commission has permit jurisdiction over the entire proposed structure, including the portions at the base of the bluff and in front of the bluff, and the portions that extend up the bluff. Therefore, for the purposes of issuance and enforceability of this Consent Order, the Commission has jurisdiction to act as set forth in this Consent Order and Ocean Colony agrees it will not contest the Commission's jurisdiction to issue or enforce this Consent Order.

5.0 HEARING

In light of the intent of the parties to resolve these matters in settlement, Ocean Colony waives its right to a public hearing before the Commission for the purpose of contesting the legal and factual basis, terms and issuance of this Consent Order including the allegations of Coastal Act violations contained in the Notice of Intent to issue a cease and desist order dated June 20, 2002. Ocean Colony previously submitted a Statement of Defense Form, which Ocean Colony has withdrawn solely for the purpose of adoption and issuance of this Consent Order. Ocean Colony's waiver herein is limited to a hearing on the Commission's adoption and issuance of this Consent Order and no other hearing or proceeding, and this Consent Order shall not be deemed an admission by Ocean Colony on any matters including the findings referred to in Section 6.0 below. It is reiterated, however, that Ocean Colony does not contest the Commission's jurisdiction and basis for the purposes of adoption, issuance and enforcement (according to its terms) of this Consent Order.

6.0 FINDINGS

This Consent Order is issued on the basis of the findings adopted by the Commission on October 10, 2002, as set forth in the attached document entitled "Staff Report for Consent Agreement and Cease and Desist Order No. CCC-02-CD-02."

7.0 EFFECTIVE DATE

This Consent Order shall become effective as of the date of issuance by the Commission and shall remain in effect permanently unless and until rescinded by the Commission.

8.0 EXTENSION REQUESTS

Ocean Colony may, prior to the expiration of the deadlines, request from the Executive Director in writing, an extension of the deadlines. The Executive Director shall grant an extension of deadlines upon a showing of good cause, if the Executive Director determines that Ocean Colony has diligently worked to comply with its obligations under this Consent Order but cannot meet deadlines due to unforeseen circumstances or other factors beyond Ocean Colony's control.

9.0 COMPLIANCE OBLIGATION

Strict compliance with this Consent Order by all parties subject thereto is required. Failure to comply with any term or condition of this Consent Order including any deadline contained in this Consent Order will constitute a violation of this Consent Order and may result in the imposition of civil penalties of up to $6,000 per day for each day in which such compliance failure persists pursuant to Public Resources Code Section 30821.6, and imposition of damages as provided in Public Resources Code Section 30822.

10.0 SITE ACCESS

Access to the sites- both the revetment site below the 18th Hole and the stairway and path site at the end of Redondo Beach Road- shall be provided at all reasonable times to Commission staff and any agency having jurisdiction over the work being performed under this Consent Order. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Commission may enter and move freely about all property at the sites at all reasonable times for purposes including but not limited to inspecting records, operating logs, and contracts relating to the site and overseeing, inspecting and reviewing the progress of Ocean Colony in carrying out the terms of this Consent Order.

11.0 GOVERNMENT LIABILITIES

The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Ocean Colony or related parties specified in Section 1.0 in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Ocean Colony or its agents in carrying out activities pursuant to this Consent Order. Ocean Colony acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, landslide, bluff retreat, erosion and earth movement; (ii) to assume the risks to Ocean Colony and the property that is the subject of this Consent Order and damage from such hazards in connection with carrying out activities pursuant to this Consent Order; and (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents and employees for injury or damage from such hazards.

12.0 APPEAL AND STAY

Persons against whom the Commission issues a cease and desist order have the right to seek a stay of the order pursuant to Section 30803(b) of the Coastal Act. This Consent Order does not limit the Commission from taking enforcement action due to other Coastal Act violations at 2450 South Cabrillo Highway. The Commission and Ocean Colony, however, agree that this Consent Order settles all unresolved issues, and all claims for relief for violations of the Coastal Act alleged in the NOI occurring prior to the date of this Consent Order, including potential monetary claims, (specifically including but not limited to any claims or actions for civil penalties, fines, or damages under the Coastal Act (including Sections 30805, 30820, and 30822), or otherwise). Accordingly, Ocean Colony agrees to waive whatever right it may have to challenge the issuance and enforceability of this Consent Order in a court of law.

13.0 SUCCESSORS AND ASSIGNS

This Consent Order shall run with the land binding all successors in interest, future owners of the property, heirs and assigns of the respondents. Notice shall be provided to all successors, heirs and assigns of any remaining obligations under this Consent Order.

14.0 MODIFICATIONS AND AMENDMENTS

Except as provided in Section 8.0, this Consent Order may be amended or modified only in accordance with the standards and procedures set forth in Section 13188(b) of the Commission's administrative regulations.

15.0 GOVERNMENTAL JURISDICTION

This Consent Order shall be interpreted, construed, governed and enforced under and pursuant to the laws of the State of California, which apply in all respects.

16.0 LIMITATION OF AUTHORITY

16.1 Except as expressly provided herein, nothing in this Consent Order shall limit or restrict the exercise of the Commission's enforcement authority pursuant to Chapter 9 of the Coastal Act, including the authority to require and enforce compliance with this Consent Order.

16.2 Correspondingly, Ocean Colony has entered into this Consent Order and waived its right to contest the factual and legal basis for issuance of this Consent Order, and the enforcement thereof according to its terms, solely to effectuate a settlement with the Commission through this Consent Order. Ocean Colony has agreed that it does not contest that (a) the Commission has jurisdiction to issue and enforce this Consent Order; and (b) for purposes of the CDP application specified in Section 1.5 of this Consent Order, the Commission has jurisdiction to accept, process, and act on such CDP application (and any amendments to or enforcement of the terms and conditions of such CDP).

16.3 Except as to the matters specified in Section 16.2, Ocean Colony is not waiving any legal rights, positions, or defenses, or conceding any factual matters, by entering into this Consent Order, and Ocean Colony retains the right to assert all of its legal rights, positions, and defenses, and present all facts and evidence in support thereof, in any other proceeding for any purpose by or before the Commission (including the CDP application specified in Section 1.5 above), any other governmental agency, any administrative tribunal, or a court of law. The Commission shall not assert in any such other proceeding that Ocean Colony has waived any of its rights, positions, or defenses, or conceded any facts, by virtue of its entering into this Consent Order.

17.0 INTEGRATION

This Consent Order constitutes the entire agreement between the parties and may not be amended, supplemented, or modified except as provided in this Consent Order.

18.0 STIPULATION

Ocean Colony and its representatives attest that they have reviewed the terms of this Consent Order, understand that their consent is final and stipulate to its issuance by the Commission.

IT IS SO STIPULATED AND AGREED:

On behalf of Ocean Colony Partners, L.P.:

Ocean Links Corporation, its general partner

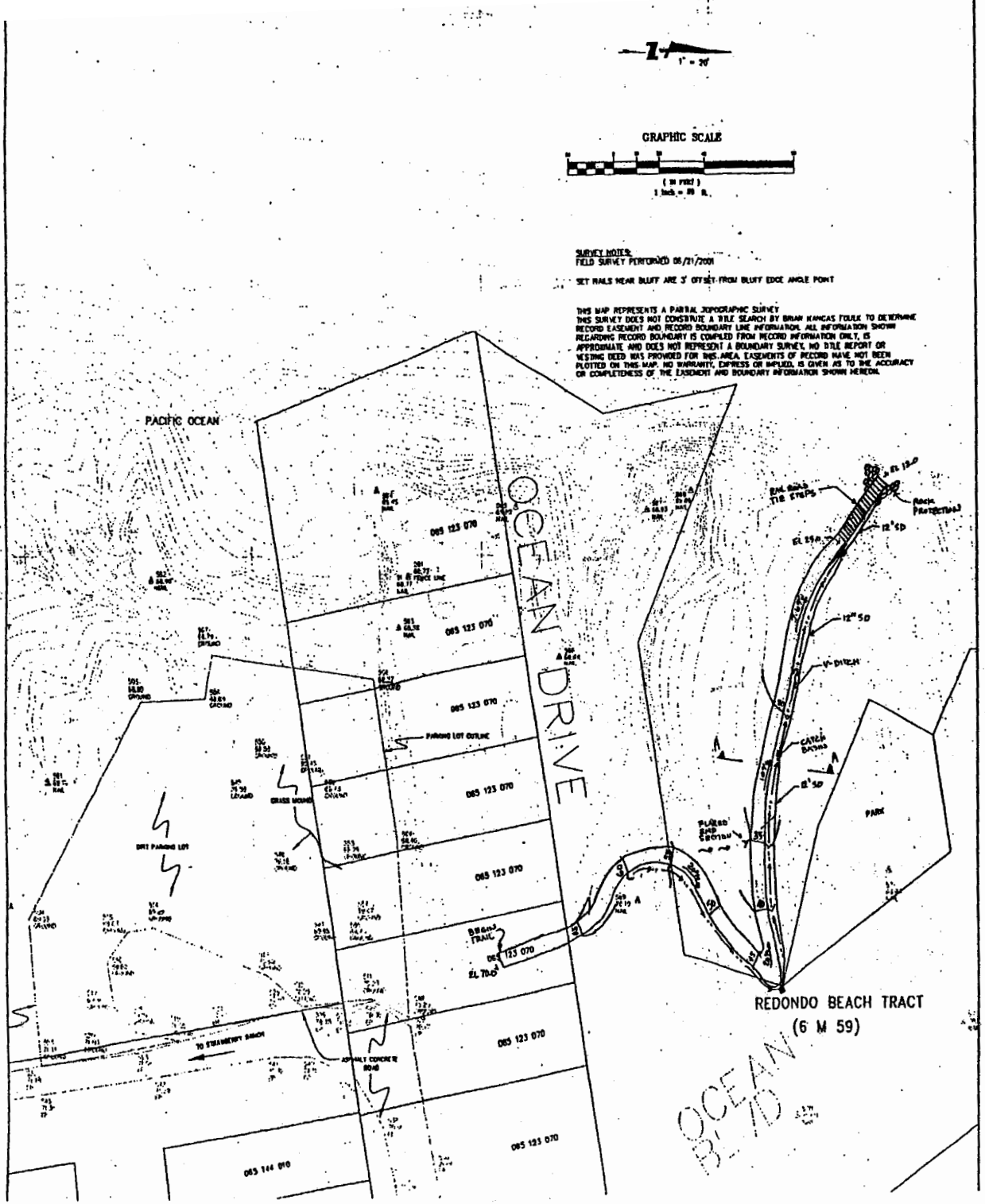
By: _____ 10/25/02

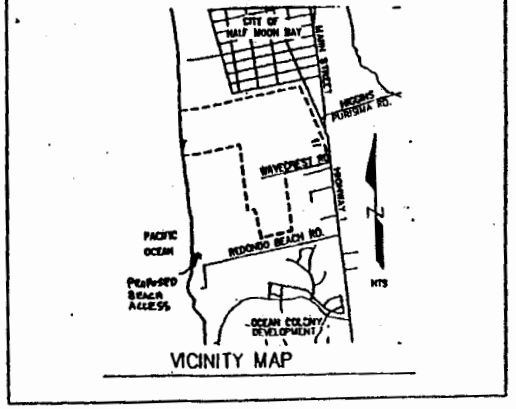
William E. Barrett, President — Dated

On behalf of the Coastal Commission:

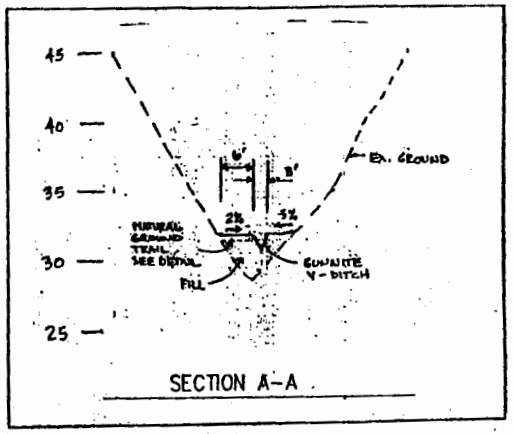
_____ 10/31/02

Peter Douglas, Executive Director — Dated

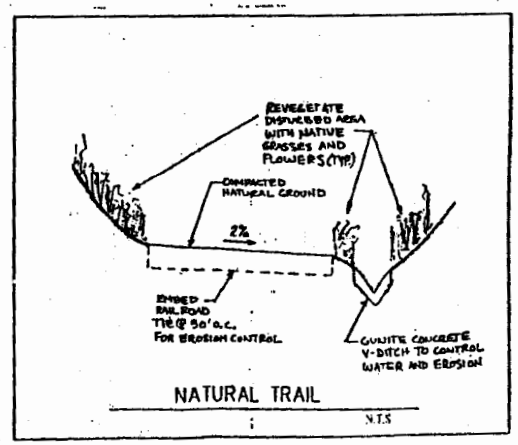




VICINITY MAP



SECTION A-A



NATURAL TRAIL

N.T.S

CLIFFORD BEUSTEL AND ASSOCIATES

REDONDO BEACH ROAD
CONCEPTUAL BEACH ACCESS PLAN
HALF MOON BAY, CALIFORNIA

CONTENTS:
GRADING & DRAINAGE PLAN

DATE 09/12/02
SCALE AS NOTED
REVISIONS:
DRAWN C.B.

Exhibit 17
CCC-02-CD-02 (Ocean Colony Partners)

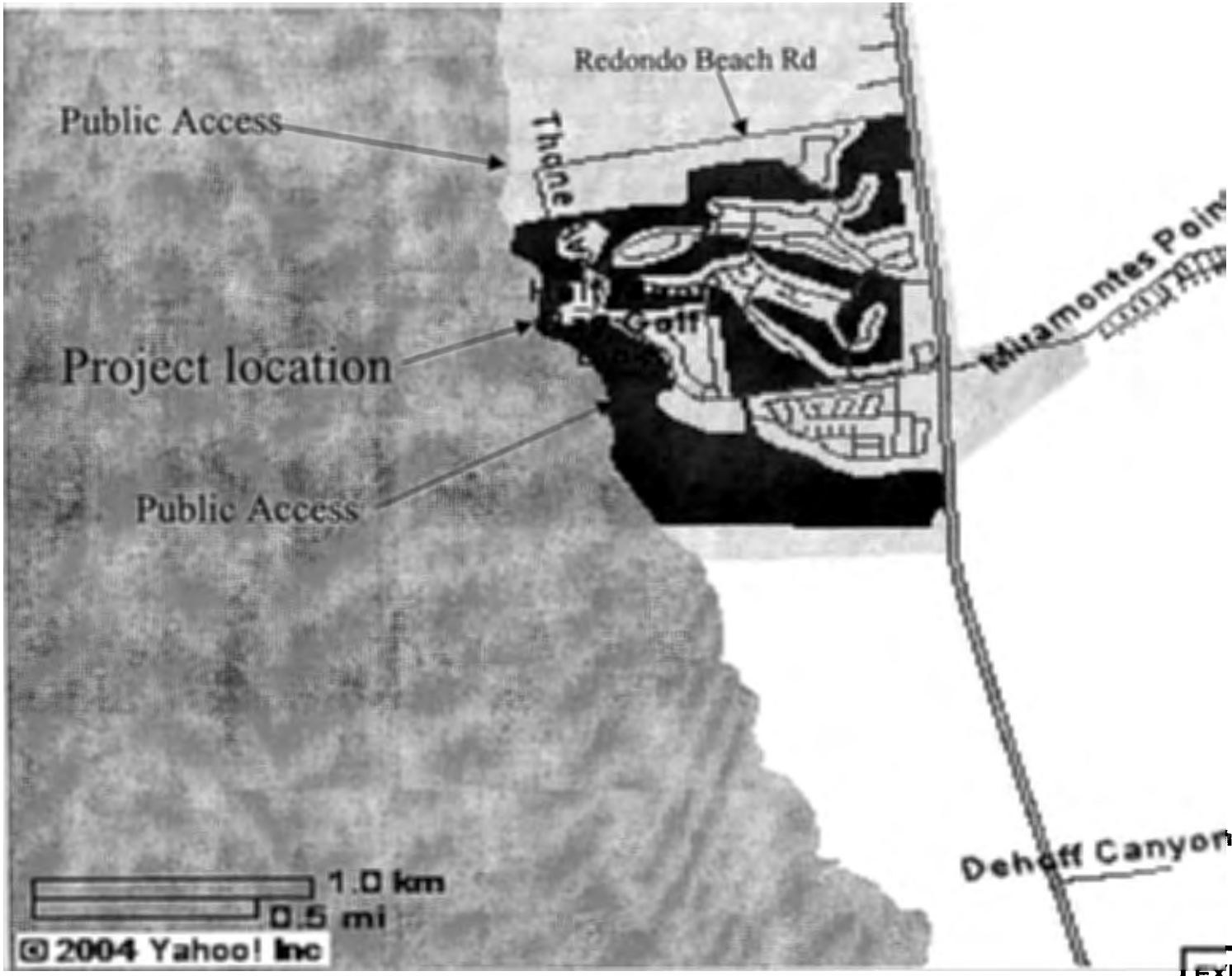


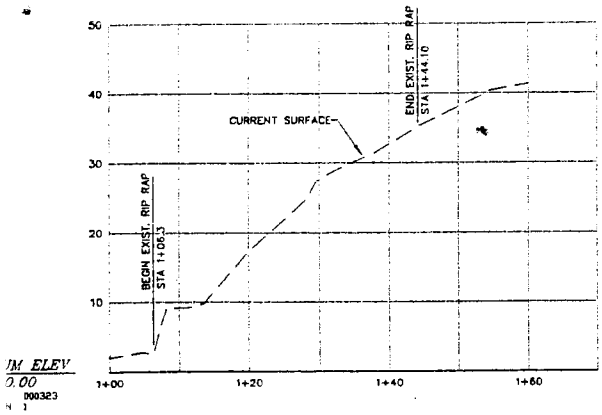
EXHIBIT NO. H
APPLICATION NO. 2-02-028
OCEAN COLONY PARTNERS

Photo showing water level at low tide December 2004

EXHIBIT NO. I

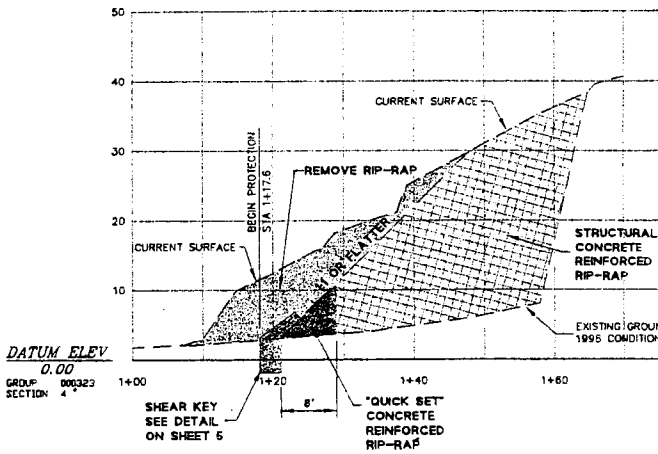
APPLICATION NO. 2-02-028

OCEAN COLONY PARTNERS



SECTION 1

SCALE: 1"=10' HORIZ & VERT



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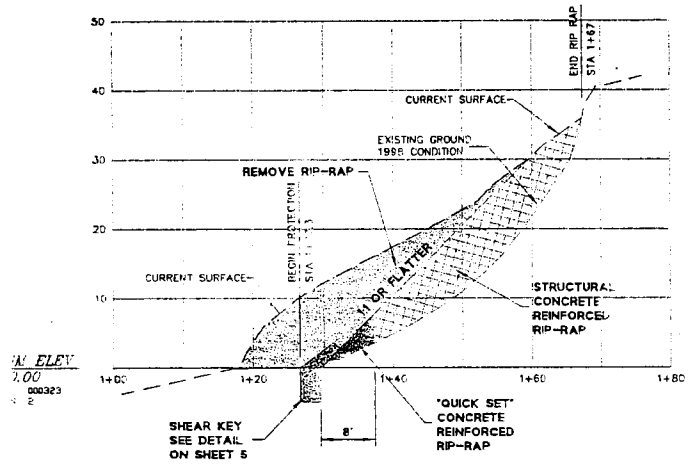

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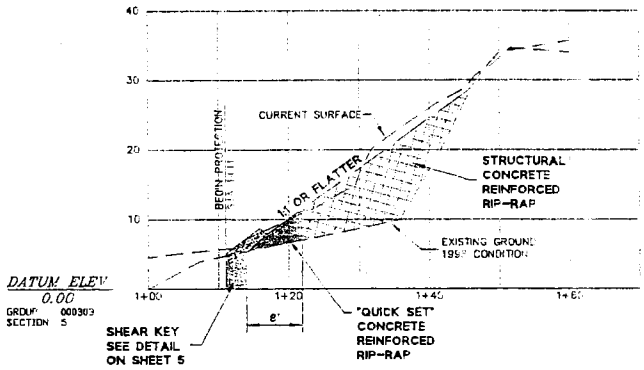

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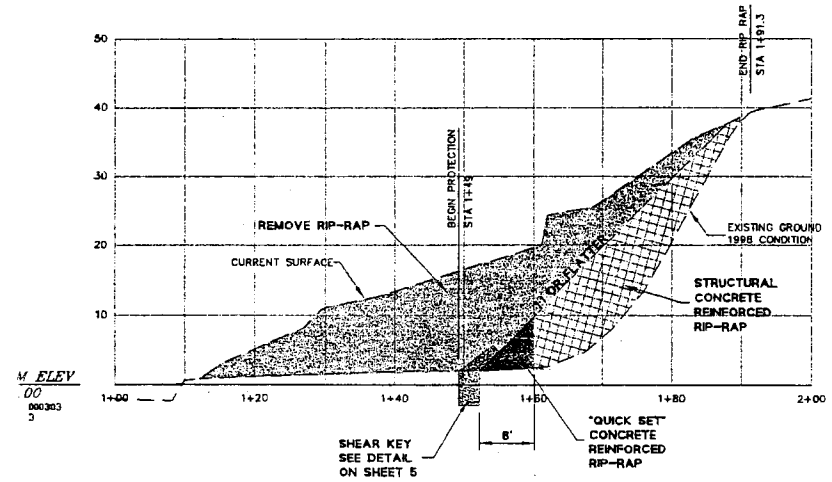
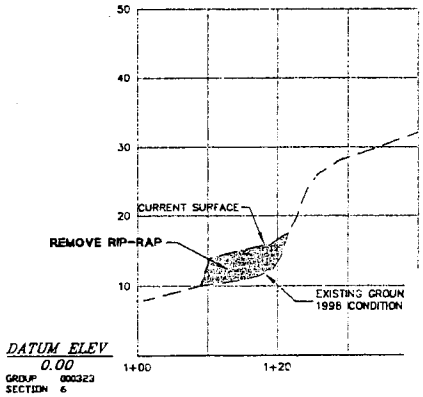


SECTION 3

SCALE: 1"=10' HORIZ & VERT



SECTION 6

SCALE: 1"=10' HORIZ & VERT

EXHIBIT NO. J

APPLICATION NO. 2-02-028

OCEAN COLONY PARTNERS

SLOPES FROM THE NORTH

EXHIBIT NO. K
APPLICATION NO. 2-02-028
OCEAN COLONY PARTNERS

Sloped FROM THE SOUTH

EXHIBIT NO. L
APPLICATION NO. 2-02-028
OCEAN COLONY PARTNERS

STATE OF CALIFORNIA—THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, GOVERNOR

CALIFORNIA COASTAL COMMISSION

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

19 January 2005

GEOTECHNICAL REVIEW MEMORANDUM

To: Al Wanger, Deputy Director
From: Mark Johnsson, Staff Geologist
Re: 2-02-028 (Ocean Colony Partners)

With regard to the above-referenced after-the-fact coastal development permit application, I have reviewed the following documents:

1) Moffatt and Nichol Engineers 2003, "Half Moon Bay Golf Links Seawall", 5 p. Wave uprush study dated 23 April 2003 and signed by D. Trivedi (PE).

2) Bay Area Geotechnical Group 2002, "Report Update-Geotechnical Investigation, Shoreline Bluff Stabilization, 18th Green, Ocean Colony Golf Course, Half Moon Bay, California", 18 p. Geotechnical update report dated 31 October 2002 and signed by E. Hamidieh, J. Van Zwol (GE 854) and L. A. Richardson (CEG 1035).

In addition, I visited the site on 11 January 2005.

The site is underlain by the Purisima Formation, a siltstone and mudstone unit that is moderately susceptible to coastal erosion. This bedrock unit is overlain by approximately 15 feet of marine terrace deposits consisting of sand and clay, which is in turn overlain by 3 to 10 feet of artificial fill in the project area. The contact between the bedrock and the marine terrace deposits occurs at an elevation of approximately 25 feet in the roughly 40 foot high coastal bluff. A concrete slab 12 inches thick underlies the artificial fill, and serves as a foundation for the 18th green. It is not clear from materials that I reviewed how far landward this slab extends.

According to reference (2), which examined bluff retreat adjacent to the 18th green by photogrammetric analysis, the bluff retreated approximately 30 feet in the ten years between 1963 and 1973, apparently largely as the result of a dramatic erosion event in the winter of 1972-1973. Since 1973 and until the site was armored in 1998, an additional 10 to 15 feet of erosion occurred. The report indicates that the long-term average erosion rate (1963 to 2000) is 0.75 feet per year, but most erosion seems to have been highly episodic. In 1998, erosion behind a seawall constructed at the time of the construction of the 18th green resulted in failure both of the seawall and a portion of the concrete slab, and lead to the placement of the rip rap now present at the site. I would judge from these data that individual erosion episodes have historically removed as much 10 to 20 feet of bluff top.

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APPLICATION NO. 2-02-028
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Reference (2) contains slope stability analyses for both the existing condition (with the rip rap present) and for the pre- rip-rap condition. The rock strength parameters are from test results obtained from samples collected in borings at the site in 1998. They and the assumptions inherent to the analyses are reasonable, in my opinion. The static factor of safety against failure of the upper bluff (failure circle above the bedrock is 1.5 and 1.9 for the pre- and post-revetment conditions, respectively. The static factors of safety against failure of the entire bluff (failure circle through toe of rock slope) are 2.5 and 2.1, respectively. These data show that the slope is reasonably safe from a global landslide-type of failure regardless of whether the rip rap is in place or not.

More gradual erosion events, such as the ones that occurred in the winters of 1972-1973 and 1997-1998 may, however, cause rapid retreat of the bluff edge if the revetment were not present. Structures that are located too close to the bluff edge could be threatened. Fortunately, the nearby hotel is set back more than 200 feet at this location. The 18th green does come within approximately ten feet of the bluff edge, but the hole is at least 50 feet away. Accordingly, if the revetment were not present it appears that a major erosion episode similar to ones that have occurred in the recent past would not place either the hotel or the hole in jeopardy, although the edge of the green could be affected. The concrete slab underlying the green likely would be affected by erosion with the next major erosion episode, but the edge of it could be cut away and removed as erosion encroached upon it, as was done in 1998.

Reference (1) demonstrates that even very severe storms occurring at high tide would not overtop the bluff, whether or not the rip rap is in place. The 2% exceedance elevation for an extreme time and a 7.7 foot wave (the calculated depth-limited wave height) is 33 feet, 6 feet below the elevation of the green.

To summarize, it is my opinion that the data show the bluff, in the absence of the revetment, to be globally stable but subject to episodic erosion that has in the recent past resulted in 10-20 feet of bluff retreat. There is no way of telling when an erosion event will occur in the future, but an event comparable to the events in the recent past would not threaten the 18th hole itself nor the hotel, but may be expected to result in damage to the underlying green foundation, and perhaps to the edge of the green itself.

I hope that this evaluation is helpful. Please do not hesitate to contact me if you have further questions.

Sincerely,

Mark Johnsson, Ph.D., CEG, CHG
Staff Geologist

Alternatives Analysis:

1) *Utilize the existing remaining riprap (after 50% removal as per the Interim Plan) combined with a structural wall built with tiebacks, concrete facing and sculpted concrete to provide the structure with a natural appearance.*

This is the preferred flan described in the project description above. It provides protection for the 18th green consistent with other forms of bluff protection approved by the Commission in other c oastal areas of California. It creates an effective form of bluff protection in the appearance of a natural landform. By leaving the riprap in place (after the removal of 50% for the *Interim Plan),* it also creates a natural appearance similar to the existing bluff once the sculpted shotcrete is applied.

2) *Remove all riprap and construct a new concrete sculpted wall below the 18th green.*

While this alternative would be similar to the preferred proposal, we believe the recommended option is the preferred alternative. The slope of the wall proposed under the *Permanent Plan* is c learly more stable (a 1/1 slope) utilizing the remaining riprap and keyway than a steep vertical wall. In addition, while the installation of the tiebacks would be as described above, the slope of the remaining riprap in the preferred alternative is in line with the required angle for the construction of the tiebacks (Please see sheet SW23 of the BP Lai Plans). The proposed *Permanent Plan* would also have a more natural appearance than a steep vertical face.

As well, there were areas of the bluff underlying the concrete structure or the 18th green that were scoured due to wave action that created a void under the green and concrete structure. This void would require placing fill or rock material (riprap) in these areas to create a vertical wall, which would be extremely difficult to stabilize given the steepness of the wall.

3) *Leave the existing riprap as removed and stabilized by the Interim Plan.*

While the riprap remaining after the implementation of the *Interim Plan* would be an effective means of bluff protection, we do not recommend this option because it does not have the natural appearance as constructed under the proposed *Permanent Plan.*

4) *Construct a seawall similar to the one built in* 1973.

Although the construction of a concrete seawall would be consistent with the bluff protection constructed in 1973, we are not recommending this alternative since it is not as effective a long-term solution as the preferred alternative. In addition, it would not have the natural appearance proposed in the *Permanent Plan.*

5) *Remove all riprap and provide no bluff protection.*

There are several reasons why this is not a legitimate option. Besides the issues of requiring the modification and/or relocation of the 18th green, which is discussed in detail below, eliminating bluff protection in this area would have significant long-term consequences.

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APPLICATION NO. 2-02-028
OCEAN COLONY PARTNERS

a. The elimination of any bluff protection in this area would undermine the concrete structure below the 18th green constructed in 1973. We have provided Commission staff with numerous photos of the construction of the 18th green's concrete sub-structure. It underlies the entire green and was constructed of rebar and concrete footings and slab and is approximately 10-12" thick. If this concrete slab were allowed to be undermined, it would cantilever above the beach and would undoubtedly crack and fall to the ground over time. Most importantly, as the portions of the concrete sub-structure were exposed, they would create safety hazards for potential coastal users walking along the beach. Coastal users would feel threatened by the concrete overhangs of the substructure. As well, as large portions fell, users of the beach would have to walk around or over sections creating additional risk from the exposed rebar. Finally, similar to the seawall we are required to remove as part of the *Interim Plan,* as portions of this concrete structure fell to the beach they would be unsightly with jagged ends and exposed rebar.

b. As bluff erosion progressed landward, erosion would threaten the coastal access improvements constructed as part of the Half Moon Bay Resort hotel (The Ritz Carlton - Half Moon Bay). There is only a limited amount of land between the bluff top and the hotel project. Ultimately, bluff protection would be required to protect the existing coastal access improvements. If we were to consider the modification of the 18th green and move it landward, this would also threaten coastal path users with the increased risk of being struck by an errant golf ball.

Therefore, the elimination of any bluff protection in this area would only serve to impair coastal access in the future. It would create additional hazards for coastal users on the existing access improvements and, as well, along the beach below the 18th green. It would also ultimately have a negative impact to coastal resources and the environment allowing the opportunity for concrete sections to fall and remain on the beach.

Finally, as we have expressed in past correspondence, Ocean Colony Partner's believe we have a vested right to bluff protection. We have provided staff with our legal counsel's opinion on this subject and incorporate that correspondence by reference as part of this project description.

6) *Half Moon Bay Golf Links should modify and/or relocate the 18th hole.*

As part of the alternatives analysis required by the Consent Agreement, staff has required Ocean Colony Partners to provide an analysis of relocating or modifying the 18th hole of the Half Moon Bay Golf Links (HMBGL). First, as discussed immediately above, any modification of the 18th hole would not alleviate the potential problems with the concrete sub-structure of the 18th green and the bluff erosion in this area. Therefore, the preferred alternative for protecting the environment and preserving the greatest extent of coastal access would be to implement the *Permanent Plan* described herein.

There are other significant factors why the 18th hole should not be modified or relocated. The 18th hole of the Half Moon Bay Golf Links (Old Course) is recognized as the "signature" hole for the golf course. A signature hole is usually described as the best and/or most memorable hole on a golf course. In this case, it is even more important. The 18th hole of the HMBGL has been named as one of the best 100 holes in the country by Golf Magazine. This distinction is very rare and unique. This hole has been favorably compared to the famous 18th hole at Pebble Beach Golf Links. The 18th hole

has garnered such fame and prominence that visitors from all over the country identify this hole as one of the main reasons to play HMBGL. Conducting a web search on the HMBGL will produce articles and reviews where, inevitably, the 18th hole is described and, typically, acclaimed. The value to HMBGL to have our golfers end their golf round on a hole that has received such acclaim and notoriety is immeasurable. *(We should note that the HMBGL is an important visitor serving use open to the public and a significant factor in drawing individuals to the San Mateo coast.)*

The original architects identified the beauty and challenge of this golf hole. In fact, as described above, the architects and developers clearly understood the value of this golf hole and implemented the shoreline protection systems including the seawall and the concrete structure for the 18th green.

The 18th green as part of this golf hole with its proximity to the bluff top and the ocean below is equally unparalleled. The Half Moon Bay Resort designed important components of their public space and hotel rooms to take advantage of this landscape. The exterior patios enjoyed by hotel guests and coastal visitors were also designed to view the green. Again, many of the reviews and articles written about the Ritz Carlton - Half Moon Bay discuss the views of the 18th hole and the ocean beyond. The value of the 18th hole in its current location and design is invaluable to Ocean Colony Partners. The modification and/or relocation of the 18th hole would have such a negative impact that it should not be considered a viable option.

Beyond the important economic factors for maintaining the 18th hole in its current configuration, the opportunity for relocating or modifying the hole is very limited. The proximity of the hotel structure and, as raised above, the coastal access improvements between the hotel and the 18th hole leave very little space for any relocation. In addition, if the hole was brought closer to the coastal access trail and the hotel structure including the exterior patios, the possibility of errant golf balls striking coastal access users and hotel guests would be increased. This coastal trail is connected to the coastal access improvements of the South Wavecrest project and provides a further link to the north and the south for potential extensions of the local coastal trail. In fact, the Commission revised the original proposal of the Half Moon Bay Resort to locate the coastal access trail from the landward side of the resort to the to the ocean side of the hotel. They clearly intended the coastal users to have a safe, unobstructed view of the ocean and bluff areas. Therefore, any potential modification would only adversely impact existing coastal improvements and users and would be limited in scope given the existing structures of the hotel and coastal trail.