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Filed: July 23, 2007
49th Day: September 10, 2007
(Waived)
Staff: YinLan Zhang – SF
Staff Report: September 21, 2007
Hearing Date: October 12, 2007

**STAFF REPORT – APPEAL
SUBSTANTIAL ISSUE**

APPEAL NO.: A-2-HMB-07-030

APPLICANTS: Thomas and Eugene Pastorino

LOCAL GOVERNMENT: City of Half Moon Bay

ACTION: Approval with Conditions.

PROJECT LOCATION: 921 Miramontes, Half Moon Bay (San Mateo County)

PROJECT DESCRIPTION: Construction of an approximately 7,000 square-foot single family residence and 2,400 square-foot barn and associated improvements, including installation of water, sewer, and utilities, road widening, and construction of a driveway located on a 20-acre parcel zoned OS-R(Open Space Reserve)

APPELLANT: Kevin Lansing

EXECUTIVE SUMMARY

The City of Half Moon Bay approved with conditions a 5,339 square-foot residence, 2,400 square-foot barn, and associated improvements including installation of utilities, widening of a portion of the existing access road, and construction of a driveway on a 20-acre parcel zoned OS-R (Open Space Reserve) at 921 Miramontes Street. Only a portion of the approved development located within 100 feet of a USGS stream, consisting of installation of utilities, road widening, and construction of approximately 20 feet of the driveway is relevant to the Commission's substantial issue determination.

The appellant contends that the approved development is inconsistent with several of the biological resource protection policies of the certified LCP. The appellant also contends that the approved development is inconsistent with the minimum density requirements for the zoning district, and that it conflicts with the agricultural and sensitive habitat protection policies of the certified LCP. The appellant further contends that the City inappropriately granted the applicant a variance from the minimum residential density requirements.

Commission staff analysis indicates that the appeal raises significant questions regarding whether the development approved by the City is consistent with one of the biological resource protection policies of the City's certified LCP. The portion of the approved development located within 100 feet of a stream and therefore relevant to the Commission's substantial issue determination (widening of the existing access road, the trenching and installation of utilities, and the construction of a portion of the driveway) is located in close proximity to Arroyo Leon and its associated riparian corridor, which are sensitive habitats under the LCP that support California red-legged frogs and San Francisco garter snake. Such approved development has not incorporated adequate and comprehensive protective measures to avoid significant impacts to the California red-legged frog and the San Francisco garter snake and will not be compatible with the maintenance of the biological productivity of the adjacent sensitive habitat. Commission staff therefore recommends that the Commission find that the project, as approved by the City, raises a substantial issue of conformity with the biological resource protection policies of the City's LCP.

The motion to adopt the staff recommendation of Substantial Issue is found on page no. 3.

STAFF NOTES

- 1. A portion of the approved development (i.e., widening of the existing access road, trenching and installation of utilities, and construction of a portion of the driveway to the house) is located within 100 feet of Arroyo Leon, a mapped USGS stream (Exhibit 4, Page 1). Thus, this portion of the approved development meets the Commission's appeal criteria set forth in Section 30603 of the Coastal Act and is the subject of the Commission's substantial issue determination. Pursuant to Section 30603 of the Coastal Act, an appeal for this type of development is limited to the allegation that the portion of the development that is located within 100 feet of Arroyo Leon, a mapped USGS stream, does not conform to the standards set forth in the certified LCP.**
- 2. Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial**

issue is raised by the appeal. Since the staff is recommending substantial issue, unless there is a motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will open and continue the hearing on the de novo portion of the appeal hearing. Accordingly, the Commission's de novo review of the proposed permit application, in its entirety, will occur at a subsequent meeting, after the applicant has provided the Commission with the information necessary for the Commission to conduct its de novo review.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

Exhibits

1. Notice of Final Local Action
2. Appeal Filed by Kevin Lansing
3. Aerial Photo of Site
4. Site Plan
5. Site Photos
6. Biological Report
7. July 3, 2007 Email from Lucy Triffleman, USFWS
8. July 23, 2007 Email from Lucy Triffleman, USFWS

1.0 STAFF RECOMMENDATION

Pursuant to Section 30603(b) of the Coastal Act and as discussed in the findings below, the staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeals have been filed. The proper motion is:

MOTION

I move that the Commission determine that Appeal No. A-2-HMB-07-030 raises NO substantial issue as to conformity with the certified Local Coastal Program with respect to the grounds on which an appeal has been filed pursuant to Section 30603 of the Coastal Act.

STAFF RECOMMENDATION

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

RESOLUTION TO FIND SUBSTANTIAL ISSUE

The Commission hereby finds that Appeal No. A-2-HMB-07-030 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency of the approved development with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

2.0 PROJECT LOCATION AND DESCRIPTION

The approved development is located in the central eastern region of Half Moon Bay, on a 20-acre parcel that is currently used for grazing, hay production, and growing of ornamental plants. The western half of the parcel is relatively flat and is developed with an office and barn for the applicant's business, Pastorino Hay, and also used for grazing and hay production. The eastern portion of the parcel is located on a hill and is used for cultivating ornamental plants. The subject property is bounded by farmland to the north and east, single-family homes to the south, and an existing paved access road and Arroyo Leon to the west. Arroyo Leon is an intermittent stream with a well-developed riparian corridor that supports the California red-legged frog (federally threatened, California species of special concern) and the San Francisco garter snake (federally and state endangered species, California fully protected species).

The approved coastal development permit authorizes the development of a 5,339 square-foot single-family home, 2,400 square-foot barn, driveway, widening of the existing private access road from 16 to 20 feet for emergency vehicle access, and trenching within the existing road for installation of utilities including sewer, water, gas, and electricity. The conditions of approval include requirements to control erosion and sedimentation during construction, to reduce post-construction polluted stormwater runoff and to minimize impacts to the California red-legged frog and San Francisco garter snake during construction.

Along with the coastal development permit, the City also approved a variance to the minimum 50-acre per single-family residence density requirement for the OS-R zoning

district to allow the development of a residence on a OS-R zoned parcel that is only 20 acres.

3.0 APPEAL PROCESS

3.1 Filing of Appeal

The Half Moon Bay Planning Commission approved the CDP on May 24, 2007. The CDP was appealed to the City Council, which on July 3, 2007, denied the appeal and upheld the Planning Commission's approval.

On July 9, 2007, the Commission received the City's Notice of Final Local Action on CDP PDP-070-06 (Exhibit 1). The ten working-day Commission appeal period ran from the next business day, July 10, 2007, to July 23, 2007. On July 23, 2007, the Commission received an appeal of the City's action on the approved CDP from Kevin Lansing (Exhibit 2).

Pursuant to Section 30621 of the Coastal Act, an appeal hearing must be set within 49 days from the date that an appeal of a locally issued CDP is filed. The appeal of Half Moon Bay CDP PDP-070-06 was filed on July 23, 2007. The 49th day after the day that the appeal was filed is September 10, 2007. The applicants have waived their right to a hearing within 49 days of filing of the appeal.

3.2 Appeals under the Coastal Act

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

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

A portion of the approved development (i.e., widening of the existing access road, trenching and installation of utilities, and construction of a portion of the driveway to the house) is located within 100 feet of Arroyo Leon, a mapped USGS stream (Exhibit 4, Page 1). Thus, this portion of the approved development meets the Commission's appeal criteria set forth in Section 30603 of the Coastal Act and is the subject of the

Commission's substantial issue determination. Pursuant to Section 30603 of the Coastal Act, an appeal for this type of development is limited to the allegation that the portion of the development that is located within 100 feet of Arroyo Leon, a mapped USGS stream, does not conform to the standards set forth in the certified LCP.

3.3 Standard of Review

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

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

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

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

If the Commission chooses not to hear an appeal, the appellant nevertheless may obtain judicial review of the local government's action on the coastal development permit by filing a petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

4.0 SUBSTANTIAL ISSUE ANALYSIS

Appellant's Contentions

The appeal includes the following contentions (see Exhibit 2):

- The approved development is inconsistent with the minimum density requirements in the Zoning Code for the OS-R district (Open Space Reserve) which requires a minimum parcel size of 50 acres for each residence because the subject parcel is only 20 acres in size.
- The approved variance for the minimum 50-acre per residence density requirements is not consistent with the variance ordinance because the required findings that the property is subject to exceptional circumstances and that the variance would not be materially detrimental to property cannot be made.
- The approved development conflicts with the agricultural resource protection policies of the LCP that require maximum amount of prime agricultural land be maintained in agricultural production because the approved development is not sited and clustered in an area closer to existing public infrastructure services near the parcel, but instead is located in the center of the parcel.
- The approved development is inconsistent with the biological resource protection policies of the LCP because portions of the approved development, including trenching for utilities installation and widening of the access road, would be within the 50-foot required buffer zone.
- The approved development is inconsistent with the biological resource protection policies of the LCP because portions of the approved development, including trenching for utilities installation and widening of the access road, would create disturbance to the habitat of the San Francisco garter snake and the California red-legged frog.
- The approved development has not obtained approval from the U.S Fish and Wildlife Service, which is required by the LCP for development within sensitive habitat.

4.1 Appellant's Contentions that Raise Substantial Issue

Disturbance to California Red-legged Frog and San Francisco Garter Snake

The appellant contends that the portion of the approved development located within 100 feet of Arroyo Leon (consisting of trenching within the existing road and installation of utilities, widening of approximately 20 feet of the existing road from 16 feet to 20 feet, and the construction of approximately 20 feet a 16-foot wide new driveway), is inconsistent with the biological resource protection policies of the certified LCP because

it would create disturbance to the California red-legged frog and the San Francisco garter snake.

Applicable LCP Policies include:

3-1 Definition of Sensitive Habitats

- (a) Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and as those areas which meet one of the following criteria: (1) habitats containing or supporting “rare and endangered” species ..., (2) all perennial and intermittent streams and their tributaries, ... (6) lakes and ponds and adjacent shore habitat ...[Emphasis added.]

3-3 Protection of Sensitive Habitats

- (a) Prohibit any land use and/or development which would have significant adverse impacts on Sensitive Habitat areas.
- (b) Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the Sensitive Habitats. All uses shall be compatible with the maintenance of biologic productivity of such areas. [Emphasis added.]

3-21 Designation of Habitats of Rare and Endangered Species

In the event the habitat of a rare and endangered species is found to exist within the City, revised the Habitat Areas and Water Resources Overlay to show the location of such habitat. Any habitat so designated shall be subject to Policies 3-22 through 3-31.

3-23 Permit Conditions

Require, prior to permit issuance, that a qualified biologist prepare a report which define requirement of rare and endangered organisms.... (4) any development must not impact the functional capacity of the habitat, and (5) recommend mitigation if development is permitted within or adjacent to identified habitats.

LUP Policy 3-3 requires development adjacent to sensitive habitat to be sited and designed to prevent significant adverse impacts that would degrade the habitat or be incompatible with the maintenance of the biologic productivity of the habitat. LUP Policy 3-23 requires development to avoid impacts to the functional capacity of habitat of rare and endangered species.

The portion of the approved development within 100 feet of a stream and therefore relevant to the Commission’s substantial issue determination is located in close proximity

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to Arroyo Leon and its associated riparian corridor, which meet the definition of both sensitive habitat and habitats for rare and endangered species under the LCP (Policies 3-1 and Section 18.38.085 of the Zoning Code) because Arroyo Leon is an intermittent stream, the adjacent area is a riparian corridor, and both serve as habitat for the special-status species San Francisco garter snake and California red-legged frog.

Based on the biological assessment and correspondence from U.S Fish and Wildlife Service (USFWS) biologist, California red-legged frogs and San Francisco garter snakes have a high potential to occur within Arroyo Leon and its associated riparian, which according to USFWS biologist “has been recognized by several experts as containing quality habitat characteristics for the above mentioned listed species”(Exhibit 8). As noted in the Project Description section, California red-legged frog is a federally threatened species protected under the federal Endangered Species Act, and the San Francisco garter snake is a federal and state-listed endangered species, and also a Fully Protected species under California law. A Fully Protected species means that the species may not be taken or possessed at any time. Therefore, the harm of a single San Francisco garter snake is prohibited under state law.

The portion of the approved development relevant to the Commission’s substantial issue determination does not immediately abut Arroyo Leon, but the bulk of such approved development occurs within the road located approximately 70 feet from the stream. Due to the proximity of such development from Arroyo Leon, and the high potential for the California red-legged frog and the San Francisco garter snake to occur within the stream and riparian corridor, the sensitive species have a high potential to wander onto the portion of site relevant to the Commission’s substantial issue determination during construction and suffer death or injury from activities such as trenching, road widening, and construction of a new driveway. Impacts to any California red-legged frog or San Francisco garter snake from construction activities would reduce the population of the species within the adjacent stream and riparian corridor and reduce the biological productivity and functioning capacity of the adjacent habitat. Development resulting in such impacts would therefore be inconsistent with LUP Policies 3-3 and 3-21.

Prior to the City’s approval of the coastal development permit and before the USFWS required an incidental take permit for the entire approved development, the USFWS recommended to the City the following measures that should be included in the project to avoid significant impact to the California red-legged frog and San Francisco garter snake from construction activities (Exhibit 7):

- 1) ...please be sure that the applicant understands that the worker education program needs to be implemented prior to the start of any ground breaking activity and should be conducted by a Service-approved biologist (this individual should send their qualifications via a 1-2 pg resume to the Service for email approval prior to conducting the education session. Be sure to highlight this individuals experience working with amphibians and reptiles in a field setting) [Emphasis added.]

- 2) Exclusion fencing should be established surrounding the entire project area (i.e. anywhere where the ground will be disturbed). A gate should be installed to allow entrance/exit of construction vehicles and staff as needed but it is important that it remains closed the majority of the time, especially overnight. Fencing should be a minimum of 36 inches above ground level and buried 4-6 inches into the ground. Fencing should have one-way escape funnels and should remain intact for the entire duration of development activities (Note: I am attaching designs to the end of this document). Fencing may be made of plywood or erosion mesh but MAY NOT be made of orange construction fencing or anything with larger holes as this may trap listed species. Fencing should be established two weeks prior to the start of construction and should be established by Service-approved monitor(s) (see above). Fencing should be inspected for any rips or other malfunctions once per week by biological monitors during all phases of construction activity. Upon completion of the proposed project all traces of fencing should be removed and properly disposed of off-site. [Emphasis added.]
- 3) After the establishment of fencing but prior to the start of construction, grass and vegetation within this area should be removed via belt driven weedwacker to a two- to four-inch height.
- 4) Immediately after grass clipping, Service-approved monitors should perform preconstruction surveys of the area. If any listed species are found, monitors will remove these animals from the fenced area and bring them to Arroyo Leon creek for release. Under no circumstance will these individuals be allowed to be placed at any other location. Preconstruction surveys should be performed again the day of the onset of construction activities to ensure the area is clear. If any listed species are found during the course of construction, construction will cease until biological monitors have been contacted and arrive on the site. Biological monitors will then be allowed to remove listed species from the site and translocate them to Arroyo Leon. Under no circumstances will anyone else be allowed to handle these species. At the end of the construction period, biological monitors will issue a report to the Service describing the species encountered during construction activities and what actions were taken. [Emphasis added.]
- 5) Please be sure to incorporate measures that all trenches and holes will be filled or covered at the end of each work day within the project area. [Emphasis added.]
- 6) Please be sure that no staff or equipment enter the riparian areas during the construction period.

In addition, since these recommendations have been made, the USFWS has required the applicant to obtain an incidental take permit through a Habitat Conservation Plan (HCP), and as such, there may be additional protection measures that the USFWS would require through the HCP that are currently unidentified.

In comparison to the mitigation measures recommended by USFWS, the City required the following measures in the conditions of approval for the coastal development permit

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to address potential impacts to the California red-legged frog and San Francisco garter snake (Exhibit 1, Page 11):

- a. Within two weeks prior to the start of construction, a worker education program shall be presented at the project site by a biologist familiar with the species. Associated written material will be distributed. It shall be the onsite foreman's responsibility to ensure that all construction personnel and subcontractors receive a copy of the education program. The education program shall include a description of California red-legged frog and San Francisco garter snake and their habitat, the general provisions of the Endangered Species Act, the necessity of adhering to the Act to avoid penalty, measure implemented to avoid affecting California red-legged frog and San Francisco garter snake specific to the project and work boundaries of the project.
- b. If California red-legged frogs or San Francisco garter snakes are observed by works or anyone else prior or during construction, work shall cease and the USFWS and CDFG contacted for guidance. The regulatory agencies may require daily biological monitoring and/or other mitigation measures.
- c. Exposed trenches resulting from project construction shall be backfilled as soon as practicable. Open trenches should have an escape ramp composed of earthen material installed at the end of each work day so that any entrapped wildlife may exit.

Protective measures for the San Francisco garter snake and the California red-legged frog included in the approved development are limited only to the measures above. The condition of approval required by the City relating to contractor education does not require the biologist providing the training to be approved by the USFWS as specified by USFWS in Measure 1 above. Also, the condition concerning backfilling of exposed trenches does not require that the trenches be filled at the end of each work day as specified by USFWS in Measure 5 above. In addition, the City's conditions of approval do not require either preconstruction surveys or exclusion fencing as specified by USFWS in Measures 2 and 4 above.

Due to the proximity of the appealable development from Arroyo Leon, and the high potential for the California red-legged frog and the San Francisco garter snake to occur within the stream and riparian corridor, the sensitive species have a high potential to wander onto the portion of construction site relevant to the Commission's substantial issue determination during construction and suffer death or injury from activities such as trenching, road widening, and construction of a new driveway. Without: (1) a qualified biologist to conduct the contractor training; (2) the installation of an exclusion fence; (3) preconstruction surveys, and (4) backfilling of exposed trenches at the end of each work day, the appealable development is not sited and designed to prevent impacts that would degrade the habitat because the local approval has not minimized the risk that frogs or snakes would enter the portion of the construction site relevant to the Commission's substantial issue determination and be harmed. The measures required by the USFWS including fencing, surveys, biologist-conducted contractor training approved by USFWS, and backfilling of exposed trenches at the end of each work day are considered by

USFWS to be the minimum necessary to reduce potential significant impacts to the California red-legged frog and San Francisco garter snake. Additionally, since the USFWS has required an HCP, there may be additional measures that would be required in the HCP which the USFWS has not yet identified to ensure that the portion of development relevant to the Commission's substantial issue determination will be sited and designed to prevent impacts that would degrade the sensitive habitat. Without all of the above-identified mitigation measures specified by USFWS, the appealable development, as approved, could result in significant adverse impacts to the sensitive species including injury or death. Impacts to any California red-legged frog or San Francisco garter snake from construction activities would reduce the population of the species within the adjacent stream and riparian corridor and reduce the biological productivity and functioning capacity of the adjacent habitat. Therefore, the approved development is not designed to prevent significant adverse impacts on sensitive habitat and is not compatible with the maintenance of the sensitive habitat. Therefore, the appeal raises a substantial issue of conformance of the approved development with the biological resource protection policies of the LCP.

4.2 Conclusion—Substantial Issue

Applying the factors listed in section 3.3 above further clarifies that the appeal raises substantial issue with respect to the conformity of the approved development with the policies of the Half Moon Bay LCP.

Regarding the significance of the coastal resources affected by the decision, the portion of the approved development relevant to the Commission's substantial issue determination is located in close proximity to Arroyo Leon and its associated riparian area, which meet the definition of both sensitive habitat and habitats for rare and endangered species under the LCP (Policies 3-1 and Section 18.38.085 of the Zoning Code) because Arroyo Leon is an intermittent stream, the adjacent area is a riparian corridor, and it serves as habitat for the special-status species San Francisco garter snake and the California red-legged frog. As such, biological resources in Arroyo Leon and its surrounding areas, adjacent to the approved development, are significant.

Regarding the degree of factual and legal support for the local government's decision that the approved development is consistent with the certified LCP, the City's findings for approval of the local CDP state that the approved project conforms to the policies of the LCP. However, as discussed above, the portion of the approved development relevant to the Commission's substantial issue determination is located close to Arroyo Leon which provides quality habitat for the San Francisco garter snake and the California red-legged frog, and requires extensive mitigation measures, as recommended by USFWS biologists, to ensure that construction activities would not disturb the sensitive species or its habitat. However, the appealable development approved by the City does not incorporate at least four mitigation measures recommended by USFWS to prevent significant adverse impacts that would degrade the sensitive species or its habitat and to ensure that the approved development is compatible with the maintenance of the biologic productivity

and functioning capacity of the habitat. As such, there is a lack of factual and legal support for the City's finding that the approved development is consistent with LUP Policy 3-3 and 3-21.

Therefore, in conclusion, the Commission finds that the appeal does raise a substantial issue concerning the consistency of the approved development with the policies of the Half Moon Bay LCP regarding the protection of sensitive habitats.

4.3 Appellant's Contentions that Raise No Substantial Issue

The appellant contends that the approved development within the Commission's appeal jurisdiction, within 100 feet of Arroyo Leon, consisting of trenching and installation of utilities within the existing access road, the widening of approximately 20 feet of the existing access road, and construction of approximately 20 feet of the driveway, is inconsistent with the biological resource protection policies of the LCP regarding minimum buffer requirements and necessary USFWS approvals. The appellant states:

The riparian corridor of Leon Creek meets the definition of sensitive habitat stated in Section 18.38.020 of the City's Zoning Code. LCP Policy 3-4 specifically calls out the need to abide by the regulations of the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) in sensitive habitat areas. Section 18.38.085 requires a buffer zone of 50 feet around habitat of rare or endangered species. The project will require widening of the access road to the project site for the purpose of emergency vehicle access. Trenching underneath the access road is also required for the installation of water and sewer utilities. Based on the general site plan and an aerial map (enclosed) both of these operations may encroach within the 50 foot buffer, and would certainly create a disturbance to the habitat of San Francisco garter snakes and California red-legged frogs. In an email to the City planner dated July 16, 2007, USFWS biologist Lucy Triffleman indicated that the applicant would be required to obtain a take permit pursuant to the preparation of a Habitat Conservation Plan (HCP). Findings for compliance with LCP Policy 3-4 cannot be made until this process has been completed.

The appellant specifically contends that the approved widening of the existing access road and trenching under the road for utilities is inconsistent with the biological resource protection policies of the certified LCP because (1) these development activities are located within the 50-foot minimum required buffer zone for habitats for rare and endangered species, including the California red-legged frog and San Francisco garter snake; and (2) the approved development has not obtained approval from the USFWS as required by LCP Policy 3-4.

Buffer for Habitat of Rare and Endangered Species

Arroyo Leon and its associated riparian habitat meet the definition of habitat for rare and endangered species because the biological assessment provided by the applicant states that California red-legged frogs are considered to have a high potential to inhabit Arroyo Leon and that Arroyo Leon also provides suitable habitat for the San Francisco garter snake. USFWS biologist has indicated that Arroyo Leon “has been recognized by several experts as containing quality habitat characteristics for the above mentioned listed species [California red-legged frog and San Francisco garter snake].” Section 18.38.085 of the Zoning Code requires a 50-foot buffer around habitat of rare and endangered species. As such, development adjacent to Arroyo Leon should be set back at least 50 feet from the edge of the riparian habitat.

Of the approved development within 100 feet of Arroyo Leon, only the installation of underground utilities will occur within 50 feet of the edge of the Arroyo Leon riparian vegetation. The widening of the existing road will occur on the stretch of the road between the southern property line and the new driveway, for approximately 20 feet. The road widening will occur approximately 70 feet away from the edge of the riparian habitat, and therefore, is not located within the 50 feet buffer area.

While the trenching and installation of pipes and utility lines would occur within 50 feet of the stream and riparian habitat, it would not encroach into any natural buffer since the development activities would take place within the existing access road, and a natural buffer between the riparian corridor and the approved development does not exist due to existing residential development located between the stream and the road.

The LCP’s buffer policy is designed to protect habitat of rare and endangered species by providing a natural, undeveloped area between development and habitat that would serve as a transition zone between one type of habitat and another, an area of refuge for plants and animals between their normal or preferred habitat and human activities, and to filter polluted runoff and other chemicals. However, where the buffer zone is already significantly developed, it would not be able to function as an area that would buffer the habitat from the impacts of development. Therefore, even though the approved installation of utilities would occur within 50 feet of the stream and riparian habitat, because it is located within an existing paved road with intervening residential development between the stream and the road, the approved development will not encroach into nor disrupt any actual habitat buffers as such buffers do not currently exist on site. Therefore, the appeal does not raise a substantial issue of conformity of the approved development with the habitat buffer policies of the LCP.

CDFG and USFWS Approval as Required by LUP Policy 3-4

The appellant contends that the approved development is inconsistent with LUP Policy 3-4 that require California Department of Fish and Game and Fish and US Fish and Wildlife Service approval for development in a sensitive habitat.

LUP Policy 3-4 states:

3-4 Permitted Uses

- (a) Permit only resource-dependent or other uses which will not have a significant adverse impact in sensitive habitats.
- (b) In all sensitive habitats, require that all permitted uses comply with U.S. Fish and Wildlife Service and State Department of Fish and Game regulations.

The USFWS has required the applicant to apply for an incidental take permit through the Habitat Conservation Planning process. The applicant has only recently begun discussions with USFWS and does not have approval from the agency for the entire development approved by the City, including the house and barn. However, because the majority of the approved development within 100 feet of Arroyo Leon will occur within the existing paved access road, and the remaining portion will occur on the far side of the existing road from the stream, none of the approved development relevant to the Commission's substantial issue determination is located in sensitive habitat. Therefore, since none of the approved development relevant to the Commission's substantial issue determination would be located in sensitive habitat, LUP Policy 3-4 is not applicable to the substantial issue determination and the contention that the approved development is inconsistent with that policy does not raise a substantial issue of conformity of the approved development with the certified LCP.

4.4 Appellant's Contentions that are not Valid Grounds for Appeal

Pursuant to Section 30603 of the Coastal Act, an appeal for a development where only a portion of the development is within the Commission's geographic appeal zone is limited to the allegation that the portion of the development that is located in the Commission appeal jurisdiction does not conform to the standards set forth in the certified LCP or the public access policies set forth in the Coastal Act.

As stated above, the approved development is appealable to the Commission because a portion of the approved development is within 100 feet of a stream, Arroyo Leon. Approved development within 100 feet of the stream includes the widening of approximately 20 feet of the existing access road from 16 to 20 feet, trenching and installation of utilities within the existing access road, and the construction of approximately 20 feet of the driveway to the approved residence and barn. The appellant's allegations regarding approved development located more than 100 feet from the stream, i.e. the residence and barn, are not valid grounds for appeal.

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The following contentions are not valid grounds for appeal because they apply only to the approved single-family residential development located outside of the area relevant to the Commission's substantial issue determination:

- The approved development is inconsistent with the minimum density requirements in the Zoning Code for the OS-R district (Open Space Reserve) which requires a minimum parcel size of 50 acres for each residence because the subject parcel is only 20 acres in size.
- The approved variance for the minimum 50-acre per residence density requirements is not consistent with the variance ordinance because the required findings that the property is subject to exceptional circumstances and that the variance would not be materially detrimental to property cannot be made.
- The approved development conflicts with the agricultural resource protection policies of the LCP that requires the maximum amount of prime agricultural land be maintained in agricultural production because the approved development is not sited and clustered in an area closer to existing public infrastructure services near the parcel, but instead is located in the center of the parcel.

Regarding the density requirements of the open space reserve district and the variance allowing deviation from those density requirements, pursuant to Section 18.11.020 of the Zoning Code, the 50-acre per residence density requirement applies only to the development of a single-family home on OS-R zoned lands. Other development, including on-site retail sales of agricultural products and the installation of minor utilities, is not subject to the 50-acre minimum parcel size requirement. In addition, the variance that the City approved was to allow a residence on the subject parcel, which does not meet the minimum size requirements to permit a residence in the OS-R zoning district. Therefore, the contentions regarding inconsistencies of the approved development with the minimum density requirements in the Zoning Code, as well as the inconsistencies of the approved variance with the variance ordinance, are contentions applicable to the approved residence, which is located outside of the area relevant to the Commission's substantial issue determination. These contentions regarding approved development located more than 100 feet from the stream are therefore not valid grounds for appeal.

With respect to the contention of the approved development's inconsistencies with the agricultural resource protection policies, the appellant states:

Approximately 50 percent of the 20-acre parcel is designated as prime farmland by San Mateo County. To maximize the agricultural productivity of the parcel, the proposed project should be re-sited and clustered in an area that is closer to existing public infrastructure services near the edge of the parcel, rather than located at the center of the parcel.

This allegation of the approved development's inconsistency with the agricultural resource protection policies of the LCP applies to the siting and design of the approved residence and barn, which are located more than 100 feet from the stream and therefore

outside of the area relevant to the Commission's substantial issue determination. Therefore the contention regarding inconsistency of the approved residence and barn with the agricultural protection policies of the LCP is also an invalid ground for appeal.

4.5 Information Needed for De Novo Review

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

Since the project the Commission will be considering de novo has come to the Commission after an appeal of a local government action, the Commission has not previously been in the position to request information from the applicant needed to determine if the proposed project can be found to be consistent with the certified LCP. In addition, since the Commission has determined the appeal raises a substantial issue, the Commission will need to evaluate, de novo, the consistency of the coastal development permit application in its entirety with the applicable policies of the LCP. Therefore, the applicant will need to submit information necessary for the review of all of the development proposed in the permit application including the residence and barn. The information needed to perform the de novo review includes, but is not limited to, the items described in the following list.

Impacts of Approved Development on Sensitive Habitat Areas

In order for the Commission to approve a coastal development permit through any de novo review of the project, an analysis of the impacts of all of the proposed development on environmentally sensitive habitat areas is required. The biological assessment contained in the City's record only evaluated impacts to sensitive habitats from development occurring within 100 feet of Arroyo Leon. However, since the Commission found the appeal raised substantial issue and will review the entire permit application de novo, a more comprehensive assessment addressing impacts from the entire development, including the residence and the barn is required. Without the above information, the Commission cannot reach a final determination concerning the proposed development's consistency with the sensitive habitat policies of the LCP.

Soils Map

The information in the City record indicates that approximately half of the subject parcel is located on prime farmland land and contains a rough map indicating the general location of the prime farmland on the property. However, in order to analyze the consistency of all of the proposed development with the agricultural protection policies of the LCP, a more detailed soils map is required.

Based on Commission staff's review of the information submitted by the applicant, additional information may also be required.

NOTICE OF FINAL ACTION
Coastal Permit
City of Half Moon Bay Planning Department
501 Main Street, Half Moon Bay CA 94019
(650) 726-8250 Fax (650) 726-9389

RECEIVED
JUL 09 2007
CALIFORNIA
COASTAL COMMISSION

Date: July 5, 2007 File: PDP-070-06
Applicant: Kerry Burke
34 Amesport Landing
Half Moon Bay, CA 94019
Planner: Kathy Marx

This notice is being distributed to the Coastal Commission and those who requested notice. The following project is located within the appealable area of the Coastal Zone. The public hearing on the Coastal Development permit and was conducted by the Planning Commission at its regularly scheduled meeting of May 24, 2007.

Project Description: Coastal Development Permit, Use Permit, Variance for minimum lot size from 50 acres to 20 acres in the Open Space – Reserve Zoning District and Mitigated Negative Declaration for the construction of a two-story single-family residence and barn on a 20 acre site at 921 Miramontes Street (APN 056-280-010)

Project Location: 921 Miramontes Street

Assessors Parcel Number: APN 056-280-010

COASTAL PERMIT APPROVED, BASED UPON Findings for Approval contained in the attached Resolution P-20-07 and Conditions of Approval contained in Exhibit A, as modified by the Planning Commission during the meeting.

The ten (10) working day period for appeal of this action to the Half Moon Bay Planning Commission ended on June 8, 2007. An appeal was filed prior to that date and was heard by the City Council on July 3, 2007. The appeal was denied and the Planning Commission's decision was upheld.

Local Review of this Coastal Development Permit Application is now complete. The City's approval of this Coastal Development Permit application may be appealed to the California Coastal Commission in accordance with California Public Resources Code Section 30603. A 10 working-day appeal period for appeal of this action to the Coastal Commission will commence the next working day following the Commission's receipt of this notice of final local action. Please contact the Coastal Commission's North Central Coast District Office at (415) 904-5200 for further information about the Commission's appeal process.

P-20-07

RESOLUTION FOR APPROVAL - PDP-070-06

Coastal Development Permit, Use Permit, Variance for minimum lot size from 50 acres to 20 acres in the Open Space – Reserve Zoning District, and Mitigated Negative Declaration for a Two-Story Single-Family Residence and Barn on a 20 acre site at 921 Miramontes Street (APN 056-280-010)

WHEREAS, an application was submitted requesting approval a Coastal Development Permit, Use Permit, Variance, and Mitigated Negative Declaration for a new two-story single-family residence and barn located at 921 Miramontes Street (APN 056-280-010), on a 20 acre parcel zoned OS-R, Open Space - Reserve; and

WHEREAS, the procedures for processing the application have been followed as required by law; and

WHEREAS, the Architectural Review Committee conducted a duly noticed public hearing on January 17, 2007, at which time all those desiring to be heard on the matter were given an opportunity to be heard; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on May 24, 2007, at which time all those desiring to be heard on the matter were given an opportunity to be heard; and

WHEREAS, the Planning Commission considered all written and oral testimony presented for their consideration; and

WHEREAS, a Mitigated Negative Declaration (MND) was prepared. The MND was circulated for public review between April 23, 2007, and May 23, 2007, and all those desiring to comment were given the opportunity. The MND finds that there will not be an significant impact to the environment; and

WHEREAS, the Planning Commission has made the required findings for approval of the MND, Variance, Use Permit and Coastal Development Permit and the project, set forth in Exhibit A to this resolution;

NOW, THEREFORE, BE IT RESOLVED that, based upon the Findings in Exhibit A and subject to the Conditions of Approval contained in Exhibit B, the Planning Commission adopts the MND for the project and approves the application (PDP-070-06).

PASSED AND ADOPTED by the City of Half Moon Bay Planning Commission at a duly noticed public hearing held on May 24, 2007, by the following vote:


AYES, Commissioners Roman, Jonsson, Poncini, Snow, and Chair Allis

NOES, Commissioners Lansing and McCarthy

ABSENT,

ABSTAIN,

ATTEST:


Steve Flint, Planning Director

APPROVED:


Josh Allis, Chair

Planning Commission Resolution P-20-07
May 24, 2007 – Pastorino PDP-070-06

1

Steve Flint, Planning Director

Jeff Allis, Chair

**EXHIBIT A
FINDINGS AND EVIDENCE
PDP-070-06**

Costal Development Permit, Use Permit, Variance for minimum lot size from 50 acres to 20 acres in the Open space – Reserve Zoning District, and mitigated negative Declaration for a Two-Story Single-Family Residence and Barn on a 20 acre site at 921 Miramontes Street (APN 056-280-010)

Coastal Development Permit – Findings for Development of Vacant Land

The required Coastal Development Permit for this project may be approved or conditionally approved only after the approving authority has made the following findings per Municipal Code Section 18.20.070:

1. **Local Coastal Program** – The development as proposed or as modified by conditions, conforms to the Local Coastal Program.

Planning Commission Findings: The proposed project is a single-family residence and barn located in the OS-R (Open Space – Reserve) Zoning District. The project has been reviewed for conformance with all policies of the Coastal Land Use Plan and has been determined to be consistent. The following specific Coastal Act and LCP policies are especially noted:

Coastal Act 30250: *New residential, commercial or industrial development except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.*

Compliance: The project shares property lines on the south and the west with residential development of much higher densities within Half Moon Bay, which is predominantly built-out. The project will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Policy 7-4: *Utilities shall continue to be placed underground in all new developments.*

Compliance: The conditions of approval will ensure compliance with this policy.

Policy 7-5: *All new development, including additions and remodeling, shall be subject to design review and approval by the City Architectural Review Committee.*

Compliance: The Architectural Review Committee (ARC) provided review on January 17, 2007. The ARC approved the project as submitted.

Coastal Act 30244: *Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

Compliance: The project is not located near identified archaeological or paleontological sites. However, staff is recommending a condition to require that the project cease operations and a study be performed if any artifacts are found during construction.

2. **Growth Management System** – The development is consistent with the annual population limitation system established in the Land Use Plan and Zoning Ordinance.

Planning Commission Findings: The development is consistent with the annual population limitation system established in the Land Use Plan and Zoning Ordinance.

3. **Zoning Provisions** – The development is consistent with the use limitations and property development standards of the base district as well as the other requirements of the Zoning Ordinance.

Planning Commission Findings: The project site is located within an OS-R Zoning District. The project complies all of the zoning standards, except the minimum lot size. The Commission has made the necessary findings for a variance in this resolution; therefore, the Commission determines that approval of the requested permits the project will be in compliance with Zoning Code requirements for the senior health/recreation center.

4. **Adequate Services** – Evidence has been submitted with the permit application that the proposed development will be provided with adequate services and infrastructure at the time of occupancy in a manner that is consistent with the Local Coastal Program.

Planning Commission Findings: The project is located with access from existing local and private streets. One ¾" non-priority water service connection is assigned to the property. The property is within the Half Moon Bay Sanitary District and is not assessed for any sewer capacity. The district will require that a sewer permit be obtained prior to the issuance of a building permit.

5. **California Coastal Act** – Any development to be located between the sea and the first public road parallel to the sea conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

Planning Commission Findings: The proposed project will not restrict or otherwise adversely affect public coastal access or public coastal recreational opportunities as it is not located between the sea and the first public road parallel to the sea.

Site and Design Review – Findings

- 6. Architectural Review** - The project will not hinder the orderly and harmonious development of the City, nor will it impair the desirability or opportunity to attain the optimum use and value of the land and the improvements, nor will it impair the desirability of living and working conditions in the same or adjacent areas, nor will it otherwise adversely affect the general prosperity and welfare.

Planning Commission Findings: The project was reviewed and approved by the Architectural Review Committee (ARC) at the meeting of January 17, 2007, and the ARC made the necessary findings.

Use Permit – Findings for a Single-Family Residence in an Open Space-Reserve Zone

Section 18.22.190 of the Zoning Ordinance requires compliance with the following finding:

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

Planning Commission Findings: The proposed residence was designed to meet the current development standards for the OS-R Zoning District. The establishment of one dwelling unit on a 20 acre parcel will not be detrimental to the surrounding area which has a much higher residential density to the south and west. This project has been reviewed and approved by the ARC for consistency with community design standards and the project exceeds all setback requirements to provide ample separation from other residential buildings in the area.

Variance – Reduction of the minimum lot size from 50 acres to 20 acres in the Open Space-Reserve Zone

Section 18.23.040 of the Zoning Ordinance requires compliance with the following findings:

- 8. Exceptional Circumstances** – That there are exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application which circumstances or conditions do not apply generally to the land, building and/or uses in the same district.

Planning Commission Findings: The existing 20 acre lot was legally created in the early 1900's, many decades prior to the incorporation of the City of Half Moon Bay. The subject lot is considered a legal non-conforming lot due to the zoning change to Open Space Reserve in 1985.

9. **Preservation and Enjoyment** – That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner.

Planning Commission Findings: In 2006, the property owner obtained a Measure A for a single family home and diligently pursued an application that complies with the development standards of the City. The Pastorino family wishes to continue to live and work in Half Moon Bay. The proposed development of this parcel is consistent with the intent and purpose of the Open Space – Reserve zone that allows very low density residential use. The proposed project design also maintains the agricultural use of cattle grazing, heather and hay production on the site.

10. **Health and Safety** – That the granting of such application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood.

Planning Commission Findings: The project has been designed to adhere to all current standards and policies of the City of Half moon Bay. The project exceeds all setback requirements and is sited to provide privacy from and to existing and proposed residential development for the adjacent properties on Miramontes Street. The house has been designed to blend with the natural environment and surrounding structures in the area. The proposed layout will allow very low density residential development of one residential unit per 20 acres and also maintain adequate area for continued cattle grazing, heather and hay production.

Environmental Review – Findings

12. **CEQA** – The project is consistent with CEQA guidelines and will not have a significant effect on the environment.

Planning Commission Findings: The project is not exempt from CEQA and a Mitigated Negative Declaration (MND) has been prepared. The MND was circulated for public review between April 23, 2007 and May 23, 2007. The Planning Commission finds, based on the MND; incorporation of mitigation measures and a mitigation monitoring program; and supporting documentation, the project will not have a significant effect on the environment.

**EXHIBIT B
CONDITIONS OF APPROVAL
PDP-070-06**

Coastal Development Permit, Use Permit, Variance for minimum lot size from 50 acres to 20 acres in the Open Space – Reserve Zoning District, and Mitigated Negative Declaration for a Two-Story Single-Family Residence and Barn on a 20 acre site at 921 Miramontes Street (APN 056-280-010)

Authorization: Approval of this permit authorizes development of a two-story, single-family dwelling of approximately 4,230 square feet of floor area, 1,109 square feet of attached garage and 1,701 square feet of covered porch and a 2,400 square foot barn on APN 056-280-010 as shown on plans with City date stamp of May 8, 2007, except as modified by the conditions of approval set forth herein.

A. The following Conditions must be fulfilled prior to the issuance of a building permit:

1. **CONFORMANCE WITH APPROVED PLANS.** Development shall be in substantial conformance with the approved plans that have a City date stamp of May 8, 2007. The Planning Director shall review and approve any deviation from the approved plans. In the event that the Planning Director determines that any proposed changes warrant further Planning Commission review and approval, the applicant shall submit the revised plans for consideration at a public hearing before the Planning Commission. ____ (Planning)
2. **CONSTRUCTION PLANS.** All plans, specifications, engineering calculations, diagrams, reports, and other data for construction of the building and required improvements shall be submitted with the appropriate permit application to the Building Department for review and approval. Computations and back-up data will be considered a part of the required plans. Structural calculations and engineering calculations shall be prepared, wet stamped, and signed by an engineer or architect licensed by the State of California. A geotechnical report shall be prepared, wet stamped, and signed by an engineer licensed by the State of California. ____ (Building)
3. **COMPLIANCE WITH UBC.** All structures shall be constructed in compliance with the standards of the Uniform Building Code Regulations for building and structure earthquake safety as required by the 2001 California Building Code (Title 24). ____ (Building)
4. **BUILDING STANDARDS.** All buildings, structures, and improvements shall be designed and constructed in accordance with Chapter 14.04 of the Municipal Code (Building Code, Administrative Code, Mechanical Code, Building Code Standards, Plumbing Code, Electrical Code, Energy Code) and with Half Moon Bay Standard Details. The minimum basic wind speed for determining design wind pressure shall be 90 miles per hour. The exposure assigned for the subject site, for which a

building or structure is to be designed in accordance with Chapter 16, Division III of the Uniform Building Code (1997 edition or latest version adopted by the City of Half Moon Bay), shall be Exposure C and Exposure D when project is within one quarter mile of the Ocean. _____ (Building)

5. NOISE STANDARDS. The residential dwelling shall be designed in such a manner that the ambient noise level within the structures shall meet a Sound Transmission Class (STC) of 50 (45 if field-tested). _____ (Building)
6. EVIDENCE OF WATER CONNECTION CAPACITY. The applicant shall submit a letter from CCWD certifying that the subject site has an adequately sized water connection for this approved project. No building permit shall be issued without such a letter. _____ (Building)
7. EVIDENCE OF SEWER CONNECTION. The applicant shall demonstrate issuance of a sewer permit from the City of Half Moon Bay. _____ (Building)
8. VALID MEASURE A CERTIFICATE. The Planning Department shall verify the Measure A Certificate issued for the property has not expired, remains valid, and, if applicable, the recordation of any required owner occupancy deed restriction has taken place. _____ (Planning)
9. LOT DRAINAGE PLAN. A revised Lot Drainage Plan and a Project Applicant Checklist shall be submitted for City Engineer review and approval showing how the surface runoff is retained on-site and the remainder is drained to the public right-of-way in accordance with National Pollutant Discharge Elimination System (NPDES) standards and Best Management Practices (BMP). The Plan shall show how the rear and side yards will properly drain to an approved BMP facility, and how the finished grades on the property relate to the existing grades on adjacent property. The Plan shall include pad elevation, finished floor elevation, site high and low points, drainage swale, area drain, existing grade at adjacent property, etc. The Plan must show the location of the sewer connection, and a property line sewer cleanout must be installed for Building Permit approval. The applicant shall provide appropriate measures to discharge the flood waters from any unfinished floor areas. _____ (Public Works/Building)
10. FIRE SPRINKLERS. As per San Mateo County Building Standards and Half Moon Bay Fire District Ordinance Number 2002-01, the applicant is required to install an automatic fire sprinkler system throughout the proposed or improved dwelling and garage. All attic access locations will be provided with a pilot head on a metal upright. All areas that are accessible for storage purposed shall be equipped with fire sprinklers including closets and bathrooms. The only exception is small linen closets less than 24 square feet with full depth shelving. The plans for this system must be submitted to the City of Half Moon Bay. A building permit **will not** be issued until plans are received, reviewed and approved. Upon submission of plans, the County or City will forward a complete set to the Half moon Bay Fire District for

review. The fee schedule for automatic fire sprinkler systems shall be in accordance with Half Moon Bay Ordinance No. 2006-01. Fees shall be paid prior to plan review. _____(Fire/Building)

11. SURVEY REQUIRED. A detailed topographic/site boundary survey shall be prepared and **certified by a licensed surveyor** and submitted with building application plans. The survey shall include a baseline elevation datum point on, or close to the construction site, indicating existing grade of the datum. This datum point shall be permanent, marked, shall remain fixed in the field, and shall not be disturbed throughout the building process. Examples of datum points include: fire hydrants, manhole covers, survey markers, street curbs, etc. This datum point shall be shown on all site plans including revised/resubmitted plans. The survey must show the footprint and roof plan of the proposed residence and identify the existing grade elevations at the corners and roof ridgeline of the residence. _____ (Building)
12. LANDSCAPE/HARDSCAPE PLANS. The applicant shall submit proposed landscape (including required street tree(s)) and hardscape plans to the Public Works Department prior to issuance of a building permit. These plans shall include the proposed land/hardscape in the public rights-of-way. The applicant is advised that line of sight triangles regarding roadway intersections (for corner properties) and driveways shall be adhered to in accordance with Section 18.06.040(B) (4). In addition, allowable heights for fencing, walls, posts mailbox holders, etc. if permitted, shall follow the same height and structure guidelines for facilities that are located in building setback areas. _____ (Building/Planning)
13. FINISHED FLOOR ABOVE CURB OR CROWN. The plans submitted for a building permit shall show the finished first floor to be a minimum of twelve (12) inches above the height of curb, or in cases where there is no curb, from the height of the crown of the street or road. _____ (Building).
14. OCCUPANCY SEPARATION: As per the 2001 CBC, Section 302.4, a one-hour occupancy separation wall shall be installed with a solid core, 20-minute fire rated, self-closing door assembly with smoke gasket between the garage and the residence.
15. FIRE HYDRANT: As per 2001 CFC, Appendix III-A and III-B, a fire district approved fire hydrant (CLOW 960) must be located within 250 feet of the proposed single-family dwelling unit measured by way of drivable access. As per 2001 CFC, Appendix IIIA, the hydrant must produce a minimum fire flow of 1,000 gallons per minute at 20 pounds per square inch residual pressure for 2 hours. Contact the local water purveyor for water flow details.
16. EXTERIOR BELL AND INTERIOR HORN/STROBE: are required to be wired into the required flow switch on your fire sprinkler system. The bell, horn/strobe and flow switch, along with the garage door opener are to be wired into a separate circuit breaker at the main electrical panel and labeled.

17. SMOKE DETECTORS WHICH ARE HARD WIRED: As per the CBC, State Fire Marshal regulations, and Half Moon Bay Fire District Ordinance 2002-01, the applicant is required to install State Fire Marshall approved and listed smoke detectors which are hard wired, interconnected, and have battery backup. These detectors are required to be placed in each sleeping room and at a point centrally located in the corridor or area giving access to each separate sleeping area. A minimum of one detector shall be placed on each floor. Smoke detectors shall be tested and approved prior to the building final.
18. ADDRESS NUMBERS: As per Half Moon Bay Fire District Ordinance 2002-01, building identification shall be conspicuously posted and visible from the street. (TEMORARY ADDRESS NUMBERS SHALL BE POSTED PRIOR TO COMBUSTIBLES BEING PLACED ON SITE). The letters/numerals for permanent address signs shall be **4 inches** in height with a minimum 3/4 inch stroke. Such letters/numerals shall be internally illuminated and facing the direction of access. When the building is served by a long driveway or is otherwise obscured, a reflectorized address sign shall be placed at the entrance from the nearest public roadway.
19. ROOF COVERING: As per Half Moon Bay Fire District Ordinance 2002-01, the roof covering of every new building or structure, and materials applied as part of a roof covering assembly, shall have a minimum fire rating of Class "B" or higher as defined in the current edition of the California Building Code.
20. FIRE ACCESS ROADS: The applicant must have a maintained all-weather surface road for ingress and egress of fire apparatus. As per the 2001 CFC, dead-end roads exceeding 150 feet shall be provided with a turnaround in accordance with Half Moon Bay Fire District specifications. As per the 2001 CFC, Section 902.2.2.2.1, road width shall not be less than 20 feet [existing private road]. Fire access roads shall be installed and made serviceable prior to combustibles being placed on the project site and maintained during construction. Approved signs and painted curbs or lines shall be provided and maintained to identify fire access roads and state the prohibition of their obstruction. If the road does not allow parking on the street (20 foot road) and on-street parking is desired, an additional improved area shall be developed for that use. The driveway access from the existing private road shall be a minimum of 16 feet in width of the same all-weather surface material such as compacted decomposed granite, pavers, asphalt or concrete.
21. VEGETATION MANAGEMENT: The Half Moon Bay Fire District Ordinance 2002-01, the 2001 California Fire Code and Public Resources Code 4291 require a minimum clearance of 100 feet, or to the property line of all flammable vegetation to be maintained around all structures by the property owner. This does not include individual species of ornamental shrubs and landscaping.
22. MITIGATION MEASURES:

- a. Within two weeks prior to the start of construction, a worker education program shall be presented at the project site by a biologist familiar with the species. Associated written material will be distributed. It shall be the onsite foreman's responsibility to ensure that all construction personnel and subcontractors receive a copy of the education program. The education program shall include a description of the California red-legged frog and San Francisco garter snake and their habitat, the general provisions of the Endangered Species Act, the necessity of adhering to the Act to avoid penalty, measures implemented to avoid affecting California red-legged frog and San Francisco garter snake specific to the project and the work boundaries of the project.
- b. If California red-legged frogs or San Francisco garter snakes are observed by workers or anyone else prior to or during construction, work shall cease and the USFWS and CDFG contacted for guidance. The regulatory agencies may require daily biological monitoring and/or other mitigation measures.
- c. Exposed trenches resulting from project construction shall be backfilled as soon as practicable. Open trenches should have an escape ramp (composed of earthen material) installed at the end of each work day so that any entrapped wildlife may exit.
- d. If feasible, project construction shall take place outside of the breeding bird season (the breeding bird season is generally February 15 to August 15). If work must be conducted during the breeding season, a qualified biologist shall conduct a pre-construction breeding bird survey of any construction activity. If bird nests are observed, an appropriate buffer zone shall be established around all active nests to protect nesting adults and their young from construction disturbance. Buffer zones shall be determined by a qualified biologist in consultation with CDFG based on the site conditions and the species potentially impacted. Work within the buffer zone shall be postponed until all the young are fledged, as determined by a qualified biologist.
- e. Hours of construction shall be limited for residential, commercial and industrial development to: Monday – Friday 7:00 a.m. to 6:00 p.m., Saturday 8:00 a.m. to 6:00 p.m. and Sunday and Holidays 10:00 a.m. – 6:00 p.m.
- f. In order to approve the proposed project and associated mitigated negative declaration, the reviewing body shall approve a variance with finding to allow the construction of a single-family residence on an existing parcel of 20± acres.

B. The following apply during any grading/construction phase of the project:

1. **STORMWATER MANAGEMENT / EROSION CONTROL.** During Construction the applicant shall minimize the transport and discharge of storm water from the project site by incorporation of the following measures into the construction site practices:

- a. Identify all storm drains, drainage swales and creeks located near the construction site and make sure all subcontractors are aware of their locations to prevent pollutants from entering them. Use silt fence barrier, straw bale barrier, sand bags, brush or rock filter or other appropriate measures, as necessary to minimize the quantity of sediment laden runoff from the site. _____
- b. Stabilize any areas that have been stripped of vegetation, and maintain erosion control measures between October 15 and April 15. _____
- c. Ensure that erosion control by re-vegetation is performed just prior to the rainy season unless on site irrigation is provided. Select seed to minimize fertilizer and water use. Limit watering to the amount and frequency, which can be absorbed on site. _____
- d. Avoid stockpiling of soils or materials, when rain is forecast. Cover with a waterproof tarp during periods of rainy weather to control runoff. Monitor the site for minimization of erosion and sediment runoff every 24 hours during and after every storm event. Before it rains, sweep and remove materials from surfaces that drain to storm drains, creeks, or channels. _____
- e. Never clean brushes or rinse paint containers into a street, gutter, storm drain, or creek. Recycle, return to supplier or donate unwanted water-based (latex) paint. Dried latex paint may be disposed of in the garbage. Unwanted paint (that is not recycled), thinners, and sludges must be disposed of as hazardous waste. _____
- f. Avoid cleaning, fueling, or maintaining vehicles on site, except in an area designated to contain and treat runoff. Clean up leaks, drips, and other spills immediately so they do not contact stormwater. Never wash down pavement or surfaces where materials have spilled. Use dry cleanup methods whenever possible. _____
- g. Avoid mixing excess amounts of fresh concrete or cement mortar. Whenever possible, return contents of mixer barrel to the yard for recycling. Dispose of small amounts of excess concrete, grout, and mortar in the trash. _____
- h. Practice source reduction. Reduce waste by only ordering the amount you need to finish the job. Recycle leftover materials whenever possible. Materials such as concrete, asphalt, scrap metal, solvents, degreasers, cleared vegetation, paper, rock, and vehicle maintenance materials such as used oil, antifreeze, and batteries are recyclable. _____

A-2-HMB-07-030 (Pastorino)
SI Staff Report

- i. Inspect portable toilets for leaks. Do not place on or near storm drain outlets. Be sure the leasing company adequately maintains, promptly repairs, and replaces units as needed. _____ (Building)
2. DRAINAGE PLAN IMPLEMENTATION. All drainage from the lot shall drain utilizing the appropriate National Pollutant Discharge Elimination System (NPDES) Best Management Practice (BMP). There shall be no direct connections of pipes to the roadway or other drainage facility. The drainage plans shall show how the rear and side yards will properly drain to an approved BMP. _____ (Building/Public Works)
3. DISCOVERY OF ARCHAEOLOGICAL RESOURCES. If historic or archaeological resources are uncovered during grading activities, all work shall stop and the applicant shall retain a qualified archaeologist. At the applicant's expense the qualified archaeologist will perform an archaeological reconnaissance and develop mitigation measures to protect archaeological resources. _____ (Building)
4. HOURS OF CONSTRUCTION. The hours of construction shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Friday, 8:00 a.m. to 6:00 p.m. Saturday, and 10:00 a.m. to 6:00 p.m. Sundays and Holidays. _____ (Building)
5. CONSTRUCTION TRAILERS. Temporary construction trailers are permitted as accessory uses in conjunction with the development of this site, subject to the following conditions:
 - a. No construction trailer shall exceed 200 square feet in size.
 - b. The construction trailer shall be used as a temporary construction office only.
 - c. Neither sanitation facilities nor plumbed water is permitted within the trailer.
 - d. No overnight inhabitation of the construction trailer is permitted.
 - e. No construction trailers are permitted on site prior to building permit issuance.
 - f. The construction trailer shall be removed 90 days from building permit issuance. Use Permit approval is required for construction trailers beyond 90 days. _____ (Building/Planning)
6. LOT GRADING, MATERIALS, EQUIPMENT AND VEHICLE STORAGE. An erosion and sediment control plan shall be submitted to the City Engineer and the City Planning Department for review and approval prior to issuance of a grading permit. No lot site grading or preparation nor storage or placement of construction materials, equipment or vehicles shall take place prior to submittal and approval of building plans by the Public Works Department. Any earth movement on or off the site in excess of 50 cubic yards shall require the submittal of a grading plan for review and approval by the Public Works Department. Lot Grading includes, but is not limited to, any leveling, scraping, clearing, or removal of lot surface area. Materials, Equipment, and Vehicles include, but are not limited to:
 - a. All masonry, wood, and steel construction materials

- b. All construction-related equipment and storage containers.
 - c. All construction-related vehicles including temporary trailers ____ (Building)
7. HAZARDOUS MATERIALS. Any materials deemed hazardous by the San Mateo County Department of Health that are uncovered or discovered during the course of work under this permit shall be disposed in accordance with regulations of the San Mateo County of Health. ____ (Building/County Health)
8. FIRST FLOOR HEIGHT VERIFICATION. Prior to below floor framing or concrete slab steel reinforcement inspection, a stamped and signed building height verification letter shall be submitted to the City from a licensed land survey certifying that the first floor height as constructed is equal (or less) to the elevation specified for the first floor height in the approved plans. The building pad shall be at least one-foot above the centerline crown of the roadway or the top of the curb as indicated in the final Off-Site Interim Improvement Plans. ____ (Building)
9. STRUCTURAL ROOF HEIGHT VERIFICATION. Prior to roof sheathing inspection, a stamped and signed building height verification letter shall be submitted to the City from a licensed land surveyor certifying that the highest top elevation of the roof, peak, or ridge first floor height as constructed is equal (or less) to the existing elevation specified in the approved plans. ____ (Building)
10. BUFFER ZONES. The minimum buffer surrounding a habitat of a rare or endangered species shall be 50 feet.
- C. The following must be fulfilled prior to Occupancy:
1. INSTALLATION OF STREET TREES. Street trees shall be installed in the parkway of the public right-of-way per final Off-Site Improvement Plan proposal with adequate irrigation provided prior to the installation of the sidewalk. The trees shall be of a species allowed by the HMB Master Tree List. Container size, quantity and planting specifications shall be subject to the review and approval of the City's Public Works Department. The trees shall not be planted within the Sight Distance Area, as defined by the Zoning Code, unless the trees meet the minimum required clearance. ____ (Planning/Public Works)
2. LANDSCAPE IMPROVEMENTS. Any landscape improvements shall apply xeriscape principles for drought resistance and to reduce water consumption, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. ____ (Building/Planning)
3. COMPLETION OF FIRE DISTRICT REQUIREMENTS. All requirements of the Half Moon Bay Fire Protection District shall be met. ____ (Fire/Building)

4. COMPLETION OF DRAINAGE IMPROVEMENTS. All surface and subsurface storm drainage facilities necessary for the development of this parcel shall be constructed pursuant to the approved Lot Drainage Plan. Run-off from and to adjacent properties must be considered in the proposed plans. All roof drainage shall be collected and conveyed directly to an approved Best Management Practice (BMP) facility. An erosion and sediment control plan shall be submitted to the City Engineer and the City Planning Department for review and approval prior to issuance of a grading permit. Sediment and hydrocarbon separation devices that have been reviewed and approved by the City Engineer shall be installed in on-site storm drains prior to discharging any on-site storm water into the off-site City storm drainage system ____ (Engineering/Building)
5. ENCROACHMENT PERMIT. An Encroachment Permit shall be required prior to any installation of utilities and any other required work within the public right-of-ways. ____ (Public Works)
6. COMPLETION OF WATER AND SEWER FACILITIES. The applicant shall construct domestic water line facilities and appurtenances for service from the water utility. Water service from any interim well shall not be permitted. Low flow plumbing fixtures shall be used throughout the proposed project. A water pressure regulator shall be installed. The sanitary sewer line and lateral facilities for complete and adequate service for this parcel shall be connected to the public sewer lines. A cleanout is to be provided within three feet of the property line in the Public Right of Way. ____ (Building)
7. COMPLETION OF UTILITIES. Any public utilities requiring relocation as a result of the construction of the building(s) or improvements under this permit shall be relocated at the owner's expense. ____ (Building)
8. UNDERGROUND UTILITIES. All utilities for energy and communications shall be installed underground. ____ (Building)
9. OVERALL PROJECT HEIGHT. Maximum overall height of the project, including any grading, foundation, pad, and building elevations shall be calculated using the elevation points indicated on the topographic survey map submitted at the time of application. The approved height of all projects developed in the City will be measured from existing grade as indicated on the submitted topographical survey. ____ (Building)
10. BUILDING ENVELOPE. The building envelope shall be measured from the property lines and setback lines, as they existed PRIOR to disturbance in preparation for development of the site. ____ (Building)
11. EXTERIOR BUILDING COLORS AND MATERIALS. Exterior colors and materials shall be in substantial compliance with those shown on the color and materials

board with a City date stamp of September 12, 2006, and approved by the Architectural Review Committee (ARC) on January 17, 2007. ____ (Planning)

D. The project is subject to the following permanent Conditions:

1. DISPLAY OF STREET ADDRESS. The residential dwelling shall display a lighted street address number in a prominent location on the street side of the residence that is easily visible to approaching emergency vehicles. The numerals shall be no less than four inches in height and shall be a contrasting color to the background.
2. LANDSCAPE MAINTENANCE. The applicant/owner shall ensure that all landscaped areas, including the parkway between the sidewalk and the street curb, and/or fences shall be continuously maintained, and all plant material shall be continuously maintained free of refuse and weeds and in a healthy growing condition.

E. Validity and Expiration of Permits

1. EFFECTIVE DATE. The Coastal Development Permit shall take effect after final local action or 10 working days after receipt of the Notice of Final Action by the Coastal Commission for projects that are located in the Coastal Appeal Areas. The applicant/owner's shall submit a signed copy of these conditions of approval to the Planning Department before they can obtain a building permit. ____
2. ACCURACY OF APPLICATION MATERIALS. The applicant shall be responsible for the completeness and accuracy of all forms and material submitted for this application. Any errors or discrepancies found therein may be grounds for the revocation or modification of this permit and/or any other City approvals. ____
3. EXPIRATION. The Coastal Development Permit shall expire on the latest expiration date applicable to any other discretionary or ministerial permit or approval required for the development, including any extension granted for other permits or approvals. Should the development not require City permits or approvals other than a Coastal Development Permit, the Coastal Development Permit shall expire one year from its date of approval if the development has not begun during that time.
4. HOLD HARMLESS. The applicant agrees as a condition of approval of this application to indemnify, protect, defend with counsel selected by the City, and hold harmless, the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents, from and against an and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including


reasonable attorney's fees and disbursements (collectively, "Claims") arising out of or in any way relating to the approval of this application, any actions taken by the City related to this entitlement, any review by the California Coastal Commission conducted under the California Coastal Act Public Resources Code Section 30000 et seq., or any environmental review conducted under the California Environmental Quality Act, Public Resources Code Section 210000 et seq., for this entitlement and related actions. The indemnification shall include any Claims that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents. The applicant's duty to defend the City shall not apply in those instances when the applicant has asserted the Claims, although the applicant shall still have a duty to indemnify, protect and hold harmless the City. _____

5. PERMIT RUNS WITH THE LAND. The Coastal Development Permit runs with the land and the rights and obligations there under, including the responsibility to comply with conditions of approval, shall be binding upon successors in interest in the real property unless or until such permits are expressly abandoned.

OWNER'S/PERMITTEE'S CERTIFICATION:

I have read and understand and hereby accept and agree to implement the foregoing conditions of approval of the Coastal Development Permit.

OWNER(S)/ APPLICANT (S):

 7-6-07
(Signature) (Date)

A-2-HMB-07-030 (Pastorino)
SI Staff Report

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5260 FAX (415) 904-5400



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

RECEIVED

JUL 23 2007

CALIFORNIA
COASTAL COMMISSION

SECTION I. Appellant(s)

Name: Kevin J. Lansing

Mailing Address: 359 Filbert St.

City: Half Moon Bay

Zip Code: 94019

Phone: 415-974-2393

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Half Moon Bay

2. Brief description of development being appealed:

Coastal Development Permit, Use Permit and Proposed Variance to the Half Moon Bay Land Use Plan for the construction of a two-story 5339 sq. ft. house (including garage), plus a 2,400 sq. ft. barn, utility service extensions, and access road widening, on a 20-acre parcel zoned Open Space Reserve (OSR), designated in part as Prime Farmland.

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

921 Miramontes St., Half Moon Bay 94019
APN 056-280-010

4. Description of decision being appealed (check one.):

- ☐ Approval; no special conditions
☒ Approval with special conditions:
☐ Denial

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-2-HMB-07-030

DATE FILED: 7/23/07

DISTRICT: North Central Coast

Exhibit 2 (Page 1 of 18)
A-2-HMB-07-030 (Pastorino)
Appeal Filed by Kevin Lansing

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

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

- ☐ Planning Director/Zoning Administrator
☒ City Council/Board of Supervisors
☒ Planning Commission
☐ Other

6. Date of local government's decision: 5-24-07 (CDP)
7-3-07 (local appeal)

7. Local government's file number (if any): PDP-070-06

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Thomas and Eugene Pastorino
921 Miramontes St.
Half Moon Bay, CA 94019

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

- (1) Wayne and Dana Pastorino, 921 Miramontes St., Half Moon Bay, CA 94019
Kerry Burke, 34 Amesport Landing, Half Moon Bay, CA 94019
Anne Gustin, 3414 Scenic Dr, Napa, CA 94558
Stan Pastorino, 12491 San Mateo Rd., Half Moon Bay, CA 94019
Eda Muller, 923 Miramontes St., Half Moon Bay, CA 94019
- (2) Al Andreveno, 925 Miramontes St., Half Moon Bay, CA 94019
Eric Kiebler and Janice Solimeno, 975 Miramontes St., Half Moon Bay, CA 94019
Guido Ciare, 995 Miramontes St., Half Moon Bay, CA 94019
Andrew Dorfman 1009 Miramontes St., Half Moon Bay, CA 94019
John Meador, 1121 Miramontes St., Half Moon Bay, CA 94019
- (3) Don Tainter, 712 Monte Vista Drive, Half Moon Bay, CA 94019
Terry Andreotti, 227 Kelly Ave. Half Moon Bay, CA 94019
Chad Hooker 423 San Benito St., Half Moon Bay, CA 94019
Silvia Prewett, 401 Spruce St., Half Moon Bay, CA 94019
- (4) Urs Willmann, 515 San Benito St., Half Moon Bay, CA 94019
Dale Dunham, 513 Ruisseau Francais Ave., Half Moon Bay, CA 94019
Lennie Roberts, Committee for Green Foothills, 339 La Cuesta, Portola Valley, CA 94028
Lucy Triffleman, US Fish and Wildlife Service, 2800 Cottage Way room W-2605, Sacramento, CA. 95825

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

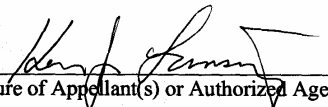
- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

See attachment.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

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



Signature of Appellant(s) or Authorized Agent

Date July 23, 2007
:

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

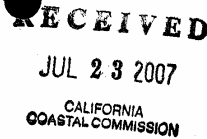
Section VI. Agent Authorization

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

Signature of Appellant(s)

Date
:

Appeal Attachment (Pastorino)



1. Conflicts With Land Use Plan.

Section 18.11.020 of the HMB zoning code requires a minimum parcel size of 50 acres for each residence in the Open Space Reserve (OSR) district. The locally-approved permit included a variance to this minimum density requirement. The required findings for a variance cannot be made for this project for the following reasons:

a. According to section 18.23.010, variances may only be granted "when such variance will not be contrary to the intent of this Title." The intent of the City's Land Use Plan is to hold OSR parcels in reserve until other alternative infill zones have been developed. Clear evidence of this intent can be found in LCP Policy 8-5 which states:

"Lands designated Open Space Reserve on the Land Use Plan Map shall not be eligible for development approval and shall not receive a permit for development, other than for uses permitted under the designation Open Space Reserve, unless and until there are no alternative areas appropriate for infilling within the City for the proposed use and no division of such lands shall be permitted until development approval is obtained pursuant to this policy."

In addition, pages 112-113 of the City's Land Use Plan state the following with regard to "Agricultural Phasing"

"The land use designations and agricultural policies in this Plan establish a logical scheme for the conversion to urban use of lands currently in some form of agricultural use...Those lands designated Open Space Reserve because continued agricultural use may remain viable for the short term will be developed only after all of the remaining lands in the City suitable for development have been developed or committed to other uses."

It is clear from Policy 8-5 that only conforming uses in the OSR zone (including extremely low density residential of one house per 50 acres) are intended to be approvable during the time frame when the parcel is held in "reserve." Policy 8-5 and the discussion on "agricultural phasing" clearly do not envision the granting of variances that would serve to accelerate the development of OSR parcels ahead of other eligible infill zones. The granting of a variance that allows immediate development of an OSR parcel at higher-than-allowable density is contrary to the intent of the City's Land Use Plan.

b. According to 18.23.010, variances may only be granted when there are exceptional circumstances that "do not apply generally to the land, buildings, and/or uses in the same [zoning] district." The proposed variance does not meet this standard because 5 out of the 7 remaining undeveloped OSR parcels within City limits also do not meet the 50-acre minimum lot size for the construction of a single family residence (see table below). The undersize lot condition that affects this project is a circumstance that applies generally to other undeveloped parcels in the same zoning district. The correct course of action would be for the City to undertake a revision to the Land Use Plan, not to grant a variance that will set a precedent for future proposed development on the 5 other similarly-zoned parcels that do not meet

the minimum lot size requirement. Indeed, the City is currently processing an application for development on another undersize OSR parcel located at 985 Miramontes. Sequential granting of variances on undersize OSR parcels would constitute a defacto LCP amendment, effectively eliminating the lot size minimum for OSR parcels without legislation by the City Council and without certification by the California Coastal Commission. Such actions would harm the public welfare by compromising the integrity of the City's Land Use Plan and the explicitly stated "logical scheme for the conversion to urban use of lands currently in some form of agricultural use." On July 3, 2007, the City Council directed City planning staff to place a new item on the strategic plan to accomplish a re-zoning of these OSR parcels. This action shows that the City Council recognizes the inappropriate use of a variance to address the undersize lot condition on the remaining undeveloped OSR parcels. The proposed project could also set a precedent for the use of variances to allow increased density in other zoning districts throughout the City.

Remaining Undeveloped OSR Parcels	
APN	Size (acres)
056-280-090	0.31*
056-280-010	20.1*
056-260-030	5.3*
056-260-030	18.4*
047-340-160	299.3
047-340-110	37.0*
047-340-180	328.9

* = does not meet 50-acre minimum density requirement.

c. According to 18.23.010, variances may only be granted when "such application...will not...materially affect adversely...the persons residing or working in the neighborhood...and will not...be materially detrimental...to property or improvements in said neighborhood." Testimony was presented to the local government that adverse property value effects to at least one neighbor would occur if the variance were granted. The neighbor filed an appeal of the permit to the City Council, which was denied on July 3, 2007. Section 4 of the City staff report for the July 3 appeal hearing acknowledged that another pending project before the City on a separate OSR parcel at 985 Miramontes would also impose adverse effects on the neighborhood, providing further evidence that variances are not a viable planning tool to address the development constraints on the remaining OSR parcels.

2. Conflicts with Agricultural Resource Protection Policies. The minimum density requirement of the OSR zoning implements the intent of the Land Use Plan to preserve the viability of agriculture for as long as possible while other remaining infill areas are developed. In addition, the Land Use Plan incorporates the agricultural protection requirements of the Coastal Act, specifically, section 30241 which requires that "The maximum amount of prime agricultural land shall be maintained in agricultural production..." Approximately 50 percent of the 20-acre parcel is designated as prime farmland by San Mateo County. To maximize the agricultural productivity of the parcel, the proposed project should be re-sited and clustered in an area that is closer to existing public infrastructure services near the edge of the parcel, rather than located at the center of the parcel. Coastal Act section 30250 requires new residential

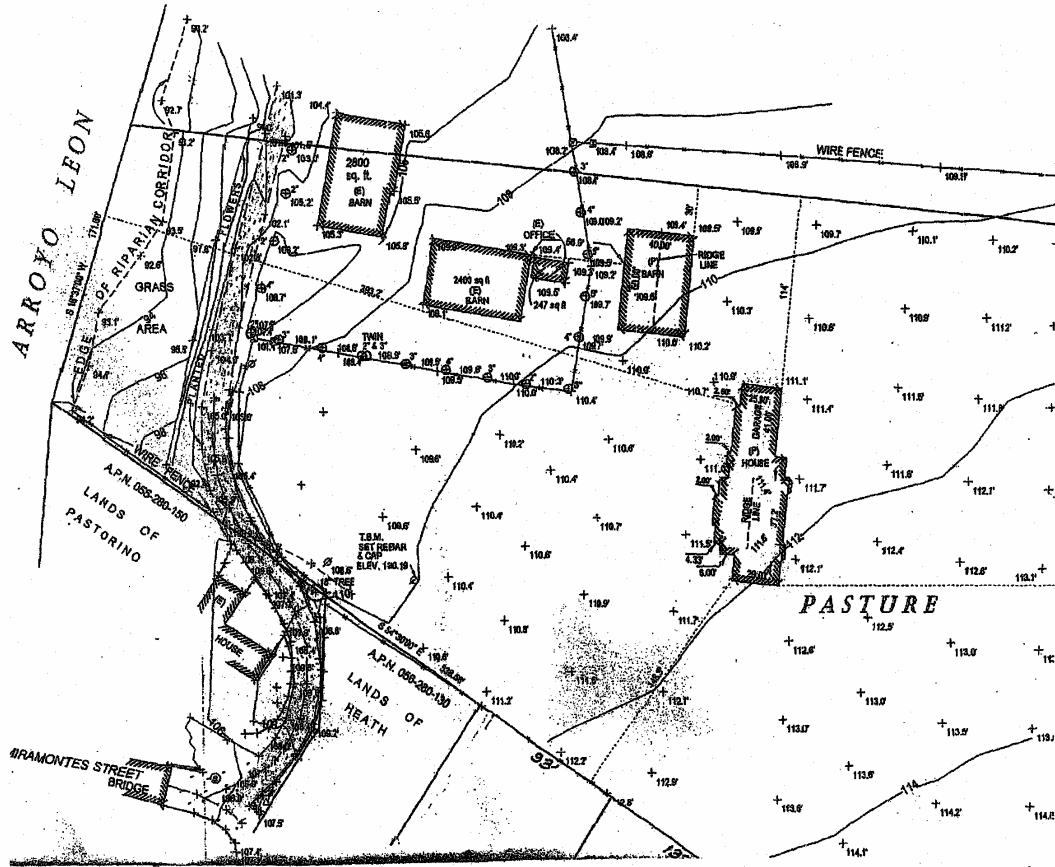
development to be located "in close proximity to" existing developed areas with adequate public services.

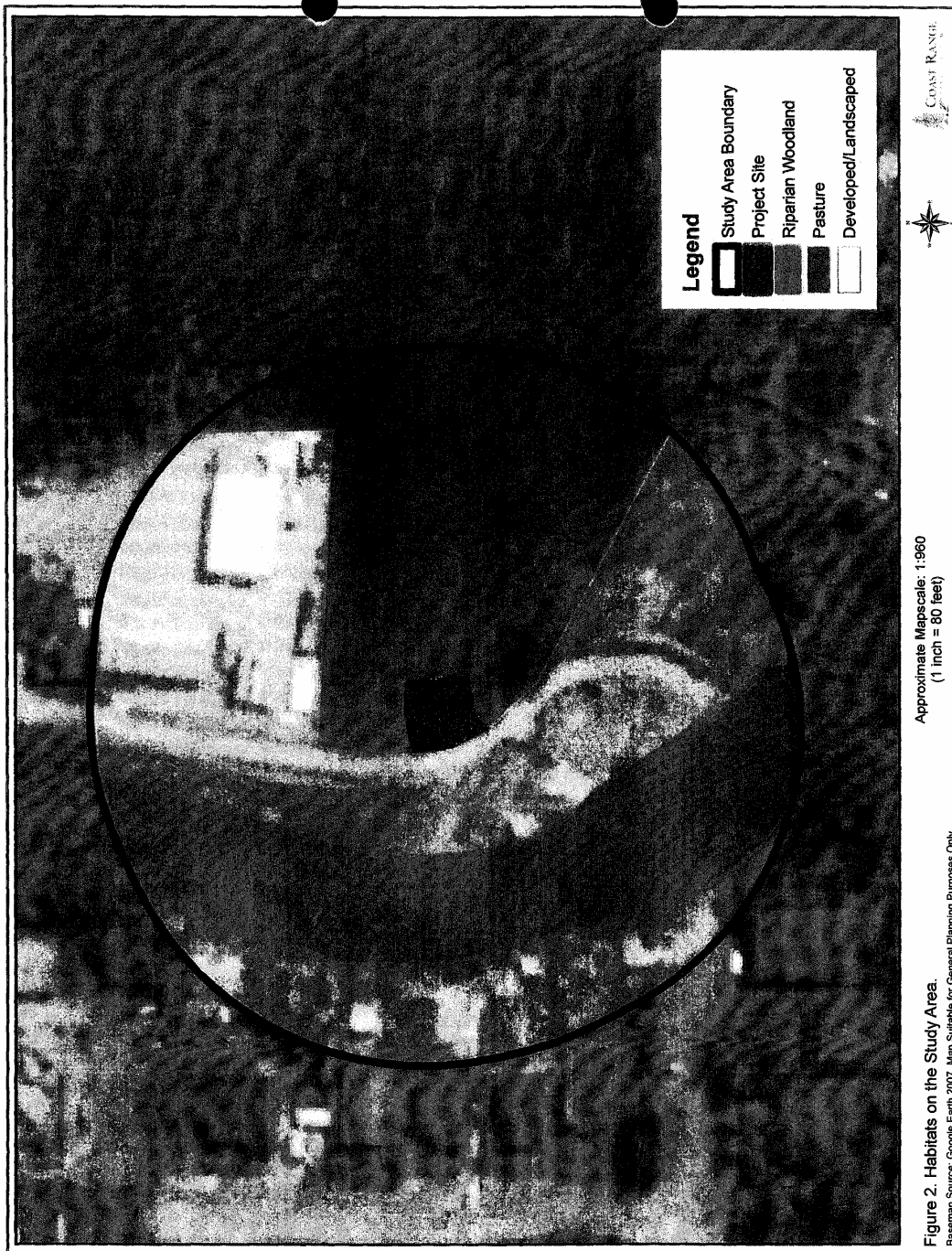
3. Conflicts with Biological Resource Protection Policies

The riparian corridor of Leon Creek meets the definition of sensitive habitat stated in section 18.38.020 of the City's zoning code. LCP Policy 3-4 specifically calls out the need to abide by the regulations of the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) in sensitive habitat areas. Section 18.38.085 requires a buffer zone of 50 feet around habitat of rare or endangered species. The project will require widening of the access road to the project site for the purpose of emergency vehicle access. Trenching underneath the access road is also required for the installation of water and sewer utilities. Based on the general site plan and an aerial map (enclosed) both of these operations may encroach within the 50 foot buffer, and would certainly create a disturbance to the habitat of San Francisco Garter Snakes and California Red-legged Frogs. In an email to the City planner dated July 16, 2007 (enclosed), USFWS biologist Lucy Triffleman indicated that the applicant would be required to obtain a Take Permit pursuant to the preparation of a Habitat Conservation Plan (HCP). Finding for compliance with LCP Policy 3-4 cannot be made until this process has been completed.

Summary

The project should not have been approved by the local government due to substantial conflicts with Half Moon Bay's certified Local Coastal Program. The local government was made aware of these conflicts during the local review process (see the enclosed comment letters dated May 22, May 23, and July 3, 2007). An approvable project may exist if: (1) the City were to undertake a revision to the Land Use Plan to address the development constraints on the remaining undeveloped OSR parcels, (2) the site plan is redesigned to cluster development so as to maximize the agricultural productivity of the prime farmland, and (3) the project applicant obtains a Take Permit from USFWS, and (4) the Coastal Development Permit is conditioned to properly mitigate the incidental take of endangered species habitat in accordance with USFWS and CDFG regulations.





A-2-HMB-07-030 (Pastorino)
SI Staff Report

-----Original Message-----

From: Lucy_Triffleman@fws.gov [mailto:Lucy_Triffleman@fws.gov]
Sent: Monday, July 16, 2007 6:25 PM
To: Kathy Marx
Cc: Ryan_Olah@fws.gov; SGLUSHKOFF@dfg.ca.gov; YinLan Zhang
Subject: RE: Comment Letter for Appeal of PDP-070-06

Kathy-

Sorry to respond to your email so late- I have been trying to get some BOs out the door before I go on annual leave. I am concerned about the road being widened to an area closer to the creek as it seems you indicate in the below email. I would strongly advise the applicant to consider alternatives such as widening the road only away from Arroyo Leon and relining the road, or placing the access road elsewhere. The primary point is to avoid placing development any closer to the creek than it currently is. Without implementing these avoidance measures the Service would consider the widening of the road a result of the construction of the house, and therefore a cumulative effect needing incidental take. This means doing a biological opinion either through section 7 or doing a low effect HCP or doing an HCP. I also want to alert you that there may need to be additional discussion with my supervisor that will require incidental take of this species regardless of avoidance. I am waiting for him to return to the office to discuss further. I will keep you posted. I will be out of the office until Friday- you can contact me at that point if you have questions. Thanks-

Lucy Triffleman
US Fish and Wildlife Service
Coast-Bay Delta branch
2800 Cottage Way room W-2605
Sacramento, CA. 95825
Ph. (916) 414-6628
Fax (916) 414-6712

"Kathy Marx" <kmarx@ci.half-moon-bay.ca.us>

07/10/2007 11:54 AM

To <Lucy_Triffleman@fws.gov>

cc

Subject RE: Comment Letter for Appeal of PDP-070-06

Lucy, Please note that the proposed driveway to the residence is located 20 feet from the southern property line accessed by an existing 14 foot wide paved road. Please review site plan page 5 of the Initial Study. Within that twenty feet of existing roadway, on the east side (not the creek side, because the roadway is at the edge of an elevated terrace) is proposed landscaping. Development has been proposed for that section from the inception of the project proposal. The Fire Department requested that twenty foot portion of the existing road be widened to twenty feet. The additional road surface is not required to be asphalt but may be such material as decomposed granite or grass-crete. Please see Condition of Approval # A. 20. This was discussed at the Planning Commission public hearing. Lastly, the Initial Study does not include the increase in the 20 foot span of private roadway from 14 feet to 20 feet because that

Exhibit 2 (Page 10 of 18)
A-2-HMB-07-030 (Pastorino)
Appeal Filed by Kevin Lansing

Condition of Approval was incorporated by the local Fire Department after review of the Initial Study (for the exact purpose of the Initial Study – to give affected agencies the right of comment on a project.) In the staff report to the Planning Commission on page 6 under Services and Infrastructure there is distinct discussion regarding that Fire Dept. condition.

If the USFWS would have commented during the Initial Study review period those comments would have been included in the staff report and as additional mitigation measures or conditions of approval, accordingly. It is understood that as a Federal agency USFWS is not required to participate in the State and Local review process but that does not negate the fact that as a local jurisdiction, we have to operate under State procedural criteria. The MND has been filed and recorded with appropriate fees paid May 30, 2007. The project applicant has agreed to the minimization measures that you emailed July 3, 2007, and indicated necessary in order to receive a not likely to adversely affect determination.

If there is any further need for clarification regarding PDP-070-06 please don't hesitate to call, 650-512-5836. Thank you. Kathy Marx

From: Lucy_Triffleman@fws.gov [mailto:Lucy_Triffleman@fws.gov]
Sent: Monday, July 09, 2007 2:43 PM
To: Kathy Marx
Cc: SGLUSHKOFF@dfg.ca.gov
Subject: Fw: Comment Letter for Appeal of PDP-070-06

Kathy-
In this letter I notice Kevin states that the road next to the Creek will need to be widened. Am I interpreting this correctly? if so, this widening will need to be incorporated into the Project description and we may need to add additional minimization measures.

Lucy Triffleman
US Fish and Wildlife Service
Coast-Bay Delta branch
2800 Cottage Way room W-2605
Sacramento, CA. 95825
Ph. (916) 414-6628
Fax (916) 414-6712

A-2-HMB-07-030 (Pastorino)
SI Staff Report



COMMITTEE FOR
GREEN FOOTHILLS

May 23, 2007

by email

Kathy Marx
City of Half Moon Bay
501 Main Street
Half Moon Bay, CA 94019

Re: PDP-070-06: Coastal Development Permit, Use Permit, Variance from minimum lot size requirement of 50 acres in the Open Space – Reserve Zoning District and approval of a two-story Single Family Residence and barn on a 20 acre site at 921 Miramontes Street.

Dear Ms. Marx,

I have reviewed the Staff Report and proposed Negative Declaration for the above-referenced project. I have the following comments on behalf of Committee for Green Foothills:

Re: Proposed Variance: I do not believe that the Findings for a Variance can be made. The City's Zoning Code provides that variances can only be granted in instances where the particular characteristics of the property or its location or surroundings create a situation where a literal enforcement of the zoning regulations would result in a hardship, among other requirements. In this case, the size, shape, topography, etc. of the property, its location and surroundings do not create such a situation.

Re: Proposed conversion of prime agricultural land to non-agricultural use: I do not believe that, as designed and located, the large residential structure, extensive driveway, accompanying landscaping, and other improvements can be permitted. Under the Coastal Act, and the City's LCP, the maximum amount of prime agricultural land shall be preserved, and conversions to non-agricultural uses are strictly limited. If the City were able to make the Findings for a Variance (which we do not believe it can), the project would need to be re-designed to conform with Section 30241 of the Coastal Act.

Thank you for the opportunity to comment. Please keep us informed as to the determinations the City makes on this proposed project.

Sincerely,

(signed)

Lennie Roberts, Legislative Advocate
Committee for Green Foothills
339 La Cuesta, Portola Valley 94028

COMMITTEE FOR
GREEN FOOTHILLS

3921 E. Bayshore Road
Palo Alto, CA 94303

650.968.7243 PHONE
650.968.8431 FAX

info@GreenFoothills.org
www.GreenFoothills.org

A-2-HMB-07-030 (Pastorino)
SI Staff Report

May 23, 2007

Planning Department
City of Half Moon Bay City
501 Main Street
Half Moon Bay, CA 94019
Attn: Kathy Marx, Project Planner

Subject: PDP-070-06 (Pastorino), Comment on proposed Initial Study and Mitigated Negative Declaration (IS/MND) and application for a Coastal Development Permit, Use Permit and Proposed Variance to the Half Moon Bay Land Use Plan for the construction of two-story 5339 sq. ft. house (including garage), plus a 2,400 sq. ft. barn on 20-acre parcel zoned Open Space Reserve (OSR) designated in part as Prime Farmland.

Dear Kathy:

I would like to provide the following comments on the above-named project. Please include these comments as part of the official public record for PDP-070-06. I also request that these comments be provided to the other members of the Planning Commission.

1. Land Use and Planning.

The draft IS/MND claims that conflicts with the City's Land Use Plan can be reduced to "less than significant" by approving a variance to zoning code section 18.11.020 which requires a minimum parcel size of 50 acres in the OSR zone. However, the approval of such a variance would represent a separate unanalyzed conflict with the City's Land use plan that would have a significant unmitigated impact for the following reasons:

a. Per zoning code section 18.23.010, variances may be granted only "when such variance will not be contrary to the intent of this Title." The intent of the City's Land Use Plan (as implemented by Section 18) is to hold OSR parcels in reserve until other alternative infill zones have been developed. Clear evidence of this intent can be found in LCP Policy 8-5 which states:

"Lands designated Open Space Reserve on the Land Use Plan Map shall not be eligible for development approval and shall not receive a permit for development, other than for uses permitted under the designation Open Space Reserve, unless and until there are no alternative areas appropriate for infilling within the City for the proposed use and no division of such lands shall be permitted until development approval is obtained pursuant to this policy."

In addition, pages 112-113 of the City's Land Use Plan state the following with regard to "Agricultural Phasing"

"The land use designations and agricultural policies in this Plan establish a logical scheme for the conversion to urban use of lands currently in some form of agricultural use...Those lands designated Open Space Reserve because continued agricultural use may remain viable for the short term will be developed only after

all of the remaining lands in the City suitable for development have been developed or committed to other uses.”

It is clear from Policy 8-5 that only conforming uses in the OSR zone (including extremely low density residential of one house per 50 acres) are intended to be approvable during the time frame when the parcel is held in “reserve.” Policy 8-5 and the discussion on “agricultural phasing” clearly do not envision the granting of variances that would serve to accelerate the development of OSR parcels ahead of other eligible infill zones. The proposed granting of a variance that would allow immediate development of this 20-acre OSR parcel is contrary to the intent of the City’s Land Use Plan.

b. Section 18.23.010 also limits variances to cases where there is no adverse impact to public welfare. Granting a variance to this project will set a precedent for future proposed development on other similarly-zoned parcels that do not meet the minimum lot size requirement. Indeed, the City is currently processing an application for development on a much smaller OSR parcel located at 985 Miramontes. Sequential granting of such variances would constitute a defacto LCP amendment: effectively eliminating the lot size minimum for OSR parcels without legislation by the City Council and without certification by the California Coastal Commission. Such actions would harm the public welfare by compromising the integrity of the City’s Land Use Plan and the explicitly stated “logical scheme for the conversion to urban use of lands currently in some form of agricultural use.”

c. The proposed findings for granting the variance state that it would not be “injurious to property or improvements in said neighborhood.” This finding cannot be made as evidenced by the letter dated May 16, 2007 from the owners of an existing residence at 975 Miramontes. The letter states that the proposed Pastorino project will have an adverse material affect on nearby property values and will reduce privacy and quality of life.

d. Per section 18.02.040, the lot in question qualifies as a “Substandard Lot,” which is defined as “Any lot...that is less than the requirements in the zoning district in which the lot is located.” The design guidelines for substandard lots in section 18.06.050.G.1 state that “To the maximum extent possible, garages must be located in the rear yard.” The proposed project fails to meet this standard.

2. Agricultural Resources.

a. The draft IS/MND claims that conversion of the parcel from agricultural use to urban use is consistent with the discussion on page 99 of the Half Moon Bay Land Use Plan, which states that Coastal Act section 30241(c) applies “to virtually all of the lands located within the limits of the City of Half Moon Bay.” However, in this case, the proposed conversion from agricultural use to urban use would be accomplished by means of a variance that directly conflicts with the logical scheme for agricultural phasing in the City’s Land Use Plan. Legal conversion of this parcel to urban use at this time can only take place by means of a certified amendment to the City’s Land Use Plan.

b. The draft IS/MND claims that “the conversion of less than 2% of the site’s prime farmland is acceptable per LCP requirements.” The Half Moon Bay LCP incorporates Coastal Act section 30241 which requires that “The maximum amount of prime agricultural land shall be maintained in agricultural production...” [underline added]. As a mitigation measure, the draft IS/MND must investigate and discuss alternative site and design features that would

serve to concentrate the development in a smaller area, say closer to the access road, so as to minimize the impact on the potential agricultural productivity of the parcel.

3. Biological Resources

The draft IS/MND states that "The proposed project is located at a minimum of seventy (70) feet from the drip line of the riparian woodland canopy associated with Leon Creek." It is my understanding that trenching starting from Miramontes Street is needed to extend water service to the project. If so, then "development" as defined by the LCP would appear to encroach within the 50 foot buffer mandated by section 18.38.085.D. Moreover, the proposed biological mitigation measures for the project have not been designed in consultation with the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG). LCP Policy 3-4 specifically calls out the need to abide by USFWS and DFG regulations in sensitive habitat areas. The riparian corridor of Leon Creek meets the definition of sensitive habitat stated in section 18.38.020 of the City's zoning code.

4. Population and Housing

The draft IS/MND claims that there would be "No Impact" of the project in inducing substantial population growth either directly or indirectly. There are two potential growth-inducing impacts that have not been analyzed or mitigated. The first is the proposed use of a variance that could effectively nullify minimum lot size requirements for other future projects. As noted above, the City is currently processing a development application for another undersized OSR parcel in the same vicinity. No mitigation measures have been proposed that would prevent the use of similar variances in the future to allow further increases in density on large OSR parcels. The second potential growth-inducing impact stems from the extension of water and road service to a large OSR parcel that could increase pressure for conversion to a planned unit development (PUD)—effectively accelerating the time frame for conversion to urban use versus that currently envisioned by the City's Land Use Plan.

5. Findings of Significance

The draft IS/MND claims that the current project would have no impacts which are "Cumulatively considerable." However, it is reasonably foreseeable that the approval of a variance for this project would have implications for the enforcement of minimum lot size requirements on many probable future projects, including at least one project that is currently in the City's application pipeline. No analysis has been done or mitigation measures proposed that would address the cumulative impacts on land use of allowing variances similar the one proposed for this project.

Kevin J. Lansing
Planning Commissioner

Copy to:
City Manager
Planning Director
California Coastal Commission, North Central Coast Office

A-2-HMB-07-030 (Pastorino)
SI Staff Report

July 3, 2007

Mayor Naomi Patridge and Members of the City Council
City of Half Moon Bay
501 Main Street
Half Moon Bay, CA 94019

Subject: Comment on Appeal of PDP-070-06 (Pastorino).

Dear Council Members:

For the record, I am a member of the City's Planning Commission, but the comments below represent my views as an individual citizen. I urge the City Council to uphold the above-named appeal and deny the granting of a Coastal Development Permit to the project for the reasons outlined below. Please include these comments as part of the official public record for PDP-070-06.

1. Legal findings for a variance cannot be made.

a. Per 18.23.010, variances may only be granted "when such variance will not be contrary to the intent of this Title." The intent of the City's Land Use Plan is to hold OSR parcels in reserve until other alternative infill zones have been developed, as stated in LCP Policy 8-5. The City's Land Use Plan incorporates Coastal Act section 30241 which requires that "The maximum amount of prime agricultural land shall be maintained in agricultural production..." The proposed variance violates the intent of the Land Use Plan as it relates to phasing of OSR development and the protection of prime agricultural land. If the applicant wishes to develop the parcel at this time, consistency with the Land Use Plan requires that (1) the project description should be amended to include a rezoning of the parcel to allow a higher density, and (2) the project should be re-sited and clustered to minimize negative impacts to agricultural productivity.

b. Per 18.23.010, variances may only be granted when "such application...will not...materially affect adversely...the persons residing or working in the neighborhood...and will not...be materially detrimental...to property or improvements in said neighborhood." Credible testimony has been presented that material adverse affects to at least one neighbor will occur and that negative property valuation impacts will occur if the variance were to be approved. The variance application therefore does not meet the legal standard for approval. Paragraph 2 of the City staff's response to the appeal claims that the appellant Mr. Kiebler has failed to provide evidence of material adverse effects. Please note that 18.24.040 places the burden of proof on the applicant to show that legal findings for a variance can be made. Therefore, the City's zoning code requires City staff to present evidence that Mr. Kiebler's claims of adverse effects are not material. City staff has not done this. Moreover, paragraph 4 of the City staff's response puts forth an argument against a pending project at 985 Miramontes—an issue that is not before the City Council at this time.

c. Per 18.23.010, variances may only be granted when there are exceptional circumstances that "do not apply generally to the land, buildings, and/or uses in the same [zoning] district." The proposed variance does not meet this legal standard because there are a total of five (5)

serve to concentrate the development in a smaller area, say closer to the access road, so as to minimize the impact on the potential agricultural productivity of the parcel.

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The draft IS/MND states that "The proposed project is located at a minimum of seventy (70) feet from the drip line of the riparian woodland canopy associated with Leon Creek." It is my understanding that trenching starting from Miramontes Street is needed to extend water service to the project. If so, then "development" as defined by the LCP would appear to encroach within the 50 foot buffer mandated by section 18.38.085.D. Moreover, the proposed biological mitigation measures for the project have not been designed in consultation with the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG). LCP Policy 3-4 specifically calls out the need to abide by USFWS and DFG regulations in sensitive habitat areas. The riparian corridor of Leon Creek meets the definition of sensitive habitat stated in section 18.38.020 of the City's zoning code.

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Kevin J. Lansing
Planning Commissioner

Copy to:
City Manager
Planning Director
California Coastal Commission, North Central Coast Office

A-2-HMB-07-030 (Pastorino)
SI Staff Report

undeveloped OSR parcels within City limits that fail to meet the 50-acre minimum lot size for the construction of a single family residence (see attached list). The undersize lot size condition that affects this project is, in fact, a circumstance that applies generally to other undeveloped parcels in the same zoning district. The correct course of action would be for the City to undertake a revision to the Land Use Plan, not to grant a variance that is clearly not legal in this case.

2. Biological mitigation measures are not adequate

The biological mitigation measures that are legally imposed as conditions of approval in the CDP have not been designed in consultation with the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG). LCP Policy 3-4 specifically calls out the need to abide by USFWS and DFG regulations in sensitive habitat areas. The riparian corridor of Leon Creek meets the definition of sensitive habitat stated in section 18.38.020 of the City's zoning code. Please note that any recent discussions with these agencies cannot be considered as part of the appeal hearing, as only evidence that was originally presented to the Planning Commission can legally be considered during the appeal. Any new proposed biological mitigation measures would require an amendment to the project CDP. The project will require widening of the access road to the project site. This road widening constitutes "development" per 18.20.020.C and would appear to encroach within the 50 foot buffer mandated by section 18.38.085.D.

3. Public notice was not adequate

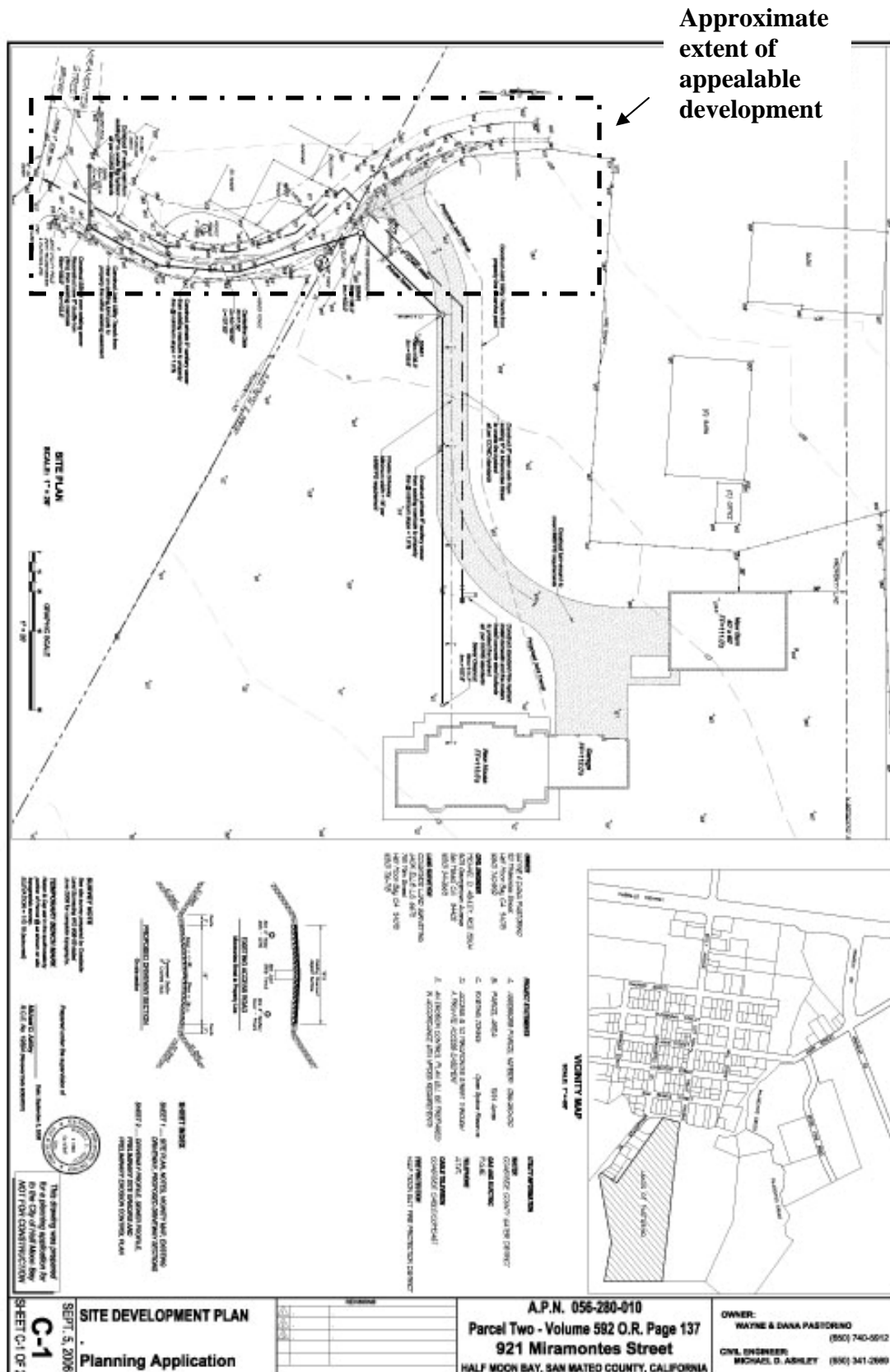
None of the public notices for the project included any mention of the proposed utility line extensions and proposed road widening that are in close proximity to biological resources. Section 18.20.060.4 requires the public notice to include a "description of the proposed development..." Given that the utility line extensions and the road widening constitute "development," these items should have been included in the project description contained in the public notice.

Kevin J. Lansing
359 Filbert Street
Half Moon Bay

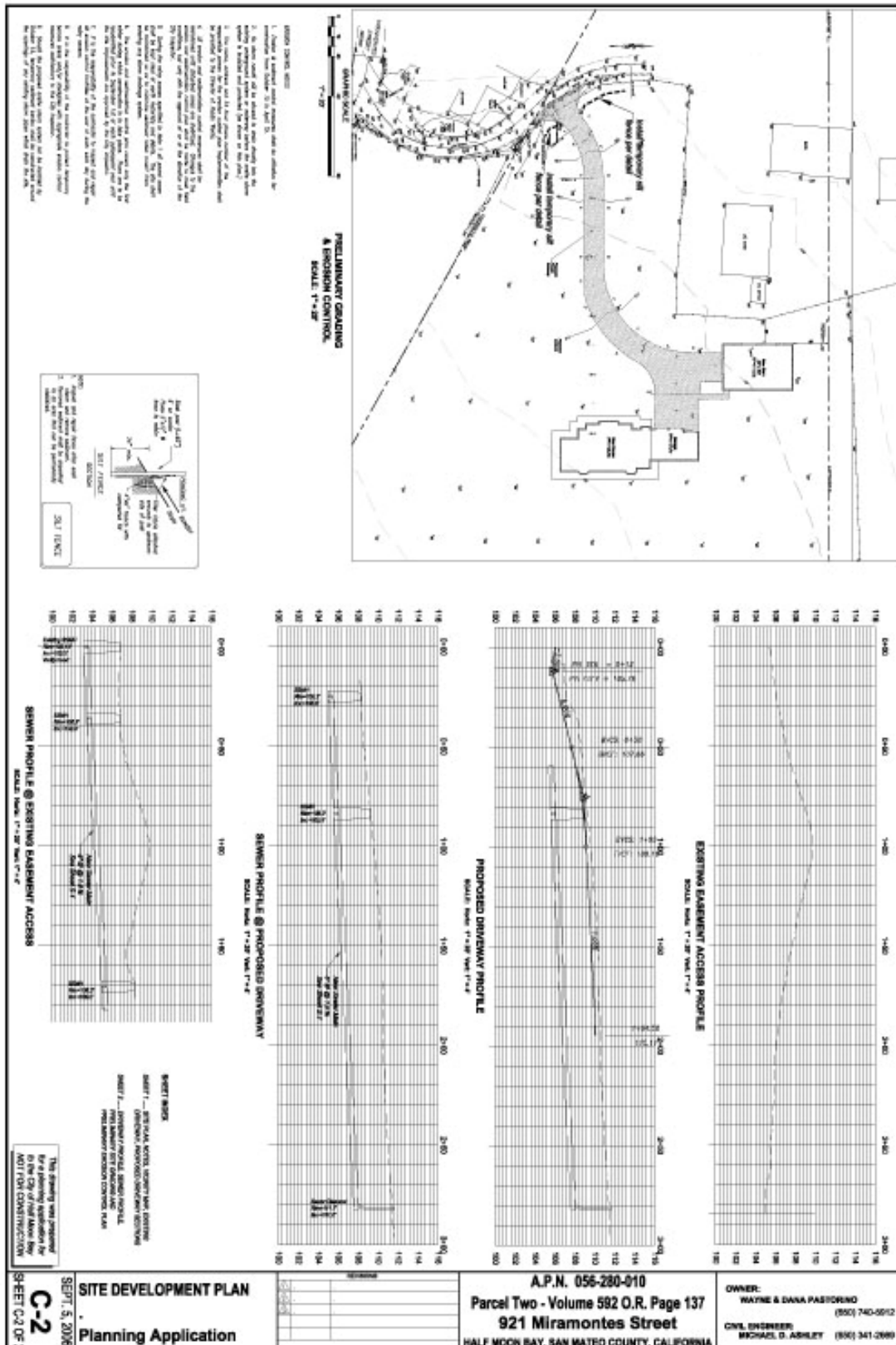
Copy to:
City Clerk
California Coastal Commission, North Central Coast Office
USFWS
CDFG

2001 Aerial Photo of Site of Entire Approved Development





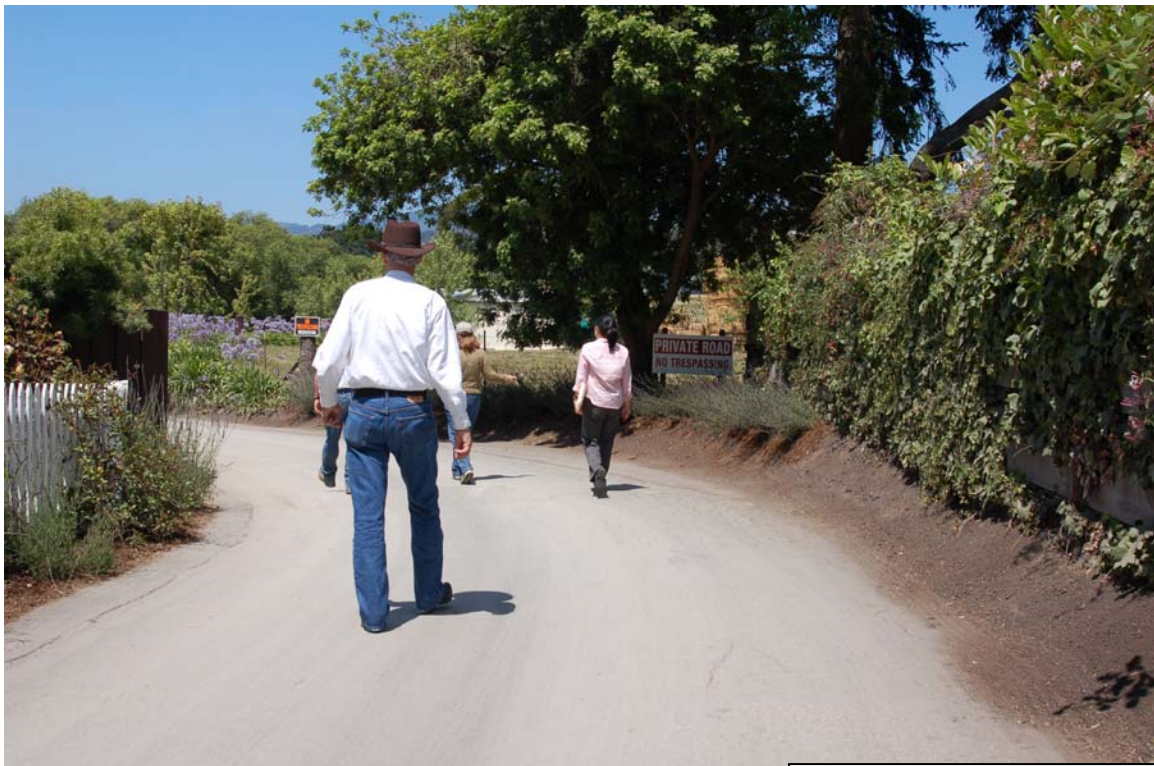
A-2-HMB-07-030 (Pastorino)
SI Staff Report



Existing access road leading from bridge across Arroyo Leon



Existing access road to subject property



Approximate location of approved driveway and road widening



Area between Arroyo Leon and existing access road



**Site of approved residence, not located in appeal
jurisdiction**



BIOTIC ASSESSMENT

921 MIRAMONTES STREET (APN 056-280-010),
HALF MOON BAY, CALIFORNIA

JANUARY, 2007

Prepared for:

Kathy Marx, Planning Consultant
Planning Department, City of Half Moon Bay
501 Main Street
Half Moon Bay, CA 94019

Prepared by:

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ATTACHMENT 4

EXECUTIVE SUMMARY

Coast Range Biological, LLC conducted a biotic assessment on a portion of the parcel located at 921 Miramontes Street (APN 056-280-010) in the City of Half Moon Bay, California. While the proposed project on the 20-acre property involves the construction of a new single family residence, barn, access road, and associated landscaping and utility infrastructure, only those portions of the project (consisting of the proposed access road and adjacent landscaping and utility infrastructure) occurring within 100 feet of the nearby riparian corridor are considered in this report. This biotic assessment addresses the potential for occurrence of sensitive or special-status biotic resources on the project site and surrounding Study Area, including special-status plant and wildlife species and Environmentally Sensitive Habitat Areas (ESHAs) (e.g., riparian vegetation, wetlands, and other sensitive habitats as defined by the Half Moon Bay Local Coastal Program and California Coastal Act).

No special-status plant species were observed on the project site during the January 2007 field visits, and none are expected to occur because of the highly disturbed nature of the project site, a lack of suitable habitat, and a lack of documented occurrences in the vicinity. Therefore, significant adverse impacts to special-status plants are not expected to occur from the proposed project, and no mitigation measures are recommended.

Two special-status wildlife species, California red-legged frog and San Francisco garter snake, are expected to have a low potential for occurrence on the project site and a high and moderate potential, respectively, to inhabit nearby Arroyo Leon, and could therefore be impacted by the proposed project. Four additional special-status wildlife species, Cooper's hawk, white-tailed kite, yellow warbler, and saltmarsh common yellowthroat, are not expected to nest on the project site, but could potentially nest in the nearby Riparian Woodland habitat present in Arroyo Leon. If either the Cooper's hawk or white-tailed kite bred in the vicinity of the project site, nesting could be indirectly impacted by the proposed project. In addition, other nesting bird species, protected under the Migratory Bird Treaty Act and Fish and Game Codes, have potential to nest on the Study Area. All potential impacts to special-status wildlife and nesting bird species can be reduced to less than significant levels with the incorporation of mitigation measures discussed in this report.

No potential ESHAs were observed on the project site, but the Riparian Woodland along Arroyo Leon is considered a potential riparian ESHA. The Riparian Woodland itself will not be directly impacted by the proposed project. The proposed project will occur a minimum of 70 feet (approximately) from the riparian drip-line, and no significant adverse impacts are expected to occur to the Riparian Woodland as a result of the proposed project, and no mitigation measures are recommended. No other sensitive habitats were observed on the project site or surrounding Study Area.

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1.0 INTRODUCTION

Coast Range Biological, LLC conducted a biotic assessment on a portion of the parcel located at 921 Miramontes Street (APN 056-280-010) in the City of Half Moon Bay, California (Figure 1). While the proposed project on the 20-acre property involves the construction of a new single family residence, barn, access road, and associated landscaping and utility infrastructure, only those portions of the project (consisting of the proposed access road and adjacent landscaping and utility infrastructure) occurring within 100 feet of the nearby riparian corridor are addressed in this report. The area evaluated for this biotic assessment includes: (1) a "project site" encompassing the project's disturbance envelope occurring within 100 feet of the riparian corridor, where biological resource impact determinations are made; and (2) a "Study Area", which includes both the project site and adjacent areas extending out to 200-feet around the project site, where habitats are mapped and evaluated for the potential presence of special-status biological resources (Figure 2).

This biotic assessment addresses the potential for occurrence of sensitive or special-status biotic resources on the Study Area, including special-status plant and wildlife species and Environmentally Sensitive Habitat Areas (ESHAs) (e.g., riparian vegetation, wetlands, and other sensitive habitats as defined by the Half Moon Bay Local Coastal Program (LCP) and California Coastal Act (CCA). Potential significant impacts that may occur to these resources as a result of the proposed project are identified and mitigation measures are suggested to reduce impacts to less than significant levels.

2.0 METHODS

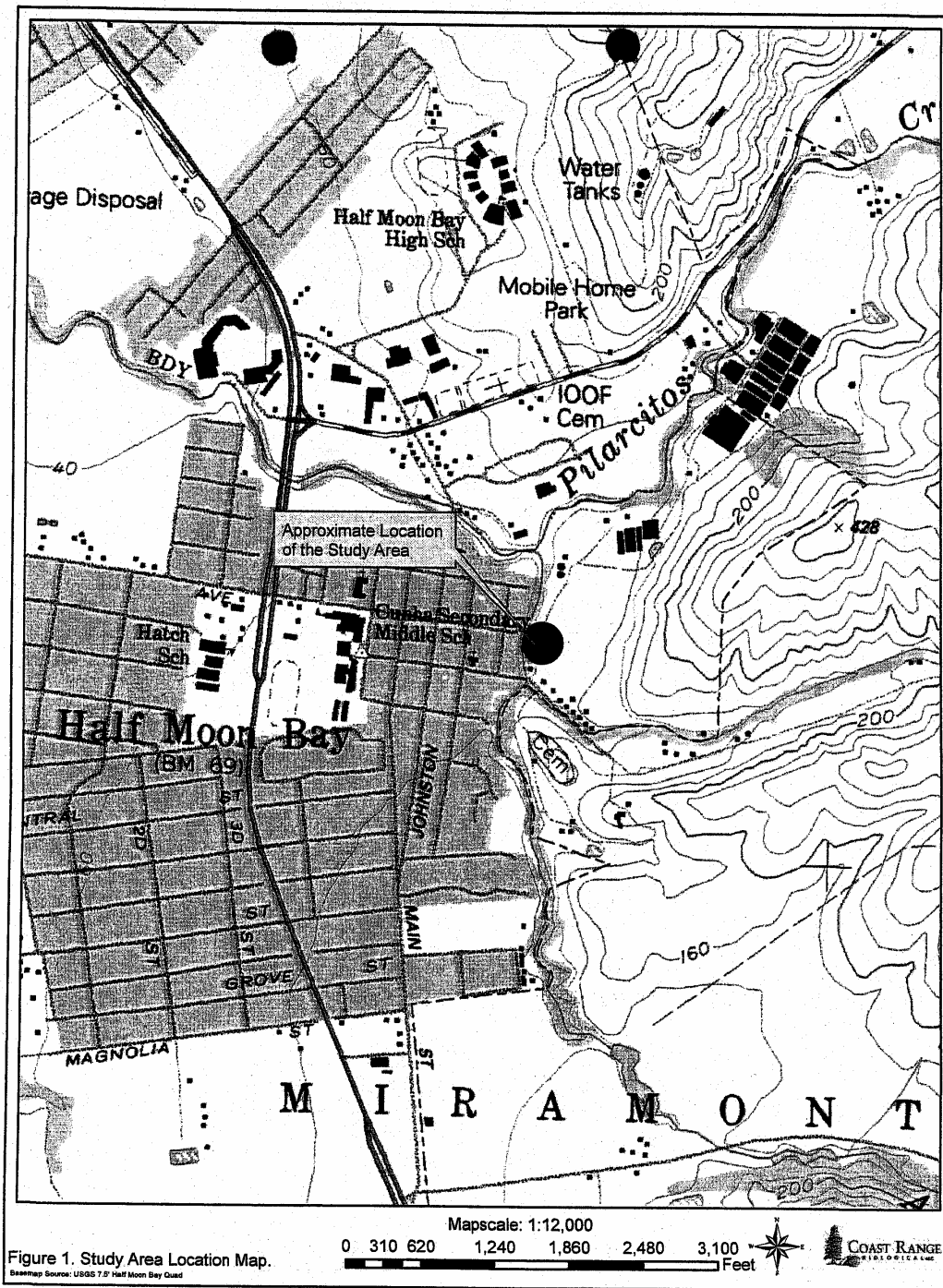
2.1 Pre-Field Literature Review

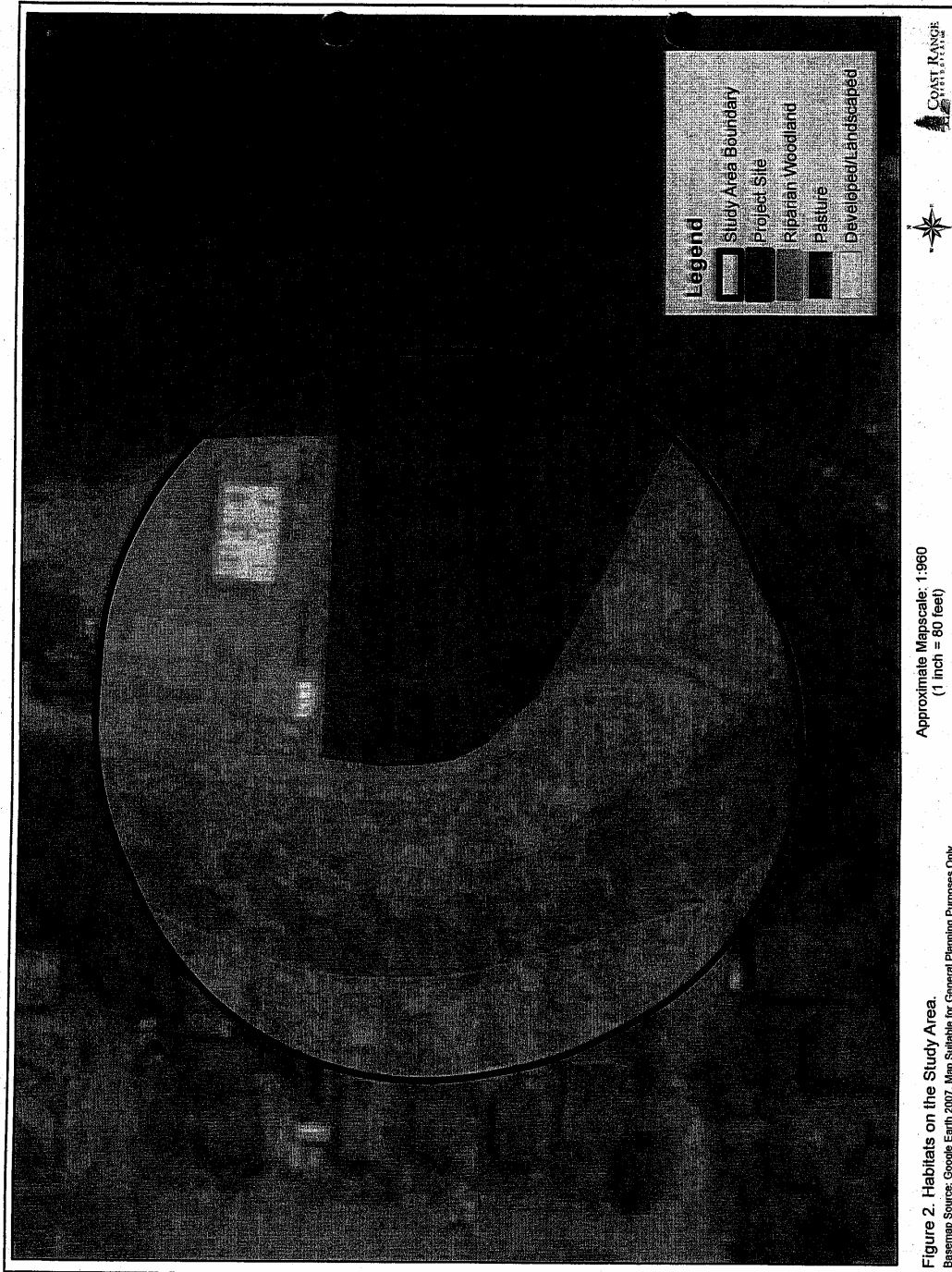
Prior to conducting field studies, a background literature search was conducted to determine which special-status species have the potential to inhabit the Study Area region based on documented occurrences and range distribution (Appendix A). Special-status species are defined here to include: (1) all plants and animals that are listed under the Federal or State Endangered Species Acts as rare, threatened or endangered; (2) all federal and state candidates for listing; (3) California Department of Fish and Game (CDFG) Species of Special Concern; (4) U.S. Fish and Wildlife Service (USFWS) Species of Concern; (5) all plants included in Lists 1 through 4 of the California Native Plant Society (CNPS) Online Inventory (CNPS 2007); (6) plants that qualify under the definition of "rare" in the California Environmental Quality Act (CEQA), section 15380; and (7) plants and animals considered "rare and endangered" in the Half Moon Bay LCP.

The primary sources for this search included the California Natural Diversity Data Base (CNDDB) (CDFG 2006), the CNPS Online Inventory (CNPS 2007), and the USFWS (2007) records for the Half Moon Bay, Montara Mountain, San Mateo, Woodside, La Honda, and San Gregorio 7.5' USGS quadrangles. In addition, other lists and publications were consulted, including the CDFG Special Animals list (dated February 2006), *California's Wildlife* Volumes 1, 2 and 3 (Zeiner et al. 1988; 1990a; 1990b), and the Half Moon Bay LCP.

2.2 Field Studies

Reconnaissance-level field studies were conducted on January 10 and 16, 2007. Plant Ecologist Tom Mahony and Wildlife Biologist Mark Allaback traversed the project site on foot to document habitat conditions in order to determine the potential for occurrence of special-status plant and wildlife species and other sensitive biotic resources.





The remainder of the Study Area, outside of the project site, was surveyed on foot where accessible, and with binoculars and aerial photographs where inaccessible due to private property constraints. The potential for occurrence of special-status plant and wildlife species was assessed based on the presence of necessary habitat characteristics, confirmed records from the region, and the biologist's knowledge of the target species. No focused field surveys were performed.

Riparian areas were mapped in the field with a Trimble GPS unit (sub-meter accuracy). Since recent ortho-rectified aerial imagery was not provided for the project site, an aerial photograph, obtained from Google Earth, was used as a basemap. GPS data were manually interpolated onto the basemap using ArcGIS software¹.

2.2.1 Special-status Species

Potential for occurrence of special-status species was classified as follows:

- (1) **None.** Habitat on and adjacent to the Study Area is either not present or clearly unsuitable for the species requirements (e.g., foraging, nesting, cover, soil type). The species is considered absent or has an extremely low probability of being found on the Study Area.
- (2) **Low Potential.** Some habitat components meeting the species requirements are present, however, the majority of habitat on and adjacent to the Study Area is degraded or unsuitable. The species has a low probability of being found on the Study Area.
- (3) **Moderate Potential.** Habitat components meeting the species requirements are present, however, some of the habitat on or adjacent to the Study Area is unsuitable. The species has a moderate probability of being found on the Study Area.
- (4) **High Potential.** Habitat components meeting the species requirements are present and most of the habitat on or adjacent to the Study Area is highly suitable. The species has a high probability of being found on the Study Area.
- (5) **Present.** The species was observed on the Study Area during the field visit or was documented to occur on the Study Area during the background literature search.

For species with a potential for occurrence of "None" or "Low", no further recommendations are made since the species is unlikely to occur on the project site, and therefore significant impacts resulting from the proposed project are not expected. For species that are "Present" on the project site, or for species with a "Moderate" or "High" potential for occurrence, mitigation measures are recommended to reduce any potential significant impacts to less than significant levels (CEQA Guidelines, Appendix G).

2.2.2 Other Sensitive Biotic Resources

"Environmentally Sensitive Habitat Areas" (ESHAs) are defined in the LCP as "any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments." In addition to special-status species, discussed above, the following are also generally considered ESHAs under the LCP (Section 30107.5).

¹ Due to potential basemap inaccuracies and estimations used during manual interpolation, the map in Figure 2 represents a good estimation of spatial relationships but should be used for general planning purposes only. Exact distances, if required, should be obtained by a licensed surveyor.

Wetland and Riparian Areas

Wetlands are defined in the LCP (Section 30121) as "lands within the Coastal Zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens." A jurisdictional wetland delineation was not conducted during this biotic assessment, but a reconnaissance-level wetland survey was conducted to search for any areas that could potentially meet the LCP definition of wetlands (e.g., the "one parameter" wetland definition used by the City of Half Moon Bay and the California Coastal Commission).

Riparian areas are defined in the LCP as the "limit of riparian vegetation (i.e. a line determined by the association of plant and animal species normally found near streams, lakes, and other bodies of fresh water: red alder, jaumea, pickleweed, big leaf maple, narrowleaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder). Such an area must contain at least a 50% cover of some combination of the plants listed." Riparian areas were identified and mapped during the site visit.

Other Sensitive Habitats

Other sensitive habitats that could qualify as potential ESHAs include those considered sensitive in the region by CDFG, such as northern maritime chaparral, northern coastal salt marsh, serpentine bunchgrass, and valley needlegrass grassland, as well as those listed in the LCP, including sand dunes, wild strawberry habitat, and sea cliffs. The presence or absence of sensitive habitats was noted during the field visit.

3.0 STUDY AREA DESCRIPTION

The Study Area is located at 921 Miramontes Street, east of downtown Half Moon Bay, and includes the project site for the proposed access road and adjacent landscaping and utility infrastructure occurring within 100 feet of the riparian drip-line, and a 200-foot buffer around this area (Figures 1 and 2). The project site is generally level, occurs at approximately 40 feet elevation (USGS 1991), and consists of irrigated pasture actively managed for cattle grazing. Surrounding land uses to the east, south, and north include pasture, residential development, and commercial development, respectively. Immediately west of the project site is a private access road. West of the access road is a terraced slope that drops approximately 10 vertical feet to a recently planted grassy area (that previously contained ornamental eucalyptus) which extends to the edge of the Riparian Woodland growing along Arroyo Leon.

3.1 Habitats

Three general habitat types were observed on the Study Area: Pasture, Riparian Woodland², and Developed/Landscaped (Figure 2). Pasture habitat covers the project site (where direct project impacts will occur), and consists of non-native grasses and forbs, including Italian ryegrass (*Lolium multiflorum*³), bur clover (*Medicago polymorpha*), red clover (*Trifolium pratense*), geranium (*Geranium molle*), common vetch (*Vicia sativa*), field mustard (*Brassica rapa*), and Bermuda buttercup (*Oxalis pes-caprae*). The pasture is irrigated during the dry season and periodically seeded with forage species (Wayne Pastorino, landowner, pers. comm. 2007).

² Riparian Woodland as described here is equivalent to "Riparian Corridor," "Riparian Area," "Riparian Vegetation" and similar terms used by the City of Half Moon Bay in describing riparian areas.

³ Botanical nomenclature follows Hickman (1993).

Riparian Woodland, consisting primarily of the Mixed willow series⁴, occurs along Arroyo Leon, west of the project site. Native trees, including shining willow (*Salix lucida* ssp. *lasiandra*), red willow (*Salix laevigata*), arroyo willow (*Salix lasiolepis*), and red alder (*Alnus rubra*) dominate the canopy, with the non-native blue gum eucalyptus (*Eucalyptus globulus*) forming the dominant canopy cover near the southern Study Area boundary. The diverse understory consists of native and non-native shrubs and herbs, including California blackberry (*Rubus ursinus*), Himalayan blackberry (*Rubus discolor*), stinging nettle (*Urtica dioica*), poison hemlock (*Conium maculatum*), California bee plant (*Scrophularia californica*), cape ivy (*Senecio mikanioides*), and garden nasturtium (*Tropaeolum majus*). Developed/Landscaped areas occur throughout the Study Area and consist of residential and commercial development and associated infrastructure and landscaping.

3.2 Hydrology

The project site appears well-drained, and no drainage channels or other evidence of ponding or concentrated water movement were observed. West of the private drive, off the project site but within the Study Area, Arroyo Leon, a USGS "blue line stream" (USGS 1991), flows generally northbound, eventually draining into Pilarcitos Creek. Arroyo Leon had flowing water during the field visit, but dries up in the summer, and is intermittent (Wayne Pastorino, landowner, pers. comm. 2007).

4.0 RESULTS

4.1 Special-status Plants

Forty-one special-status plant species are documented to occur in the Study Area region based on the background literature search discussed in Section 2.1. A list of these species, their status, and their typical habitats, is presented in Appendix A. A search of the October 3, 2006 CNDDB GIS database found no documented occurrences⁵ of special-status plant species on or adjacent to the Study Area. One special-status plant species has documented CNDDB occurrences within three miles of the Study Area: Choris's popcorn-flower (*Plagiobothrys chorisianus* var. *chorisianus*) located on a coastal terrace approximately 1.1 miles southwest of the Study Area. No special-status plant species were observed on the Study Area, but the field visit occurred after the blooming period of most plant species had ended, and focused surveys were not conducted.

The 41 special-status plants identified for the region during the background literature search are considered unlikely to inhabit the project site (a potential for occurrence of "None" or "Low" as defined in Section 2.2) because the project site: (1) is composed of irrigated cattle pasture, seeded with non-native forage species, which forms a dense monoculture lacking any native habitats or species; (2) lacks macro or micro habitat components (e.g., suitable plant communities, sandy or serpentine substrates) required by most special-status species known from the region; (3) was previously managed for row crop agriculture, and therefore has a long history of discing, deep ripping, and other soil disturbance, eliminating any remnant native soil seed bank; and (4) lacks documented occurrences of special-status plants nearby, which could (along with a native soil seedbank) provide a potential source of special-status plant propagules for the project site. Therefore, the 41 special-status plant species identified for the region during the background literature search are considered absent⁶ or to have a low potential to inhabit the project site.

⁴ Vegetation series nomenclature follows Sawyer and Keeler-Wolf (1995).

⁵ The lack of documented occurrences does not necessarily mean that a species does not occur in an area, only that no occurrences have been reported.

⁶ Since biological phenomena are complex and often poorly understood, this should be considered an "extremely low"

4.2 Special-status Wildlife

A search of the October 3, 2006 CNDDDB GIS database found no documented occurrences of special-status wildlife species on or adjacent to the Study Area. Fourteen special-status wildlife species were analyzed for their potential occurrence on the project site and surrounding Study Area because they: (1) occur in habitats present in the general vicinity of the Study Area, and (2) have ranges which include Half Moon Bay (Appendix A). None of the 14 special-status wildlife species analyzed are expected to have a moderate or high potential to occur on the project site itself. However, two species, California red-legged frog (*Rana aurora draytonii*) and San Francisco garter snake (*Thamnophis sirtalis tetrataenia*) have a high and moderate, respectively, potential to occur on the Study Area along Arroyo Leon, and due to the mobility of each species, could occur incidentally on the project site.

Four special-status bird species, Cooper's hawk (*Accipiter cooperii*), white-tailed kite (*Elanus leucurus*), yellow warbler (*Dendroica petechia brewsteri*), and saltmarsh common yellowthroat (*Geothlypis trichas sinuosa*) are not expected to nest on the project site, but could nest in nearby Riparian Woodland on the Study Area and be indirectly impacted by the proposed project. One special-status mammal, San Francisco dusky-footed woodrat (*Neotoma fuscipes annectens*) may also occur off of the project site in nearby Riparian Woodland, but even if the species was present, it is not expected to be impacted by the proposed project. No other special-status mammals, including bats, are likely to be affected by the project. Potential significant impacts that may occur to special-status wildlife, and corresponding mitigation measures, are addressed in Section 5.2.

The remaining seven special-status wildlife species analyzed are considered absent or to have a low potential for occurrence on the project site and surrounding Study Area, and it is therefore unlikely they would be adversely impacted by the proposed project (Appendix A). These species are not discussed further. In addition, several special-status wildlife species documented from the region were not analyzed as part of this biotic assessment because suitable habitat is clearly absent from the Study Area. These include all marine organisms (e.g., marine mammals, reptiles, birds, and invertebrates), as well as species found in tidal marsh or other habitats clearly lacking from the Study Area, including: western snowy plover (*Charadrius alexandrinus nivosus*), California black rail (*Rallus jamaicensis coturniculus*), double-crested cormorant (*Phalacrocorax auritus*), California brown pelican (*Pelecanus occidentalis*), California least tern (*Sterna antillarum browni*), California clapper rail (*Rallus longirostris obsoletus*), salt-marsh harvest mouse (*Reithrodontomys raviventris*), tidewater goby (*Eucyclogobius newberryi*), and globose dune beetle (*Coelus globosus*). In addition, the following species are documented in the region but their range does not include Half Moon Bay: Bay checkerspot butterfly (*Euphydryas editha bayensis*), Mission blue butterfly (*Plebejus icarioides missionensis*), San Bruno elfin butterfly (*Callophrys mossii bayensis*), and Myrtle's silverspot (*Speyeria zerene myrtilae*).

California Red-legged Frog (*Rana aurora draytonii*), Federal Status: Threatened; State Status: Species of Special Concern

The California red-legged frog is a large (85-138 mm), nocturnal species that historically occupied much of central and southern California. The species requires still or slow-moving water during the breeding season, where it deposits large egg masses, usually attached to submergent or emergent vegetation. Breeding typically occurs between December and April, depending on annual

potential for occurrence and not an absolute claim of absence. Even if species are not anticipated to occur, if any special-status plant or wildlife species were encountered during project construction, the project would be required to comply with the CCA, CEQA, and the state and federal Endangered Species Acts.

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environmental conditions and locality. Eggs require 6 to 12 days before hatching and metamorphosis occurs 3.5 to 7 months after hatching (Stebbins 2003). Following metamorphosis between July and September, juveniles generally do not travel far from aquatic habitats. Movements of individuals generally begin with the first rains of the weather-year or in response to receding water. Radio-telemetry data indicates that individuals engage in straight-line movements irrespective of riparian corridors and can move up to two miles (Bulger et al. 2003). California red-legged frogs utilize ephemeral water sources during certain times of the year. They may take refuge in small mammal burrows, leaf litter or other moist areas during periods of inactivity or whenever it is necessary to avoid desiccation (Rathbun et al. 1993; Jennings and Hayes 1994). Occurrence of this frog has shown to be negatively correlated with presence of introduced bullfrogs (Moyle 1973; Hayes and Jennings 1986, 1988). Recent genetic studies indicate that the nominal subspecies *draytonii* and *aurora* represent separate lineages and are therefore distinct species that require taxonomic revision (Shaffer et al. 2004).

California red-legged frogs are not documented to occur on the Study Area, but the CNDDB documents three occurrences within three miles of the project site: 0.7 miles southwest, 1.4 miles northwest, and 2.4 miles northeast. In addition, a ranid frog was observed by Mark Allaback in a tributary to Arroyo Leon, approximately 250-feet south of the project site, during an unrelated field visit to the area in September 2006. The project site does not currently support upland or breeding habitat for red-legged frogs due to the presence of irrigated pasture. However, nearby Arroyo Leon does not provide breeding habitat, but provides foraging and sheltering habitat for the species. Based on the nearby ranid frog observation, documented occurrences in the general area, and the presence of suitable habitat in nearby Arroyo Leon, California red-legged frogs are considered to have a high potential to inhabit Arroyo Leon. The likelihood that California red-legged frogs would inhabit the project site is considered low since it lacks appropriate upland habitat, but due to the proximity of suitable riparian habitat in Arroyo Leon in relation to the project site and mobility of the species, California red-legged frogs could occur incidentally on the project site during construction. Mitigation measures are recommended (in Section 5.0) to reduce or eliminate any significant impacts to the species.

**San Francisco Garter Snake (*Thamnophis sirtalis tetrataenia*), Federal Status: Endangered;
State Status: Endangered, Fully Protected**

The San Francisco garter snake is found only on the San Francisco peninsula in San Mateo County and the northern portion of Santa Cruz County (Berry 1978; Brode 1990). It is an extremely colorful snake with a bright orange-red head, blue belly, greenish-yellow dorsal stripe and red and black stripes along either side. It grows to a length of three to four feet (Stebbins 2003). It occupies freshwater marshes, ponds, sloughs, and associated riparian corridors, especially where dense shoreline vegetation is present. It also uses a variety of upland habitats including grassland, woodland and coastal scrub in proximity to these aquatic habitats. During the fall and winter, it stays relatively inactive underground in rodent burrows, up to at least 150 meters from aquatic habitat (McGinnis, *et al.* 1987). During the spring and summer, it occupies dense vegetation near ponds or marshes and adjacent scrub and open upland habitat for temperature regulation and cover. Females produce between 12 and 24 live young in July or August. Adults feed primarily on larger frogs including red-legged frogs, but may also take fish, salamanders, newts and earthworms. Pacific treefrogs appear to be an important part of the diet of young snakes (Larsen 1994). It is rarely seen but can sometimes be observed near the water's edge, basking on warm days, or when it retreats to water. Much of the range of the San Francisco garter snake lies within a heavily urbanized area, and alteration and isolation of habitats has been identified as the primary threat to the subspecies (Brode 1990). Agricultural development, overgrazing and illegal collecting have also been implicated in its decline.

San Francisco garter snake has two documented occurrences along Pilarcitos Creek, north of the project site. Though the habitat quality is marginal, Arroyo Leon provides some suitable habitat for San Francisco garter snake. The likelihood that San Francisco garter snake would occur on the project site is considered low, but due to the proximity of suitable habitat in Arroyo Leon in relation to the project site and mobility of the species, San Francisco garter snake could occur incidentally on the project site during construction. Mitigation measures are recommended (in Section 5.0) to reduce or eliminate any significant impacts to the species.

Cooper's Hawk (*Accipiter cooperi*), Federal Status: None, State Status: Species of Special Concern.

The Cooper's hawk is a medium-size accipiter that breeds in oak woodlands, coniferous forests and deciduous riparian areas. It nests throughout much of the United States and southern Canada and winters in Mexico and Central America (Rosenfeld and Bielefeldt 1993). During the breeding season, it prefers deciduous, mixed-evergreen forests and deciduous riparian woodlands, favoring mature forests with dense canopy cover around nests (Rosenfeld and Bielefeldt 1993). Nesting sites are often within wooded stands of at least four to eight hectares. In California, nests are usually built in oaks. Cooper's hawks typically build new nests in the same area of previous successful nest sites and only occasionally reuse nests in successive or intermittent years (Rosenfeld and Bielefeldt 1993). Eggs are normally laid in April and hatch after 30 to 36 days. Young fledge after 30 to 35 days. The species forages in a variety of woodland and edge habitats. It feeds primarily on birds, but will also prey on mammals and reptiles (Rosenfeld and Bielefeldt 1993). During the winter, Cooper's hawks utilize a wider variety of habitat types for foraging. The species is relatively tolerant of human activities and is known to nest in urban settings. Habitat loss and pesticide contamination are considered threats to this species (Remsen 1978).

No suitable nesting habitat for Cooper's hawk occurs on the project site, but the species could potentially nest on the Study Area in the Riparian Woodland along Arroyo Leon or its tributary, since Cooper's hawks can tolerate human disturbances in some locations and trees in the area provide suitable structure for nesting. In addition, there is a low potential for Cooper's hawk to nest in the existing Douglas-fir (*Pseudotsuga menziesii*) tree adjacent to the proposed access road. The proximity of nesting habitat to the project site could potentially result in adverse impacts to Cooper's hawk during project construction (due to prolonged noise and other disturbance), should the species nest in the vicinity. Mitigation measures are recommended (in Section 5.0) to reduce or eliminate any significant impacts to the species.

White-tailed Kite (*Elanus leucurus*), Federal Status: None, State Status: Fully Protected.

The white-tailed kite is a medium-sized raptor that occupies low-elevation grassland, agricultural, wetland, oak woodland and oak savanna habitats (Dunk 1995). The species is distributed throughout the coastal foothills and valleys along the entire length of the state, throughout the Central Valley, and into the foothills of the Sierra Nevada (Dunk 1995). It nests in a wide variety of trees and shrubs, either isolated or part of larger stands. Typically, four eggs are laid in February and March and chicks hatch after 30-32 days. Juveniles often share their parent's home range for at least one season. During the non-breeding season, the species roosts communally. Nearby open areas are required for foraging, and the species will use certain types of agricultural fields. Food habit studies have demonstrated that voles make up a large proportion of its diet, although other small mammals, birds and insects are also eaten (Dunk 1995). The species hunts during the day primarily by hovering and searching for prey. White-tailed kites in California are generally resident, although they may occupy different areas during the non-breeding and breeding seasons. The species underwent a dramatic reduction in numbers due to habitat loss and hunting, and was extirpated throughout much of its range

in the early 1900s. Between the 1940s and early 1980s, the population recovered and its range expanded. More recently, population declines have again been noted, possibly as a result of the conversion of agricultural lands to urban uses (Dunk 1995).

No suitable nesting habitat for white-tailed kite occurs on the project site, but the species could potentially nest on the Study Area in the Riparian Woodland along Arroyo Leon or its tributary, though, generally, white-tailed kites are not considered tolerant to human disturbances. In addition, there is a low potential for white-tailed kites to nest in the existing Douglas-fir tree adjacent to the proposed access road. Appropriate foraging habitat is present in the pasture and other undeveloped areas. The proximity of nesting habitat to the project site could potentially result in adverse impacts to white-tailed kite during project construction (due to prolonged noise and other disturbance), should the species be nesting in the vicinity. Mitigation measures are recommended (in Section 5.0) to reduce or eliminate any significant impacts to the species.

Yellow Warbler (*Dendroica petechia*), Federal Status: None, State Status: Species of Special Concern.

The yellow warbler is widely distributed across North America during the spring. The subspecies *D. p. brewsteri*, which is listed as a Species of Special Concern by CDFG, nests in California, Oregon and Washington. Yellow warblers historically nested throughout California with the exception of the high Sierra and the desert regions. Steady and significant declines in California have been recorded, particularly in coastal southern California, the San Joaquin valley and the Sacramento Valley (Remsen 1978). The alteration of native riparian habitats through channelization, grazing, and invasion of exotic species has been implicated in this decline (Dunn and Garrett 1997). Parasitism by the brown-headed cowbird (*Molothrus ater*) has also been suggested as a factor in the decline of yellow warblers (Remsen 1978). Yellow warblers occupy dense riparian woodlands, typically dominated by willows, but also cottonwoods, maples and sycamores (Dunn and Garrett 1997).

No suitable nesting habitat for yellow warbler occurs on the project site, but the species could potentially nest on the Study Area in the Riparian Woodland along Arroyo Leon. Mitigation measures are recommended (in Section 5.0) to reduce or eliminate any significant impacts to the species.

Saltmarsh Common Yellowthroat (*Geothlypis trichas sinuosa*), Federal Status: None; State Status: Species of Special Concern.

Saltmarsh common yellowthroat occurs in fresh and saltwater marshes in the San Francisco Bay Area. It typically requires thick, continuous cover down to the water surface for foraging. Tall grasses, tule patches, and/or willows are often used for nesting. Saltmarsh common yellowthroat is documented to occur in the vicinity of the Study Area, along Frenchman's Creek, 1.5 miles to the northwest, and at the mouth of Pilarcitos Creek 1.2 miles to the northwest.

No suitable nesting habitat for saltmarsh common yellowthroat occurs on the project site, but the species could potentially nest on the Study Area in the Riparian Woodland along Arroyo Leon. Mitigation measures are recommended (in Section 5.0) to reduce or eliminate any significant impacts to the species.

Other Nesting Native Bird Species

No suitable avian nesting habitat is present on the project site, but trees and shrubs on the surrounding Study Area support potential nesting habitat for other bird species protected under the Migratory Bird Treaty Act (MBTA). The MBTA regulates or prohibits taking, killing, and possession of migratory

bird species and their nests as listed in Title 50 Code of Federal Regulation (CFR) Section 10.13. Bird species and their nests are also protected under Sections 3515 and 3503 of the California Fish and Game Code. Though no trees or shrubs, suitable for avian nesting, will be removed during project construction, noise and other disturbance during construction could adversely impact nesting bird species in the surrounding Study Area, potentially resulting in nest abandonment. Mitigation measures are recommended (in Section 5.0) to reduce or eliminate any significant impacts to protected nesting bird species.

San Francisco Dusky-footed Woodrat (*Neotoma fuscipes annectens*), Federal Status: None; State Status: Species of Special Concern.

The San Francisco dusky-footed woodrat occurs from San Francisco Bay south through the Santa Cruz Mountains to Elkhorn Slough and inland to the Diablo Range (Hall 1981). The species is most common in riparian, oak woodland and scrub habitats (Carraway and Verts 1991). It constructs houses, which are sometimes referred to as middens, out of sticks and other debris. Houses are often reused by successive generations and some can grow to be six feet or more in height, while others are well-hidden and easily overlooked. Nests are constructed inside the houses for rearing young, protection from predators, resting, food storage, thermal protection and social interaction (Carraway and Verts 1991). They are constructed on the ground, in rocky outcrops or in trees and are often found in concentrations along riparian corridors. Woodrat houses are used by a wide variety of native amphibians, small mammals, reptiles and insects (Ingles 1965; Carraway and Verts 1991). A study of the closely related big-eared woodrat (*N. macrotis*) found that densities in oak woodland increased significantly if a vegetative under-story was present (Tietje 1995). Interactions with similar non-native species including black rat (*Rattus rattus*) and Norway rat (*Rattus norvegicus*), which are associated with human occupation, are not well understood. There are no documented CNDDB occurrences of San Francisco dusky-footed woodrat within five miles of the Study Area.

The project site does not support potential suitable habitat for the San Francisco dusky-footed woodrat. Potential habitat is present on the Study Area in Riparian Woodland along Arroyo Leon, although the under-story has been heavily disturbed in many areas. Due to suitable habitat restricted to the Riparian Woodland itself (a minimum of 70 feet away from the project site), the species is not expected to occur on the project site. Therefore, adverse impacts to San Francisco dusky-footed woodrat are not expected from the proposed project, and no mitigation measures are recommended.

4.3 Other Sensitive Biotic Resources

4.3.1 Wetland and Riparian Areas

The project site and adjacent areas appear well-drained, and no potential wetlands were observed on or adjacent to the project site. No riparian vegetation occurs on the project site itself, but Riparian Woodland occurs along Arroyo Leon, approximately 70 feet west of the project site. The Riparian Woodland canopy is multilayered, structurally mature, and dominated by native riparian species, such as shining willow, red willow, arroyo willow, and red alder, with an understory of native and non-native species typically found in riparian habitats in the area, such as stinging nettle, California blackberry, and Himalayan blackberry. The Riparian Woodland is considered a potential ESHA under the CCA/LCP, and was delineated to the drip-line⁷ of the riparian canopy (Figure 2).

⁷ Vegetation boundaries shown in Figure 2 are intended for general planning purposes only.

4.3.2 Other Sensitive Habitats

No other sensitive habitats (other than Riparian Woodland, which is treated separately above), identified in the CNDDB or LCP, were observed on the project site or surrounding Study Area. The entire Study Area is heavily impacted by past and current human disturbance, and therefore no sensitive habitats are present.

5.0 POTENTIAL BIOLOGICAL IMPACTS AND PROPOSED MITIGATION MEASURES

The area of the proposed project evaluated for potential biological impacts was restricted to the project site, which consists of those areas within 100 feet of the drip-line of the nearby Riparian Woodland, and therefore only includes the proposed access road and adjacent landscaping and utility infrastructure (as shown on the September 5, 2006 Site Plan prepared by Anne Gustin Design, Inc.).

5.1 Special-status Plants

Due to factors discussed in Section 4.1, special-status plant species are not expected to occur on the project site. Therefore, no significant adverse impacts are anticipated to occur to special-status plant species as the result of the proposed project, and no mitigation measures are recommended.

5.2 Special-status Wildlife

Six special-status wildlife species could potentially be adversely impacted by the proposed project: California red-legged frog, San Francisco garter snake, Cooper's hawk, white-tailed kite, yellow warbler, and saltmarsh common yellowthroat. In addition, suitable habitat for other nesting bird species, protected under the MBTA and Fish and Game Codes, occurs on trees and shrubs on the Study Area. All potential impacts to special-status wildlife species and nesting birds can be reduced to less than significant levels with the incorporation of mitigation measures, discussed below.

Potential Significant Impact 1: Currently, the project site does not support upland or breeding habitat for California red-legged frog, or suitable habitat for San Francisco garter snake. However, foraging and sheltering habitat for California red-legged frog and San Francisco garter snake occurs in nearby along Arroyo Leon. While Arroyo Leon and the adjacent Riparian Woodland will not be directly impacted by the proposed project, the proximity of suitable habitat to the project site may result in California red-legged frog and San Francisco garter snake incidentally occurring on the project site. In particular, any open trenches associated with the project may trap California red-legged frog and San Francisco garter snake, should they occur in the area, potentially resulting in direct mortality during construction. Impacts to California red-legged frog and San Francisco garter snake are considered potentially significant.

Mitigation Measure 1a: Within two weeks prior to the start of construction, a worker education program shall be presented at the project site by a biologist familiar with the species. Associated written material will be distributed. It shall be the onsite foreman's responsibility to ensure that all construction personnel and subcontractors receive a copy of the education program. The education program shall include a description of the California red-legged frog and San Francisco garter snake and their habitat, the general provisions of the Endangered Species Act, the necessity of adhering to the Act to avoid penalty, measures implemented to avoid affecting California red-legged frog and San Francisco garter snake specific to the project and the work boundaries of the project.

Mitigation Measure 1b: If California red-legged frogs or San Francisco garter snakes are observed by

workers or anyone else prior to or during construction, work shall cease and the USFWS and CDFG contacted for guidance. The regulatory agencies may require daily biological monitoring and/or other mitigation measures.

Mitigation Measure 1c: Exposed trenches resulting from project construction shall be backfilled as soon as practicable. Open trenches should have an escape ramp (composed of earthen material) installed at the end of each work day so that any entrapped wildlife may exit.

Residual Significance: Less than Significant

Potential Significant Impact 2: Suitable nesting habitat for Cooper's hawk, white-tailed kite, yellow warbler, saltmarsh common yellowthroat, and other species protected under the MBTA and Fish and Game codes occurs off the project site in the Riparian Woodland and other portions of the Study Area that support trees and shrubs. If bird species are nesting in the vicinity during project construction, construction activity for a prolonged period could affect nesting adults and result in nest abandonment or failure. Impacts to protected nesting bird species are considered potentially significant.

Mitigation Measure 2: If feasible, project construction shall take place outside of the breeding bird season (the breeding bird season is generally February 15 to August 15). If work must be conducted during the breeding season, a qualified biologist shall conduct a pre-construction breeding bird survey throughout areas of suitable habitat within 300 feet of the project site within 30 days prior to the onset of any construction activity. If bird nests are observed, an appropriate buffer zone shall be established around all active nests to protect nesting adults and their young from construction disturbance. Buffer zones shall be determined by a qualified biologist in consultation with CDFG based on the site conditions and the species potentially impacted. Work within the buffer zone shall be postponed until all the young are fledged, as determined by a qualified biologist.

Residual Significance: Less than Significant

5.3 Other Sensitive Biotic Resources

5.3.1 Riparian Areas

As discussed in Section 4.3, no potential wetlands or riparian areas were observed on the project site itself, and therefore, no direct impacts would occur to these resources as a result of the proposed project. However, Riparian Woodland occurs near the project site along Arroyo Leon. The Riparian Woodland potentially qualifies as an ESHA under the CCA/LCP.

According to Section 3-11(a) of the LCP, "On both sides of riparian corridors, from the 'limit of riparian vegetation', extend buffer zones 50 feet outward for perennial streams and 30 feet outward for intermittent streams." This requirement is also contained in Section 18.38.075 (D)(1) of the City of Half Moon Bay Zoning Code, where the "Riparian Buffer Zone" is defined as: "land on both sides of the riparian corridors which extends from the 'limit of riparian vegetation' 50 feet outward for perennial streams and 30 feet outward for intermittent streams."

Since Arroyo Leon is intermittent, a 30 foot buffer would apply. The project site occurs a minimum of 70 feet (approximately) from the "limit of riparian vegetation" (e.g., drip-line of the Riparian Woodland canopy). Therefore, the proposed project occurs outside of the riparian buffer zone as defined by the City. Further, due to the disturbed nature of the buffer zone, no significant direct or

indirect biological impacts to Riparian Woodland are anticipated to result from the proposed project, and no mitigation measures are considered necessary to protect the functions and values of the Riparian Woodland on the Study Area (mitigation measures for special-status wildlife, which may use the Riparian Woodland, are discussed separately above).

5.3.2 Other Sensitive Habitats

No other sensitive habitats were observed on the Study Area (Riparian Woodland is considered a sensitive habitat, but are addressed separately above). Therefore, significant adverse impacts to these resources are not anticipated from the proposed project, and no mitigation measures are recommended.

6.0 CONCLUSIONS

No special-status plant species were observed on the project site during the January 2007 field visits, and none are expected to occur because of the highly disturbed nature of the project site, a lack of suitable habitat, and a lack of documented occurrences in the vicinity. Therefore, significant adverse impacts to special-status plants are not expected to occur from the proposed project, and no mitigation measures are recommended.

Two special-status wildlife species, California red-legged frog and San Francisco garter snake, are expected to have a low potential for occurrence on the project site and a high and moderate potential, respectively, to inhabit nearby Arroyo Leon, and could therefore potentially be impacted by the proposed project. Four additional special-status wildlife species, Cooper's hawk, white-tailed kite, yellow warbler, and saltmarsh common yellowthroat, are not expected to nest on the project site, but could potentially nest in the Riparian Woodland habitat along Arroyo Leon or in the vicinity of the project site, and therefore be indirectly impacted by the proposed project. In addition, other nesting bird species protected under the Migratory Bird Treaty Act and Fish and Game Codes have potential to nest on the Study Area. All potential impacts to special-status wildlife and nesting bird species can be reduced to less than significant levels with the incorporation of mitigation measures discussed in this report.

No potential ESHAs were observed on the project site, but the Riparian Woodland along Arroyo Leon is considered a potential riparian ESHA. The Riparian Woodland itself will not be directly impacted by the proposed project. The proposed project is situated a minimum of 70 feet (approximately) from the riparian drip-line, and no significant adverse impacts are expected to occur to the Riparian Woodland as a result of the proposed project, and no mitigation measures are recommended. No other sensitive habitats were observed on the project site or surrounding Study Area.

The conclusions of this biotic assessment reflect conditions observed at the time of the field visits and the biologist's interpretation of those conditions. Government regulatory agencies make the final determination regarding biological resource issues on the project site.

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Appendix A. Special-status species documented to occur in the Study Area region

List compiled from searches of the CNDDDB (CDFG 2006), CNPS Online Inventory (CNPS 2007), and USFWS (2007) records for the Half Moon Bay, Montara Mountain, San Mateo, Woodside, and San Gregorio 7.5' USGS quadrangles, the City of Half Moon Bay LCP, CDFG Special Animals List (2006), and other publications (Zeiner et al. 1988, 1990a). This list has not been reviewed by the regulatory agencies.

Species	Status	Typical Habitat	Potential for Occurrence on Project Site	Potential Project Impacts
PLANTS				
<i>Acanthomintha duttonii</i> San Mateo thorn-mint	FE, SE, List 1B	Chaparral, valley and foothill grassland (serpentine), 50-300 m. Blooms April-June.	Low. No suitable micro habitat present on project site.	None.
<i>Agrostis blanda</i> Blasdale's bent grass	List 1B	Coastal bluff scrub, coastal dunes, coastal prairie. Sandy or gravelly soil close to rocks w/ sparse vegetation, 5-150 m. Blooms May-July.	Low. No suitable micro habitat present on project site.	None.
<i>Allium peninsulare</i> var. <i>franciscanum</i> Franciscan onion	List 1B	Cismontane woodland, valley and foothill grassland (clay, often on serpentine), dry hillsides, 100-300 m. Blooms May-June.	Low. No suitable micro habitat present on project site. Out of elevational range.	None.
<i>Amsinckia lunaris</i> bent-flowered fiddleneck	List 1B	Coastal bluff scrub, cismontane woodland, valley and foothill grassland, 3-500 m. Blooms March-June.	Low. Pasture provides some marginal macro habitat components, but habitat quality is poor, native soil seedbank is lacking, and no documented occurrences in vicinity.	None.
<i>Arabis blepharophylla</i> coast rock cress	LCP, List 4	Broadleaved upland forest, coastal bluff scrub, coastal prairie, coastal scrub, 3-1,100 m. Blooms February-May.	None. No suitable habitat present on project site.	None.
<i>Arctostaphylos andersonii</i> Santa Cruz manzanita	List 1B	Broadleaved upland forest, chaparral, North Coast coniferous forest (openings, edges), 60-730 m. Blooms November-April.	None. No manzanita or suitable habitat present on project site.	None.
<i>Arctostaphylos montanaensis</i> Montara manzanita	List 1B	Chaparral, coastal scrub, 150 to 500 m. Blooms January-March.	None. No manzanita or suitable habitat present on project site.	None.
<i>Arctostaphylos regismontana</i> Kings Mountain manzanita	List 1B	Broadleaved upland forest, chaparral, North Coast coniferous forest, 305-730 m. Blooms January-April.	None. No manzanita or suitable habitat present on project site.	None.
<i>Astragalus pycnostachyus</i> var. <i>pycnostachyus</i> coastal marsh milk-vetch	List 1B	Coastal dunes (mesic), coastal scrub, marshes and swamps (coastal salt, streambanks), 0-30 m. Blooms April-October.	None. No suitable habitat present on project site.	None.
<i>Centromadia parryi</i> ssp. <i>parryi</i> pappose tarplant	List 1B	Coastal prairie, meadows and swamps (coastal salt), valley and foothill grassland (vernally mesic/often alkaline), 2-420 m. Blooms May-November.	Low. No suitable micro habitat present on project site.	None.

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Species	Status	Typical Habitat	Potential for Occurrence on Project Site	Potential Project Impacts
<i>Chorizanthe cuspidata</i> var. San Francisco Bay spineflower	List 1B	Coastal bluff scrub, coastal dunes, coastal prairie, coastal scrub (sandy), 3-215 m. Blooms April-August.	None. No suitable habitat present on project site.	None.
<i>Cirsium andrewsii</i> Franciscan thistle	List 1B	Broadleaved upland forest, coastal bluff scrub, coastal prairie (sometimes serpentine), 0-150 m. Blooms March-July.	None. No suitable habitat present on project site.	None.
<i>Cirsium fontinale</i> var. <i>fontinale</i> fountain thistle	FE, SE, List 1B	Chaparral (openings), valley and foothill grassland (serpentine seeps), 90-175 m. Blooms June-October.	Low. No suitable micro habitat present on project site.	None.
<i>Collinsia multicolor</i> San Francisco collinsia	List 1B	Closed-cone coniferous forest, coastal scrub (sometimes serpentine), 30-250 m. Blooms March-May.	None. No suitable habitat present on project site.	None.
<i>Cordylanthus maritimus</i> ssp. <i>palustris</i> Point Reyes bird's-beak	List 1B	Marshes and swamps (coastal salt), 0-10 m. Blooms June-October.	None. No suitable habitat present on project site.	None.
<i>Dirca occidentalis</i> western leatherwood	List 1B	Broadleaved upland forest, chaparral, closed-cone coniferous forest, cismontane woodland, North Coast coniferous forest, riparian forest and woodland. Usually on brushy slopes, mesic sites in mixed evergreen and foothill woodland communities, 30-550 m. Deciduous shrub, blooms January-April.	None. No suitable habitat present on project site (and was not observed on project site and nearby Riparian Woodland, which will not be impacted by the proposed project).	None.
<i>Eriophyllum latifolium</i> San Mateo woolly sunflower	FE, SE, List 1B	Cismontane woodland (serpentine), often on roadcuts, 45-150 m. Blooms May-June.	None. No suitable habitat present on project site.	None.
<i>Erodium macrophyllum</i> round-leaved filaree	List 2	Cismontane woodland, valley and foothill grassland (clay), 15-1,200 m. Blooms March-May.	Low. Pasture provides some marginal macro habitat components, but habitat quality is poor, native soil seedbank is lacking, and no documented occurrences in vicinity.	None.
<i>Erysimum franciscanum</i> San Francisco wallflower	LCP, List 4	Chaparral, coastal dunes, coastal scrub, valley and foothill grassland (serpentine, granite, coastal dunes), 0-520 m. Blooms March-June.	Low. No suitable micro habitat present on project site.	None.
<i>Fritillaria biflora</i> var. <i>ineziana</i> Hillsborough chocolate lily	List 1B	Cismontane woodland, valley and foothill grassland (serpentine), 150-500 m. Blooms March-April.	Low. No suitable micro habitat present on project site.	None.
<i>Fritillaria liliacea</i> fragrant fritillary	List 1B	Cismontane woodland, coastal prairie, coastal scrub, valley and foothill grassland (often serpentine), 3-410 m. Blooms February-April.	Low. No suitable micro habitat present on project site.	None.

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Species	Status	Typical Habitat	Potential for Occurrence on Project Site	Potential Project Impacts
<i>Grindelia hirsutula</i> var. <i>maritima</i> San Francisco gumpplant	List 1B	Coastal bluff scrub, coastal scrub, valley and foothill grassland (sandy or serpentine), 15-400 m. Blooms August-September.	Low. No suitable micro habitat present on project site.	None.
<i>Hesperolinon congestum</i> Martin western flax	FT, ST, List 1B	Chaparral, valley and foothill grassland (serpentine), 5-370 m. Blooms April-June.	Low. No suitable micro habitat present on project site.	None.
<i>Horkelia marinensis</i> Point Reyes horkelia	List 1B	Coastal dunes, coastal prairie, coastal scrub (sandy), 5-350 m. Blooms May to September.	None. No suitable habitat present on project site.	None.
<i>Leptosiphon croceus</i> coast yellow linanthus	List 1B	Coastal bluff scrub, coastal prairie, 10-150 m. Blooms April-May.	None. No suitable habitat present on project site.	None.
<i>Leptosiphon rostratus</i> rose linanthus	List 1B	Coastal bluff scrub, 0-100 m. Blooms April-July.	None. No suitable habitat present on project site.	None.
<i>Lessingia arachnoidea</i> Crystal Springs lessingia	List 1B	Cismontane woodland, coastal scrub, valley and foothill grassland (serpentine), 60-200 m. Blooms July-October.	None. No suitable micro habitat present on project site.	None.
<i>Limnanthes douglasii</i> ssp. <i>sulphurea</i> Point Reyes meadowfoam	SE, LCP, List 1B	Coastal prairie, meadows and seeps, marshes and swamps (freshwater), vernal pools, 1-140 m. Blooms March-May.	Low. No suitable habitat present on project site. Last seen in San Mateo County in 1968. Believed to be extirpated from the County.	None.
<i>Lupinus eximus</i> San Mateo tree lupine (=Davy's bush lupine)	LCP, List 3	Chaparral, coastal scrub, 90-550 m. Blooms April-July.	None. No suitable habitat present on project site.	None.
<i>Malacothamnus aboriginum</i> Indian Valley bush mallow	List 1B	Chaparral, cismontane woodland (rocky, often in burned areas), 150-1700 m. Blooms April-October.	None. No suitable habitat present on project site.	None.
<i>Malacothamnus arcuatus</i> arcuate bush mallow	List 1B	Chaparral, 15-355 m. Blooms April-September.	None. No suitable habitat present on project site.	None.
<i>Malacothamnus hallii</i> Hall's bush mallow	List 1B	Chaparral, coastal scrub, 10-760 m. Blooms May-September.	None. No suitable habitat present on project site.	None.
<i>Microseris paludosa</i> marsh microseris	List 1B	Closed-cone coniferous forest, cismontane woodland, coastal scrub, valley and foothill grassland, 5-300 m. Blooms April-June.	Low. No suitable micro habitat present on project site.	None.
<i>Pedicularis dudleyi</i> Dudley's lousewort	List 1B, SR	Chaparral (maritime), cismontane woodland, North Coast coniferous forest, valley and foothill grassland, 60 to 900 m. Blooms April-June.	Low. No suitable habitat present on project site, out of elevational range.	None.
<i>Pentachaeta bellidiflora</i> white-rayed pentachaeta	FE, SE, List 1B	Valley and foothill grassland. Open dry rocky slopes and grassy areas, often on soils derived from serpentine bedrock. 35-620 m. Annual herb,	Low. No suitable micro habitat present on project site.	None.

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Species	Status	Typical Habitat	Potential for Occurrence on Project Site	Potential Project Impacts
<i>Perideridia gairdneri</i> ssp. <i>gairdneri</i> Gairdner's yaupah	LCP, List 4	Blooms March-May. Broadleaved upland forest, chaparral, coastal prairie, valley and foothill grassland, vernal pools, 0-365 m. Blooms June-October.	Low. No suitable habitat present on project site. Likely extirpated from San Mateo County.	None.
<i>Plagiobothrys choristatus</i> var. <i>choristatus</i> Choris's popcorn-flower	List 1B	Chaparral, coastal prairie, coastal scrub (mesic), 15-100 m. Blooms March-June.	None. No suitable habitat present on project site.	None.
<i>Potentilla hickmanii</i> Hickman's cinquefoil	FE, SE, List 1B	Coastal bluff scrub, closed-cone coniferous forest, meadows and seeps (vernally mesic), marshes and swamps (freshwater), 10-135 m. Blooms April-August.	None. No suitable habitat present on project site.	None.
<i>Silene verecunda</i> ssp. <i>verecunda</i> San Francisco campion	List 1B	Coastal bluff scrub, chaparral, coastal prairie, coastal scrub, valley and foothill grassland (sandy), 30-645 m. Occurs primarily on mudstone, shale, or serpentine. Blooms March-August.	Low. No suitable micro habitat present on project site.	None.
<i>Trifolium depauperatum</i> var. <i>hydrophilum</i> saline clover	List 1B	Marshes and swamps, valley and foothill grassland (mesic, alkaline), vernal pools, 0-300 m. Blooms April-June.	Low. No suitable micro habitat present on project site.	None.
<i>Triphysaria floribunda</i> San Francisco owl's-clover	List 1B	Coastal prairie, coastal scrub, valley and foothill grassland (usually serpentine), 10-160 m. Blooms April-June.	Low. No suitable micro habitat present on project site.	None.
WILDLIFE				
Invertebrates				
<i>Danaus plexippus</i> monarch butterfly	Winter roosts sensitive (CDFG)	Winter roost sites extend along the coast from northern Mendocino to Baja. Roosts in wind-protected tree groves (eucalyptus, Monterey pine, cypress), with nectar and water sources nearby.	Low. No suitable winter roost habitat present on the project site. Nearby Riparian Woodland on the Study Area may provide some marginal roosting habitat, but stand lacks wind protection and there are no documented occurrences in the vicinity. Regardless, will not be impacted by the proposed project.	None.
Fishes				
<i>Oncorhynchus mykiss tshawytscha</i> steelhead - central California coast ESU	FT	From Russian River south to Sequel Creek and to, but not including, the Pajaro River. Also includes San Francisco and San Pablo Bay Basins.	None. No fish habitat present on the project site. Nearby creek on the Study Area is intermittent and will not be impacted by proposed project.	None.
Amphibians				
<i>Rana aurora draytonii</i>	FT	Breeds in semi-permanent and perennial water	Low in project site; High in Study Area.	Yes:

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Species	Status	Typical Habitat	Potential for Occurrence on Project Site	Potential Impacts
California red-legged frog	CSC	sources often with dense, shrubby or emergent riparian vegetation including stock ponds and marshes; uses a variety of wetland habitats including streams during the summer months.	Project site doesn't support suitable upland or breeding habitat, but Arroyo Leon provides foraging and sheltering habitat. Unidentified rapid frog observed by Mark Allaback in pool in tributary to Arroyo Leon in September 2006 during unrelated site visit ~250 feet south.	Mitigation Measures 1a, 1b, 1c
<i>Rana boylei</i> foothill yellow-legged frog	CSC	Partly shaded, streams and rivers with a rocky substrate in a variety of habitats. Need at least some cobble-sized substrate for egg-laying.	Low. No suitable habitat present on the project site or surrounding Study Area.	None.
Reptiles				
<i>Emys (Clemmys) marmorata</i> western pond turtle	CSC	Inhabits permanent or nearly permanent bodies of water in many habitat types below 6000 ft. elevation. Typically nests in grassy, open habitat.	Low. No suitable habitat present on the project site. Low potential to inhabit Arroyo Leon within the Study Area.	None.
<i>Thamnophis sirtalis tetrataenia</i> San Francisco garter snake	FE, SE, FP	Vicinity of freshwater marshes, ponds, and slow moving streams in San Mateo and extreme northern Santa Cruz Counties. Prefers dense wetland cover that supports rapid frog prey and adjacent uplands with open scrub areas	Low in project site; Moderate in Study Area. No suitable habitat present on the project site. Degraded habitat present in Arroyo Leon in proximity to the project site.	Yes: Mitigation Measures 1a, 1b, 1c
Birds				
<i>Accipiter cooperii</i> (nesting) Cooper's hawk	CSC	Nest sites mainly in deciduous riparian trees, in canyon bottoms and river flood plains, and live oaks.	Moderate. No nesting habitat on project site but potential nesting habitat in Riparian Woodland along Arroyo Leon or in scattered nearby trees.	Yes: Mitigation Measure 2
<i>Circus cyaneus</i> (nesting) northern harrier	CSC	Nests on ground in grassy vegetation, usually at marsh edge.	Low. No nesting habitat within project site or adjacent Study Area that includes irrigated pasture. May forage on pasture within the Study Area.	None.
<i>Elanus leucurus</i> (nesting) white-tailed kite	FP	Open grassland, meadows, or marshes, for foraging, close to isolated, dense-topped trees for nesting and perching.	Moderate. No nesting habitat on project site but potential nesting habitat in Riparian Woodland along Arroyo Leon, although nearby human disturbances reduces habitat quality.	Yes: Mitigation Measure 2
<i>Asio flammeus</i> (nesting) Short-eared owl	CSC	Nest on ground in wet meadows, marshes; forage in open habitats	Low. No suitable nesting habitat present on the project site or surrounding Study Area.	None.
<i>Dendroica petechia brewsteri</i> (nesting) yellow warbler	CSC	Nests in riparian areas that typically support willows with one or more larger species such as cottonwoods, aspens, sycamores, and alders.	Moderate. Suitable nesting habitat present on Study Area in Riparian Woodland along Arroyo Leon.	Yes: Mitigation Measure 2

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Species	Status	Typical Habitat	Potential for Occurrence on Project Site	Potential Project Impacts
<i>Geothlypis trichas sinuosa</i> saltmarsh common yellowthroat	BCC, CSC	Fresh and saltwater marshes. Requires thick, continuous cover down to water surface for foraging; nests in tall grasses, tule patches, and willows.	Moderate. Suitable nesting habitat present on Study Area in Riparian Woodland along Arroyo Leon.	Yes: Mitigation Measure 2
Mammals				
<i>Neotoma fuscipes amnectens</i> San Francisco dusky-footed woodrat	CSC	Forest habitats of moderate canopy and moderate to dense understory. Also in chaparral habitats. Constructs houses of shredded grass, leaves, and other material.	Low. No potential suitable habitat on the project site. Species could potentially occur in Riparian Woodland along the Arroyo Leon, but, if present, the species would be largely restricted to the narrow riparian corridor due to existing residences. Woodrat houses would not be disturbed by the proposed project.	None.
<i>Taxidea taxus</i> American badger	CSC	Most abundant in drier open stages of most shrub, forest, and herbaceous habitats, with friable soils. Needs sufficient food, friable soils, and open, uncultivated ground. Prey's on burrowing rodents. Digs burrows.	Low. Some marginal habitat components within the Study Area, but extensive human disturbances reduces the likelihood that the species persists near the project site.	None.
Key to Status:				
BCC	Federal Bird of Conservation Concern			
FE	Federal Endangered			
FT	Federal Threatened			
SE	State Endangered			
ST	State Threatened			
SR	State Rare			
CSC	California Department of Fish and Game Species of Special Concern			
FP	California Department of Fish and Game Fully Protected Species			
List 1B	CNPS list of plants rare, threatened, or endangered in California and elsewhere			
List 2	CNPS list of plants rare, threatened, or endangered in California but more common elsewhere			
List 3	CNPS list of plants for which more information is needed; a review list			
List 4	CNPS list of plants of limited distribution; a watch list			
LCP	Listed in the 1993 City of Half Moon Bay LCP			

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APPENDIX B

PROJECT SITE PHOTOGRAPHS



Photograph 1. Project site in irrigated pasture.



Photograph 2. Riparian Woodland, west of project site.

YinLan Zhang

From: Lucy_Triffleman@fws.gov
Sent: Tuesday, July 03, 2007 12:43 PM
To: kathym@hmbcity.com
Cc: SGLUSHKOFF@dfg.ca.gov; YinLan Zhang; sflint@ci.half-moon-bay.ca.us
Subject: 921 Miramontes

Kathy-

It was good to talk with you today. I appreciate getting your feedback and getting further clarification of the project and the area. I hope I was able to speak to at least some of your concerns. As we discussed on the phone, the Service recommends the following additional minimization measures be incorporated into this project in order to receive a not likely to adversely affect determination for listed species:

- 1) Mitigation Measure 1a- please be sure that the applicant understands that the worker education program needs to be implemented prior to the start of any ground breaking activity and should be conducted by a Service-approved biologist (this individual should send their qualifications via a 1-2 pg resume to the Service for email approval prior to conducting the education session. Be sure to highlight this individuals experience working with amphibians and reptiles in a field setting)
- 2) Exclusion fencing should be established surrounding the entire project area (i.e. anywhere where the ground will be disturbed). A gate should be installed to allow entrance/exit of construction vehicles and staff as needed but it is important that it remains closed the majority of the time, especially overnight. Fencing should be a minimum of 36 inches above ground level and buried 4-6 inches into the ground. Fencing should have one-way escape funnels and should remain intact for the entire duration of development activities (Note: I am attaching designs to the end of this document). Fencing may be made of plywood or erosion mesh but MAY NOT be made of orange construction fencing or anything with larger holes as this may trap listed species. Fencing should be established two weeks prior to the start of construction and should be established by Service-approved monitor(s) (see above). Fencing should be inspected for any rips or other malfunctions once per week by biological monitors during all phases of construction activity. Upon completion of the proposed project all traces of fencing should be removed and properly disposed of off-site.
- 3) After the establishment of fencing but prior to the start of construction, grass and vegetation within this area should be removed via belt driven weedwacker to a two- to four-inch height.
- 4) Immediately after grass clipping, Service-approved monitors should perform preconstruction surveys of the area. If any listed species are found, monitors will remove these animals from the fenced area and bring them to Arroyo Leon creek for release. Under no circumstance will these individuals be allowed to be placed at any other location. Preconstruction surveys should be performed again the day of the onset of construction activities to ensure the area is clear. If any listed species are found during the course of construction, construction will cease until biological monitors have been contacted and arrive on the site. Biological monitors will then be allowed to remove listed species from the site and translocate them to Arroyo Leon. Under no circumstances will anyone else be allowed to handle these species. At the end of the construction period, biological monitors will issue a report to the Service describing the species encountered during construction activities and what actions were taken.
- 5) Please be sure to incorporate measures that all trenches and holes will be filled or covered at the end of each work day within the project area.
- 6) Please be sure that no staff or equipment enter the riparian areas during the construction period.

Finally, please clarify where piping will connect to on a map to ensure that there will be limited access to the riparian areas.

9/19/2007

A-2-HMB-07-030 (Pastorino)
SI Staff Report

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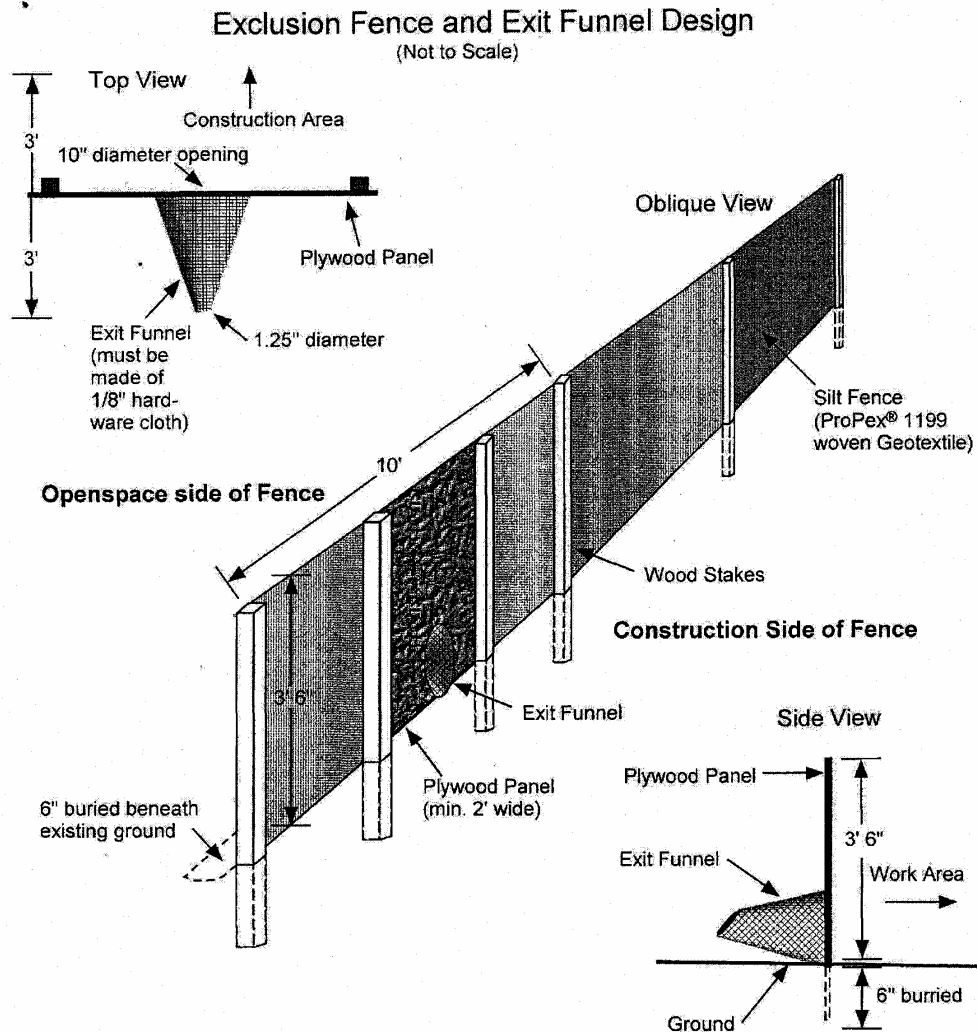
Let me know your and your applicant's decision on the above measures and/or if you have more suggestions comments. Note that this email represents the comments of the Service alone and may deviate from the questions and concerns of the State agencies.

On a separate note- I also spoke with someone in my office after hanging up with you that mentioned that a conservation strategy is being developed in Alameda county . This document would be created with the Service in which planners and Service staff would identify those locations where development is preferred and where mitigation/preservation should be oriented. Additionally, the document sets up basic minimization measures that should be adhered to at certain areas. This is similar to the process used in HCPs except it would require continued discussion with the Service for projects but would streamline our review and reduce the costs associated with putting together biological assessments by the applicant. It also would not take nearly as long or require as much review as an HCP as BOs would still have to be written (i.e. effects analyzed on an individual basis) thus allowing for more oversight by the Service but not as much discussion as is currently required. If you are interested in perusing this, let me know and I will find out more info for you. In the meantime, here is a link to the Santa Rosa conservation strategy for your review and internal discussion. Note that this does not have to be the same style as one put together for HMB, only a suggestion. Thanks-

<http://ci.santa-rosa.ca.us/default.aspx?PagelD=1111>

Lucy Triffleman
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Coast-Bay Delta branch
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Sacramento, CA. 95825
Ph. (916) 414-6628
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9/19/2007



Clear vegetation (weed eat grass; prune branches, vines, etc.) within 3' of exclusion fence.
No existing fences (barbed wire, chain link, etc.) within 3' of exclusion fence.

Appendix B - Exclusion Fence Schematic.



1. Spec for height of exit funnel from ground.

The exit funnels will be placed such that the large opening is flush with the ground surface.

2, 3. Detail for area of removable panels for access and operation of panel.

Design will depend on the width of the access opening. It is likely the design will consist of two panels hinged at the ends of the exclusion fence and flush with the ground. A small flap of rubber will be attached to the bottom of the panels to prevent gaps under them. On-site construction personnel will be available at all times to open and close the gate to allow access for vehicles. The gate will remain closed except to allow access.

4. How long will the fence be in place? Propex hasn't received general approval for long term use.

Propex has been used at two long term (one 3 years, one for one year so far) construction sites in the East Bay for Alameda whipsnake exclusion fences. The advantage over 8 foot lengths of Plywood are that a longer length can be installed such that connections occur only where exit funnels are placed (every 50 feet) rather than every 8 feet with plywood panels. The durability of propex seen at these two sites is sufficient for SFGS sites.

The material was designed for use under asphalt and is highly resistant to puncture, tearing and uv.

5. Narrative for schedule of fence maintenance/repair.

The fence would be inspected daily by construction personnel and any repairs made immediately. An inspection by a qualified biologist would be made weekly along with a through full site inspection.

YinLan Zhang

From: Lucy_Triffleman@fws.gov
Sent: Monday, July 23, 2007 4:03 PM
To: Kevin.J.Lansing@sf.frb.org
Cc: YinLan Zhang; SGLUSHKOFF@dfg.ca.gov; kmarx@ci.half-moon-bay.ca.us; stevef@hmbcity.com
Subject: 921 Miramontes

Kevin -

After discussion internally regarding the construction of the proposed single family residence at 921 Miramontes Way, the Service has determined that the proposed lot constitutes potential San Francisco garter snake and California red-legged frog habitat. The Service reached this determination based on:

- 1) The proximity of the project to Arroyo Leon which has been recognized by several experts as containing quality habitat characteristics for the above mentioned listed species;
- 2) The proximity of the area to the Johnson Ranch property currently owned by POST where experts have observed California red-legged frogs utilizing the perennial aquatic habitat;
- 3) The connectivity of these areas to the proposed location as well as other properties known to contain listed species with an absence of significant barriers to impede movement of either species. Note that San Francisco garter snakes have been reported traveling 1.2 km over a single season and California red-legged frogs have been observed traveling in excess of 4 km regardless of terrain or climate conditions.

Therefore, the Service has determined that incidental take must be obtained from the Service to be in compliance with the Endangered Species Act of 1973, as amended. Take incidental to an otherwise lawful activity may be authorized by one of two procedures. If a Federal agency is involved with the permitting, funding, or carrying out of the project, then initiation of formal consultation between that agency and the Service pursuant to section 7 of the act is required if it is determined that the proposed project will adversely affect a listed species. Such a consultation would result in a biological opinion that addresses the anticipated effects of the project to the listed species and may authorize a limited level of incidental take. If a federal agency is not involved with the project, and a listed species may be taken as a result of the project, then an incidental take permit pursuant to section 10 (a)(1)(B) of the Act should be obtained. The Service may issue a permit upon completion of a satisfactory habitat conservation plan (HCP) for the listed species that would be subject to take as a result of the project.

Given the containing interest in development along the western San Mateo coastline the Service strongly urges the applicant and the City to pursue this second option as this will allow for take for projects with or without a federal nexus and drastically reduce the time frames needed for permits necessary for construction and development. If this is not an option currently available, the Service recommends locating a federal nexus or contacting the Service to develop an interim agreement until a final HCP can be developed. should you have any questions, please do not hesitate to contact me at the number below. Thanks-

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9/19/2007