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Filed: June 5, 2007
49th Day: July 24, 2007
Staff: YinLan Zhang—SF
Staff Report: June 28, 2007
Hearing Date: July 12, 2007
Commission Action:

**APPEAL STAFF REPORT
SUBSTANTIAL ISSUE DETERMINATION
AND DE NOVO REVIEW**

APPEAL NO.: A-2-HMB-07-021

APPLICANT: Saso Crnugelj-Gale

LOCAL GOVERNMENT: City of Half Moon Bay

LOCAL DECISION: Approval with Conditions

PROJECT LOCATION: 684 Terrace Ave, Half Moon Bay

PROJECT DESCRIPTION: Construction of a 2,935 square-foot single-family residence on an 8,062 square-foot lot.

APPELLANTS: Commissioners Kruer and Shallenberger

**STAFF
RECOMMENDATION:** Substantial Issue Exists; Denial

**SUBSTANTIVE FILE
DOCUMENTS:** March 22, 2007 City Planning Commission Staff Report
April 28, 2005 City Planning Commission Staff Report
City of Half Moon Bay Certified LCP

EXECUTIVE SUMMARY

The City of Half Moon Bay approved with conditions a 2,935 square-foot single-family residence on an 8,062 square-foot lot at 684 Terrace Avenue.

The appellants contend that the approved development is inconsistent with the wetland protection policies of the City's certified LCP because the approved development does not meet the required minimum 100-foot setback for wetlands and because there are feasible alternatives to avoid placement of the residence within the 100-foot wetland buffer, consistent with the wetland protection provisions of the certified LCP. In addition to the existence of feasible siting alternatives located outside of the 100-foot buffer that would not require the approval of variances, the applicant originally proposed another feasible, two-story alternative. The appellants also contend that the approved development is not sited and designed to prevent significant adverse impacts to the sensitive wetland habitats.

The wetland protection policies in the City's certified LCP require a 100-foot buffer around wetlands and allow residential development within the wetland buffer zone only if no feasible alternatives exist, no other building site on the parcel exists, and if the development meets applicable standards to ensure adequate protection of the wetland. Because wetlands are also defined as sensitive habitats in the LCP, the sensitive habitat protection policies of the certified LCP require that development prevent significant adverse impacts that would degrade the sensitive wetland habitat and be compatible with the maintenance of biological productivity of the wetland.

While a large portion of the subject property is within the 100-foot wetland buffer zone, evidence shows that there is adequate room on site outside of the 100-foot wetland setback area to accommodate a residential development that would be consistent with the wetland protection provisions of the certified LCP. Therefore, there are feasible alternatives and other building sites on the parcel which render both the City's approved and the applicant's proposed development within the 100-foot wetland buffer inconsistent with the policies of the certified LCP. In addition, because the City's approved, and the applicant's proposed development, would be sited only 40 feet from the adjacent wetland, the development would increase disturbances to wildlife habitat in and around the wetland and increase sedimentation and pollution of the wetland, and as such, result in significant adverse impacts to the wetland, inconsistent with the sensitive habitat protection policies of the LCP.

For the above reasons, Commission staff recommends that the Commission find that the project, as approved by the City, raises a substantial issue of conformity with the City's LCP Policies. Furthermore, for the same reasons, Commission staff recommends that the Commission, during the de novo portion of the appeal hearing, deny the proposed development on the grounds that it is inconsistent with the City's LCP policies concerning wetland protection.

The motion to adopt the staff recommendation of Substantial Issue and De Novo Review is found on page nos. 3 and 22 respectively.

EXHIBITS:

1. Notice of Final Local Action
2. Project Location Map
3. Applicant's November 14, 2006 CDP Application to Half Moon Bay
4. Project Plans of Approved and Proposed Development

5. Project Plan for Two-Story House Design
6. Photos of Site and Surrounding
7. Biological Assessment
8. Alternatives Analysis
9. June 27, 2007 Letter from Applicant, Saso Gale
10. Letter from Tom Roman

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PART I—SUBSTANTIAL ISSUE

STAFF NOTES

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 de novo portion of the appeal hearing on the merits of the project may occur at the same or subsequent meeting.

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.

1.0 STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

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-07-021 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-07-021 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

2.0 PROJECT BACKGROUND

2.1 Filing of Appeal

On March 22, 2007, the Planning Commission considered and approved with conditions a single-story single family residence that would be located within 100 feet of the adjacent wetlands.

The Commission received the Notice of Final Action for the City's action on the CDP application for the approved development on May 21, 2007 (Exhibit 1). In accordance with the Commission's regulations, the 10-working-day appeal period ran from May 22 through June 5, 2007 (14 CCR Section 13110). On June 5, 2007, within 10 working days of receipt by the

Commission of the Notice of Final Local Action, Commissioners Patrick Krueer and Mary Shallenberger appealed the City's action on the CDP to the Commission.

Pursuant to Section 30621 of the Coastal Act, an appeal hearing must be set within 49 days from the date an appeal of a locally issued coastal development permit is filed. The appeal on the above-described decision was filed on June 5, 2007 and the 49th day is on July 24, 2007. The only Commission hearing within the 49-day period is being held July 11-13, 2007.

In accordance with Section 13112 of Title 14 of the California Code of Regulations, on June 6, 2007, staff requested all relevant documents and materials regarding the subject approval from the City to enable staff to analyze the appeal and prepare a recommendation as to whether a substantial issue exists. The regulations provide that a local government has five working days from receipt of such a request from the Commission to provide the relevant documents and materials. The City provided its records on June 13, 2007.

2.2 Appeal Process

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

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including approval of developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, development located within 100 feet of any wetland, estuary or stream, or those located in a sensitive coastal resource area. Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments that constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county.

The proposed development is appealable to the California Coastal Commission because it is located within 100 feet of a wetland.

3.0 FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

3.1 Project Background

In March 2004, the applicant applied to the City of Half Moon Bay for a 2,935 square-foot, one-story, single-family manufactured home located on the subject property 60 feet away from the nearest wetland on the adjacent Beachwood property and with the improvements associated with the residence located 40 feet from the wetland. The City's Planning Commission denied the proposal during its April 28, 2005 hearing on the grounds that a feasible building site outside of the required buffer exists and that the project is not sited and designed to prevent significant

adverse impacts to the adjacent wetland habitat because a residence could be built outside of the buffer zone creating less impact. The applicant appealed the decision to the City Council, which on June 7, 2005 upheld the Planning Commission's denial.

On November 14, 2006, the applicant applied to the City for a coastal development permit for a 3,364 square-foot two-story manufactured home that would be sited outside the 100-foot wetland buffer (Exhibit 3). The applicant also submitted a request for two variances, one for a 5-foot reduction of the minimum front setback standard, the other for a variance to the maximum building envelope standards.

On February 8, 2007, the City Planning Commission considered the application for the two-story house that would setback 100 feet from the nearest wetland. During the Commission's deliberations, the Commissioners discussed the findings of the previous Commission's denial of the proposed one-story design within the 100-foot buffer and the feasibility of approving the application for the two-story house that would locate the development outside of the 100-foot wetland setback area. The Commission requested a continuance of the hearing.

For the next hearing on the coastal development application, City staff provided for the Planning Commission, in their staff report, findings and conditions of approval for two house designs at 684 Terrace Avenue, the single-story design originally proposed by the applicant in 2004 and denied by the Planning Commission in 2005, which places the house and associated improvements within 40 feet of the wetland, and the two-story residence, which the applicant proposed in 2006 that would site the house outside the 100-foot buffer and would require variances to the front setback and maximum building envelope development standards.

The Planning Commission finally approved the single-story design within the 100-foot buffer, which was previously denied in 2005, based on the finding that the two-story design is not a feasible alternative because it would require two variances that would result in development incompatible with the neighborhood character and that the single-story design would not adversely impact the wetland (Exhibit 1).

3.2 Project Location and Description

The approved development is a 2,935 square-foot, one story single-family residence on an 8,062 square-foot residentially zoned (R-1-B-2) lot at 684 Terrace Avenue in the City of Half Moon Bay. The approved development is located within 40 feet of wetlands located northeast of the project site on an adjacent property known as the "Beachwood property" (Exhibit 7, Page 3).

The subject property is approximately 75 feet wide and 107 feet long. The required minimum 100-foot wetland buffer extends into the property at an angle and covers the northeastern portion of the site, leaving an almost triangular shaped area, approximately 5,500 square feet in size as a remainder.

The front of the lot faces south onto Terrace Avenue. Terrace Avenue is a mostly developed residential street. Other residences are to the west of the subject property, while the lots to the east are vacant.

A biological assessment prepared for the approved development shows a series of wetlands and a riparian area occurring on the neighboring Beachwood property. The report also found that California red-legged frogs are not likely to occur on the adjacent wetlands but that the San Francisco garter snake has the potential to occur on the Beachwood property and could cross the subject property. A biologist from California Department of Fish and Game found that California red-legged frogs could also occur on the adjacent property and cross the project site (Exhibit 11, Page 9). The riparian habitat is located approximately 200 feet from the site of the approved development. The closest mapped wetland is approximately 30 feet northeast of the subject property line and approximately 40 feet from the approved residential development and associated improvements.

The City's conditions of approval require the prevention of polluted stormwater discharge, installation of a habitat protection fence to prevent snakes and frogs from entering the project site, construction to take place between May and September to avoid sensitive frog and snake breeding season, and contractor education to minimize construction impacts to the California red-legged frog and the San Francisco garter snake.

3.2 Substantial Issue Analysis

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

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

The contentions raised in the appeal present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP.

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. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs., tit. 14, 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.

Even where the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing a petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development as approved by the City presents substantial issue.

Appellant's Contentions

The appellants contend that the approved development is inconsistent with the wetland protection policies of the City of Half Moon Bay's certified LCP because it encroaches into the required minimum 100-foot buffer and there are feasible alternatives to siting the residence within the 100-foot wetland buffer zone. Specifically, the appellants contend:

The house approved by the City is within 40 feet of the wetland, which does not meet the 100-foot minimum wetland setback requirement established in LUP Policy 3-11 and Zoning Code Section 18.38.080.D. Residential development is not a permitted use within the wetland buffer unless it has been demonstrated that there are no feasible alternatives to locating the development in the buffer zone. Thus, the approved development would be a permitted use pursuant to Section 18.38.080.F of the Zoning Code if it has been proven that no feasible alternatives exist.

The City staff analyzed two alternatives and prepared findings for approval for each: the applicant's recent proposal that would comply with the wetland setback requirement; and the applicant's original proposal (previously denied by the Planning Commission), that would site the residence within 40 feet of the wetland. City staff concluded that both alternatives were feasible, but the Planning Commission denied the alternative that would comply with setback requirement because it would require the City to approve variances to the front yard setback requirement and the maximum building envelope. Although it is possible to build a house that complies with the wetland setback, the Planning Commission concluded that granting variances was not feasible. Regardless, it appears that there is a feasible building site that would comply with the wetland setback and not require variances. Thus, the City has not adequately demonstrated that there

are no feasible alternatives to siting the house within the wetland buffer. Therefore, the approval is inconsistent with the certified LCP requirements to set back development 100 feet from wetlands required by LUP Policy 3-11 and Section 18.38.080 of the Zoning Code. The project is also inconsistent with LUP Policy 3-3 that protects wetlands from significant adverse impacts because there is an alternative that would comply with the setback requirement.

Applicable LCP Policies

Applicable LUP Policies

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...

Such areas include riparian areas, wetlands, sand dunes, marine habitats, sea cliffs, and habitats supporting rare, endangered and unique species. [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.]

3-11 Establishment of Buffer Zones

- (a) 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.
- (b) Where no riparian vegetation exists along both sides of riparian corridors, extend buffer zones 50 feet from the bank edge for perennial streams and feet from the midpoint of intermittent streams.
- (c) Along lakes, ponds, and other wet areas, extend buffer zones 100 feet from the high water point, except for man-made ponds and reservoirs used for agricultural purposes for which no buffer zone is designated. [Emphasis added.]

3-12 Permitted Uses in Buffer Zones

- (a) Within buffer zones, permit only the following uses: (1) uses permitted in riparian corridors, (2) structures on existing legal building sites, set back 20 feet from the limit of

riparian vegetation, only if no feasible alternative exists, and only if no other building site on the parcel exists, (3) crop growing and grazing consistent with Policy 3.9, (4) timbering in “streamside corridors” as defined and controlled by State and County regulations for timber harvesting., and (5) no new parcels shall be created whose only building site is in the buffer area except for parcels created in compliance with Policies 3.3, 3.4 and 3.5 if consistent with existing development in the area and if building sites are set back 20 feet from the limit of riparian vegetation or if no vegetation 20 feet from the bank edge of a perennial and 20 feet from the midpoint of an intermittent stream. [Emphasis added.]

Policy 3-13 Performance Standards in Buffer Zone

Require uses permitted in buffer zones to: (1) minimize removal of vegetation, (2) conform to natural topography to minimize erosion potential, (3) make provisions to (e.g. catch basins) keep runoff and sedimentation from exceeding pre-development levels, (4) replant where appropriate with native and non-invasive exotics, (5) prevent discharge of toxic substances, such as fertilizers and pesticides, into the riparian corridor, (6) remove vegetation in or adjacent to man-made agricultural ponds if the life of the pond is endangered, (7) allow dredging in man-made ponds if the San Mateo County Resource Conservation District certifies that siltation imperils continued use of the pond for agricultural water storage and supply.

18.38.020 Coastal Resource Areas. The Planning Director shall prepare and maintain maps of all designated Coastal Resource Areas within the City. Coastal Resource Areas within the City are defined as follows:

A. Sensitive Habitat Areas. Areas in which plant or animal life or their habitats are either rare or especially valuable, and/or as designated on the Habitat Areas and Water Resources Overlay Map. Areas considered to be sensitive habitats are listed below.

Sensitive Habitat	
1.	sand dunes
2.	marine habitats
3.	sea cliffs
4.	riparian areas;
5.	wetlands, coastal tidelands and marshes, lakes and ponds and adjacent shore habitats
6.	coastal and off-shore areas containing breeding and/or nesting sites or used by migratory and resident water-associated birds for resting and feeding
7.	areas used for scientific study and research concerning fish and wildlife, and existing game or wildlife refuges and reserves
8.	habitats containing or supporting unique species or any rare and endangered species defined by the State Fish and Game Commission
9.	rocky intertidal zones
10.	coastal scrub community associated with coastal bluffs and gullies

...

E. Wetlands. As defined by the US Fish and Wildlife Service, a wetland is an area where the water table is at, near, or above the land surface long enough to bring about the formation of hydric soils or to support the growth of plants which normally are found to grow in water or wet ground. Such wetlands can include mud flats (barren of vegetation), marshes, and swamps. Such wetlands can be either fresh or saltwater, along streams (riparian), in tidally influenced areas (near the ocean and usually below extreme high water of spring tides), marginal to lakes, ponds, and man-made impoundments. Wetlands do not include areas which in normal rainfall years are permanently submerged (streams, lakes, ponds, and impoundments), nor marine or estuarine areas below extreme low water of spring tides, nor vernal wet areas where the soils are not hydric.

...

18.38.075 Riparian Corridors and Buffer Zones.

A. Permitted Uses. Except as may be specified in this Chapter, within Riparian Corridors, only the following uses shall be permitted:

1. Education and research;
2. Consumptive uses as provided for in the Fish and Game Code and Title 14 of the California Administrative Code;
3. Fish and wildlife management activities;
4. Trails and scenic overlooks on public land(s);
5. Necessary water supply projects;
6. Restoration of riparian vegetation.

B. Permitted Uses, where no feasible or practical alternative exists:

1. Stream-dependent aquaculture provided that non-stream-dependent facilities locate outside of corridor;
2. Flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development;
3. Bridges when supports are not in significant conflict with corridor resources;
4. Pipelines and storm water runoff facilities;
5. Improvement, repair, or maintenance of roadways or road crossings;

6. Agricultural uses, provided no existing riparian vegetation is removed, and no soil is allowed to enter stream channels

C. Standards. Development shall be designed and constructed so as to ensure:

1. That the removal of vegetation is minimized;
2. That land exposure during construction is minimized and that temporary vegetation or mulching is used to protect critical areas;
3. That erosion, sedimentation, and runoff is minimized by appropriately grading and replanting modified areas;
4. That only adapted native or non-invasive exotic plant species are used for replanting;
5. That sufficient passage is provided for native and anadromous fish as specified by the State Department of Fish and Game;
6. That any adverse effects of waste water discharges and entrainment are minimized;
7. That any depletion of groundwater supplies and substantial interference with surface and subsurface water flows are prevented;
8. That waste water reclamation is encouraged;
9. That natural vegetation buffer areas which protect riparian habitats are maintained;
10. That any alteration of natural streams is minimized.

...

E. Permitted Uses within Riparian Buffer Zones:

1. Uses permitted in riparian corridors;
2. Crop growing and grazing, provided no existing riparian vegetation is removed and no soil is allowed to enter stream channels;
3. Timbering in "stream side corridors" as defined and controlled by State and County regulations for timber harvesting.

F. Permitted Uses within Riparian Buffer Zones, where no feasible alternative exists:

1. The construction of new structures on existing legal building sites, set back 20 feet from the limit of riparian vegetation, only if no other building site on the parcel exists;
2. The creation of new parcels only if the only building sites available are those within in buffer area, if the proposed parcels are consistent with existing development in the area, and if the building sites are set back 20 feet from the limit of riparian vegetation, or if there is no vegetation, 20 feet from the bank edge of a perennial stream or 20 feet from the midpoint of an intermittent stream. [Emphasis added.]

G. Development Standards within Riparian Buffer Zones. Development shall be designed and constructed so as to ensure:

1. That the removal of vegetation is minimized;
2. That development conforms to natural topography and that erosion potential is minimized;
3. That provisions have been made to (i.e. catch basins) keep runoff and sedimentation from exceeding pre-development levels;
4. That native and non-invasive exotic vegetation is used for replanting, where appropriate;
5. That any discharge of toxic substances, such as fertilizers and pesticides, into the riparian corridor is prevented;
6. That vegetation in or adjacent to man-made agricultural ponds is removed if the life of the pond is endangered;
7. That dredging in or adjacent to man-made ponds is allowed if the San Mateo County Resource Conservation District, or any similar or successor agency or entity, certifies that siltation imperils continued use of the pond for agricultural water storage and supply.

...

18.38.080 Wetlands.

- A. Permitted Uses:
 1. Education and research;
 2. Passive recreation such as bird-watching;
 3. Fish and wildlife management activities.
- B. Permitted Uses with approval of a Use Permit:

1. Commercial mariculture where no alteration of the wetland is necessary;
2. Bridges;
3. Pipelines and storm water runoff facilities;
4. Improvement, repair or maintenance of roadways.

C. Standards. The Riparian Corridor Standards listed in this Chapter shall apply to Wetlands.

D. Wetlands Buffer Zone. The minimum buffer surrounding lakes, ponds, and marshes shall be 100 feet, measured from the high water point, except that no buffer is required for man-made ponds and reservoirs used for agricultural purposes.

E. Permitted Uses within Wetlands Buffer Zones. The Riparian Buffer Zone Uses listed in this Title shall apply to Wetlands Buffer Zones.

F. Permitted Uses within Wetlands Buffer Zones, where no feasible alternative exists. The Riparian Buffer Zone Uses listed under this Title shall apply to Wetlands Buffer Zones.

G. Development Standards within Wetlands Buffer Zones. The Riparian Buffer Development Standards listed under this Title shall apply to Wetlands Buffer Zones.

H. Findings for Development within Wetlands Buffer Zones. The following Findings shall be supported by the contents of the required Biologic Report:

1. That there are special circumstances or conditions affecting the property;
2. That the project is necessary for the proper design and function of some permitted or existing activity on the property;
3. That the project will not be detrimental to the public welfare or injurious to other property in the area in which the project is located;
4. That the project will not significantly reduce or adversely impact the sensitive habitat, or there is no feasible alternative which would be less damaging to the environment;
5. That the project is in accordance with the purpose of this Chapter and with the objectives of the L.C.P. Land Use Plan;

6. That development on a property, which has its only building site located in the buffer area, maintains a 20-foot buffer from the outer edge of any wetland. [Emphasis added.]

Discussion

LUP Policy 3-11 and Section 18.38.080 D of the Zoning Code require a minimum 100-foot buffer around wetlands. LUP Policy 3-12 and Section 18.30.080.F of the Zoning Code, referencing Section 18.38.075F (uses and development standards for riparian corridors and buffer zones), allow structures on existing legal building sites, set back 20 feet from the limit of the wetland, only if no feasible alternative exists and no other building site on the parcel exists. LUP Policy 3-3 requires development adjacent to sensitive habitats to be sited and designed to prevent impacts that could significantly degrade the sensitive habitats and be compatible with the maintenance of biologic productivity of the sensitive habitat. In addition, Section 18.38.080.G, referencing Section 18.38.075.G, enumerates the development standards for development within wetland buffer zones including minimizing vegetation removal, erosion, and prevention of toxic discharge into the wetland. Therefore, in order for residential development within a wetland buffer to be consistent with the LCP provisions, there needs to be substantial evidence demonstrating that (1) no feasible alternatives exist, (2) no other building site on the parcels exist, (3) the development meets the standards set forth in Section 18.38.080.G of the Zoning Code, and (4) the development is sited and designed to prevent significant adverse impacts to the sensitive wetland habitat and is compatible with the maintenance of biologic productivity of the wetland.

The appellant's main contention is that the approved development is not consistent with the LCP because feasible alternatives exist. The appellants contend that while the Planning Commission concluded that the applicant's proposal for a two-story house located outside of the 100-foot buffer zone was not feasible, the City's record contains evidence that supports finding of approval for the applicant's proposal of a two-story home outside of the wetland buffer, including evidence to support approval of the variances requested by the applicant, and as such, there is evidence that the applicant's proposed two story house outside of the buffer zone is feasible. The appellants also contend that other feasible alternatives for siting the house outside of the 100-foot buffer that would not require variances also exist. The appellants further contend that because feasible alternatives exist, the approved development would not be sited and designed to prevent significant adverse impacts to the sensitive wetland habitat.

Feasible Alternatives without Variances

The appellants contend that feasible alternatives that would not require City approval of variances exist.

When the City's Planning Commission in 2005 originally denied the approved development currently on appeal to the Commission, an exhibit was prepared to support the denial findings that shows that a residence that would be outside of the 100-foot wetland buffer and meet all of the applicable development standards including setbacks and maximum building envelope requirements, was feasible. City staff calculated that even with the constraints of the wetland

buffer, the applicant would still be able to construct a two-story house of approximately 2,700 square feet or a one-story house of approximately 1,600 square feet (Exhibit 8).

The City's 2007 findings of approval do not address the feasibility of alternatives that do not require variances, only the infeasibility of the applicant's proposal for a two story house that would be located outside of the buffer. However, as shown in Exhibit 8, there is evidence indicating that a feasible alternative exists for siting the house outside of the 100-foot buffer that would not require a variance.

Because feasible alternatives that would meet the wetland buffer requirements of the LCP exist, including a house that would not require variances as generally depicted in Exhibit 8, the Commission finds that the appeal raises a substantial issue of conformance of the approved development with the wetland buffer and wetland protection policies of the City's certified LCP.

Feasible Alternative Originally Proposed by the Applicant

In addition to the existence of feasible alternatives located outside the 100-foot buffer that would not require the approval of variances, the applicant originally proposed a feasible, two-story alternative. As discussed in the Project Background section above, the application that the City's Planning Commission reviewed was for a two-story house outside of the 100-foot wetland buffer. The development approved by the City is for a one-story house located within the 100-foot wetland buffer. The City's findings of approval for the residential development located within the 100-foot wetland buffer state:

The project is a modest one-story building that does not have any other place on the site to be placed due to setback restrictions. A different two-story design without a recreational backyard and the requirement for approval of two Variances would not be feasible to meet common project objectives for R-1-B-1 zoned parcels of approximately 8,000 square feet due to these restrictions. Since the only site would require approval of Variances that would create an inconsistent neighborhood character, there is no feasible alternative.

The City concludes that the two-story design located outside of the 100-foot wetland buffer is not feasible because it would not have a recreational backyard, and it would require approval of variances that would create an inconsistent neighborhood character and as such would not meet the common project objectives for R-1-B-1 zoned parcels.

The City's LCP does not contain a definition of feasibility. Under Coastal Action Section 30108, feasible is defined as

...capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

Taking into consideration the above factors in the Coastal Act's definition for feasible, because the applicant had applied for the two-story house that would be sited outside of the 100-foot wetland buffer zone, the applicant had reasonable expectation that the house could be constructed within a reasonable period of time, within a budget typical for residential

development, that would respect the wetland protection policies, and could be accomplished with existing technology. In other words, the applicant applied for the two-story house because he had determined that it was feasible.

On the other hand, the City's finding that the proposal for a two-story home is infeasible takes into consideration the lack of a recreational backyard and the requirement for approval of variances that it believes would result in a development incompatible with neighborhood character. However, whether or not a house would have a recreational backyard is not determinative of feasibility, and findings to approve the variances could be made without resulting in development that would be out of character with the surrounding areas.

The applicant originally requested two variances for the proposed two-story house design that would be located outside the 100-foot wetland buffer, one to reduce the front setback by five feet from the required 25 feet to 20 feet and, and another to encroach into the building envelope. The Planning Commission concluded that such variances could not be approved consistent with the visual protection policies of the LCP.

The City's visual protection standards mainly address development that would be located in sensitive visual resource areas such as designated scenic corridors or areas that provide views of the ocean or are visible from Highway 1 and 92. Since the applicant's property is located on a residential street east of Highway 1 and is not visible from any main public roads, the visual protection policies in the LCP that would be applicable to the development would be Section 30251 of the Coastal Act, which is incorporated into the LCP and which requires development to be visually compatible with the character of the surrounding areas, as well as Section 18.37.010.E of the Zoning Code that allows development only when it is visually compatible with the character of the surrounding area.

The area surrounding the project site consists of detached single-family residences on standard, rectangular lots and some vacant residential lots. The houses on Terrace Avenue vary in architectural style, with no consistent character for the houses (Exhibit 6). A review of recently approved homes on Terrace Avenue shows that homes range from approximately 2,000 to 3,500 square feet in size and are either one story or two stories.

The two-story home proposed by the applicant that would be located outside of the 100-foot wetland buffer zone would be two-stories, 27.5 feet in height (maximum allowable is 28 feet for two stories), and 3,364 square feet in area. This design falls within the range of the sizes of the houses located on Terrace Avenue. Granting the variances would mean that the house would be located 5 feet closer to the sidewalk than other houses on the street and that its western portion would protrude into the three-dimensional building envelope prescribed by Section 18.06.040.G of the Zoning Code. However, the two-story house design would not be incompatible with the character of the surrounding area because it would be comparable in terms of height, size, and bulk to other homes on Terrace Avenue, and it would not have any architectural features or flourishes that would make the house stand out or attract unusual amounts of attention (Exhibit 4, Page 1). As such, it appears that if the City were to grant the variances, the resulting residential development which would be located outside of the required minimum wetland setback area would not be visually incompatible with the residential development in the surrounding area.

In addition, the City's Architectural Review Committee granted approval for the two-story house design and the City staff report for the March 22, 2007 Planning Commission contained findings of consistency of the two-story house design with the visual resources protection policies of the LCP.

Moreover, not only would granting of the variances result in development compatible with the character of the surrounding area, but due to the location of the wetland adjacent to the subject property, there is a specific basis to support the City's approval of variances at the subject site.

Section 18.23.010 of the Zoning Code states that a variance could be granted "when such variance will not be contrary to the intent of this Title, nor to the public interest, safety, health and welfare, where due to special considerations or exceptional characteristics of the property or its location or surroundings, a literal enforcement of this Title would result in practical difficulties or unnecessary hardship."

The location of the wetland adjacent to the subject property and the resulting buffer zone on the property constitute exceptional characteristics of the property, its location, and surroundings that would result in practical difficulties if the applicant were to a standard shaped home like those on the neighboring property. The requested variance is for development standards applicable to residential development standards in Chapter 18.06 of the Zoning Code. Because the variances would allow the development of a two-story single family home consistent with the wetland protection policies in the LCP, the resulting development would not be contrary to the intent of Chapter 18.06 that provides for establishment of residential zones in the City and orderly development within the residential zoning district. The requested variance would also not be contrary to the public interest because it is for the purposes of siting the house outside of the wetland buffer zone in order to protect a public resource, the wetland. Furthermore, the overall design of the house was approved by the Architectural Review Committee as consistent with the architectural review standards that protect visual resources and neighborhood character. In terms of public safety, health, and welfare, the variance to front setback and maximum building envelope standards would not result in a house that encroaches onto any public property and as such would not pose any public safety, health and welfare risks. In addition, there are no limits in the Variance Ordinance on how many variances could be granted. As such, the record contains adequate evidence to support approval findings for the variances requested by the applicant to the front setback and maximum building envelope standards.

Moreover, the March 22, 2007 City staff report contains the findings for variances which further support the approvability of the variances. The City Planning Commission staff report states:

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 project is located near seasonal wetlands that have a coastal resource buffer zone which has dramatically reduces the size

of the building site. The buffer zone accounts for almost half of the parcel requiring that the building move towards the front portion of the property; therefore, reducing the front setback by five feet, encroaching into the front building envelope, and providing minimal building envelope encroachments on the east and west sides. The extraordinary circumstance that the buffer zone has imposed on this lot, as shown with the denial of PDP-86-03, allows for the Planning Commission to make the necessary findings to approve the variance for the front setback and maximum building envelope encroachments.

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: The property owner has already lost most of the usable rear yard area other than for wetland buffer permitted uses, in order to maintain a buffer to nearby coastal resources. Allowing the residence to have a 20-foot front setback instead of the required 25-foot setback will still keep the design placement similar to the neighboring residence. Without a Variance to the front setback and building envelope in the front and sides the design of the house would be very narrow and may provide trouble in creating functional space on the second story and possibly the first story of the residence further reducing the livable space.

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 front yard encroachment into the building envelope will only restrict natural light into the public right of way slightly more than what is permitted. Although the building envelope encroachments on the side do not meet the exact language of the code they do meet the intent. The building envelope encroachment on the west side is no more than 15 horizontal feet and the only encroaching feature east side is the eave. Due to the buffer zone restrictions on this site a Variance to the building envelope standards and the reduction of the front yard setback from 25 to 20 feet in will not be detrimental to the health or safety of people working or residing in the area.

For the above reasons, the coastal development application submitted to the City by the applicant for the two-story house design that would be located outside the wetland buffer zone is a feasible alternative. As such, the Commission finds the appeal raises a substantial issue of conformance of the approved development located within the 100-foot wetland buffer with the wetland protection policies of the certified LCP.

Development Adjacent to Sensitive Habitats

The appellants also contend that because feasible alternatives exist, the approved development is inconsistent with LUP Policy 3-3 that requires development adjacent to sensitive habitats to be sited and designed to prevent impacts that would significantly degrade the habitat.

The wetland buffer requirement in the LCP is designed to prevent impacts on wetlands by locating development a minimum of 100 feet away from wetlands. Ecologically, a buffer is a transition zone between one type of habitat and another. Buffers provide an area of refuge for plants and animals between their normal or preferred habitat and human activities. Buffers also serve to lessen the impacts caused by paved area runoff, landscape fertilizing, and spills of other household hazardous materials that could severely reduce a wetland's ecological value and the quality of the water flowing outward or downward into surface or sub-surface waters. Residential development encroaching into a wetland buffer would increase disturbances to wildlife using the wetland and the buffer areas and cause increased sedimentation and pollution of the wetland.

The biological assessment found that San Francisco garter snake, a federal and state endangered species, could occur in the wetlands adjacent to the property. In addition, Dave Johnston from the CDFG states that California red-legged frogs, a federally threatened species, could also occur. Because the approved residential development is sited 40 feet from the wetland, it would increase the risks of disturbance to the San Francisco garter snake and California red-legged frogs by increasing noise and lighting. In addition, because natural vegetation within the 100-foot buffer would be replaced by residential development, the physical and chemical filtration functions of the buffer would be reduced, and as a result, more polluted runoff from the development could enter into the wetland increasing pollution and sedimentation of the wetland. Additionally, use of fertilizers and pesticides to maintain the landscaped rear yard within the buffer zone would increase the pollution of the wetland by those chemicals and also adversely affect health and survival of San Francisco garter snakes and California red-legged frogs that use the wetland and the buffer zone. Furthermore, exotic invasive species used for landscaping could also invade the wetland and replace the native wetland vegetation, resulting in degradation of the wetland and disruption of its biological productivity. As such, the approved development would have a significant adverse impact by contributing to the degradation of the wetland and the wildlife habitat and the water quality in the wetland. The approved development therefore does not maintain the biological productivity of the sensitive wetland habitat.

The biological assessment concludes that the residential development within the buffer zone would not result in adverse impacts:

Wetlands A [closest the approved development] and B offer some habitat value for wildlife species. However, since these features are relatively small, support seasonal hydrology and a limited suite of hydrophytes and a simplistic vegetative cover, they are regarded as providing limited habitat for wildlife species. As stated above, the potential for California red-legged frogs and/or San Francisco

garter snakes occur on the adjacent Beachwood property is not likely. For these reasons, Wetlands A and B are limited in their functions and values.

Water quality of the seasonal wetlands post construction will not be adversely affected by the proposed project due to the overall distance as well as the preservation of grassy areas, between the proposed home and the wetlands... In addition, the overall surface hydrology is driven by a gentle east to west gradient whereas the proposed home will be located southwest of the seasonal wetlands, thus making it unlikely that the site runoff would flow northeast towards the wetlands. Regardless, from the northern edge of the property line, northwards towards Wetland A, there exists a broad expanse of non-native herbaceous habitat. These grassy areas will ensure that adequate bio-filtration of any site runoff will occur prior to it reaching Wetland A...

For the above reasons, although a portion of the property occurs within the 100-foot wetland buffer zone, it is our professional opinion that the proposed project will not adversely affect the functions and values of Wetlands A and B.

The biological assessment's conclusion that development within the buffer would not result in significant adverse impacts is based on the assumption that the wetlands are limited in their functions and values because of their size and because California red-legged frogs and San Francisco garter snakes are not likely to occur. As stated above, however, a CDFG biologist has stated that the species could cross the site. Also, the assessment determines that the remaining buffer is adequate to filter any runoff from the site, but does not address how the biofiltration functions of the buffer would be decreased compared to a feasible development alternative that would not encroach into the buffer. Moreover, the assessment does not address the full suite of impacts from the residential development such as noise, lighting, use of fertilizers and pesticides and exotic invasive landscaping plants.

In summary, because the approved development would result in significant adverse impacts that would contribute to the degradation of the wetland and the sensitive species located in and around the wetland, and because there is evidence that feasible alternatives which would avoid impacts exist, the appeal raises a substantial issue of conformity of the approved development with the sensitive habitat protection policies of the LCP.

3.3 Conclusion—Substantial Issue

Applying the factors listed in section 3.2 above further clarifies that the appeal raises a substantial issue with respect to the conformity of the approved development with the policies of the Half Moon Bay LCP.

Regarding the degree of factual and legal support for the local government's decision that the 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 concerning wetland protection and wetland buffer requirements because the alternative that would require variances

would result in a development incompatible with neighbor character and that there are no feasible alternatives but to locate the development within the wetland buffer zone. As discussed above, there is evidence that the alternative proposed by the applicant in November 2006 consisting of a two-story house outside of the 100-foot wetland buffer is feasible because findings to approve the variance could be made and the resulting development would not be incompatible with the character of the surrounding residential development. Further, Exhibit 8 also provides evidence that feasible alternatives exist that would not require variances. As such, there is a lack of factual and legal support for the City's finding that there are no feasible alternatives but to locate the development within the 100-foot wetland buffer. In addition, because there are feasible alternatives to locating the development within the 100-foot wetland buffer zone, this is a lack of factual and legal support for the City's finding that the approved development is sited and designed to prevent significant adverse impacts to the sensitive wetland habitat.

Regarding the significance of the coastal resources affected by the decision, the approved development is located within 40 feet of the wetland on a neighboring property. Wetlands are defined as sensitive habitats under the LCP. The biological assessment states that San Francisco garter snakes could also occur on the wetlands. As such, biological resources in the wetland, adjacent to the approved development, are significant.

Regarding the precedential value of the local government's decision for future interpretations of its LCP, as discussed above, the City determined there are no feasible alternatives but to site the approved development in the wetland buffer zone even though there is evidence to the contrary. This finding and decision could lead the City to interpret the LCP similarly when other development proposals adjacent to wetlands are before the City's review. In addition, there are other vacant lots on Terrace Avenue where portion of the lots are located within the wetland buffer. Because of the approved development, development on those lots that encroach into the required minimum wetland setback could also be approved without adequate findings that no alternatives exist. As such, the City's action on the approved development has precedential value for the City's future interpretation and implementation of its LCP.

Therefore, in conclusion, the Commission finds that the appeal does raise a substantial issue concerning the consistency of the approved development located within the 100-foot buffer with the policies of the Half Moon Bay LCP regarding the protection of sensitive habitats.

PART II - DE NOVO ACTION ON APPEAL

PROCEDURE

Unless the Commission finds that a locally approved coastal development permit raises No Substantial Issue with respect to the policies of the certified LCP, the Commission must consider the merits of the proposed project de novo. The Commission may approve, approve with conditions (including conditions different than those imposed by the City of Half Moon Bay), or deny the application.

4.0 STAFF RECOMMENDATION FOR DE NOVO REVIEW

MOTION

I move that the Commission approve Coastal Development Permit Application No. A-2-HMB-07-021 for the development proposed by the applicant.

STAFF RECOMMENDATION OF DENIAL

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

RESOLUTION TO DENY THE PERMIT

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

5.0 FINDINGS AND DECLARATIONS FOR DE NOVO

The Commission hereby finds and declares as follows:

INCORPORATION OF SUBSTANTIAL ISSUE FINDINGS

The Commission hereby incorporates by reference the Substantial Issue Findings above as if set forth here in full.

5.1 Project Description for De Novo

As indicated in the Local Government Action section above, the application submitted to the City by Mr. Gale was for a two-story, 3,364 square-foot house that would be located outside of the 100-foot wetland buffer zone as show in Exhibit 3. For the purposes of de novo review, the applicant has amended his project description, as shown in Exhibit 9, Page 2, and proposes a single-story manufactured house and associated improvements that would instead be located 40 feet from the closest wetland on the neighboring Beachwood property.

5.2 LCP Consistency Analysis

LUP Policy 3-11 and Section 18.38.080 D of the Zoning Code require a minimum 100-foot buffer around wetland. LUP Policy 3-12 and Section 18.30.080.F of the Zoning Code, referencing Section 18.38.075F (uses and development standards for riparian corridors and buffer zones), allows structures on existing legal building sites, set back 20 feet from the limit of the wetland, only if no feasible alternative exists, and only if no other building site on the parcel exists. LUP Policy 3-3 requires development adjacent to sensitive habitats to be sited and designed to prevent impacts that could significantly degrade the sensitive habitats and be compatible with the maintenance of biologic productivity of the sensitive wetland habitat. In

addition, Section 18.38.080.G, referencing Section 18.38.075.G, enumerates the development standards for development within wetland buffer zones including minimizing vegetation removal, erosion, and prevention of toxic discharge into the wetland. Therefore, in order for residential development within a wetland buffer to be consistent with the LCP provisions, there needs to be substantial evidence demonstrating that (1) no feasible alternatives exist, (2) no other building site on the parcels exist, (3) the development meets the standards set forth in Section 18.38.080.G of the Zoning Code and (4) the development is sited and designed to prevent significant adverse impacts to the sensitive wetland habitat and is compatible with the maintenance of biologic productivity of the wetland. The development must pass all four tests in order to be consistent with the wetland protection provisions of the LCP. If there are feasible alternatives, other building sites on the parcel, or if the development would result in significant adverse impacts to the sensitive wetland habitats, then the proposed development within a wetland buffer would be inconsistent with the wetland protection policies of the certified LCP.

Availability of Feasible Alternatives

The subject property is 107 feet long and 75 feet wide. The wetland buffer extends into the property at an angle and covers the northeastern portion of the site, leaving an almost triangular shaped area, approximately 5,500 square feet size, in the southwestern portion of the lot available for development.

City staff performed an analysis in 2005 when the City initially evaluated and denied the proposed development finding that it was feasible for a two-story house approximately 2,700 square feet or a single-story home approximately 1,600 feet to be constructed within the available building envelope outside of the 100-foot wetland buffer area.

The applicant argues that the above alternative could only be accomplished with a house built on site and not with a manufactured home, which is the only kind he could afford. The applicant states that in order to have a house that has three bedrooms and office to meet his family needs, he could only afford a manufactured home, and that given the dimensional constraints of manufactured homes, i.e. they come in only certain pre-determined widths and heights, that it was not possible to fit a manufactured home into the building envelope outside the 100-foot wetland buffer and still meet the required development standards. The only alternative acceptable to the applicant is a relatively lower cost manufactured home that would have three bedrooms, an office, and developed rear yard (Exhibit 9).

However, what the applicant is willing to accept in terms of the size and amenities of the house and cost does not determine feasibility.

The applicant owns a legal lot in an R-1-B-2, single family residential zoned area, within the City of Half Moon Bay which has a certified LCP.

Under Coastal Action Section 30108 feasible is defined as

...capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

As such, the evaluation of the feasibility of alternatives should address the construction of a single-family residence, consistent with the wetland protection policies of the LCP, within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

Taking into consideration the above factors and given that there is room within the development envelope outside of the 100-foot wetland buffer to accommodate an approximately 2,700 square-foot residence, the construction of a home on the site that would meet the minimum wetland setback requirements and residential development standards in the LCP is feasible. The majority of homes constructed in the City on residentially zoned lots are not prefabricated manufactured homes transported for installation on site, but rather homes constructed on site. There is no evidence that a single-family residence on the site could not be constructed within a reasonable period of time, at a cost comparable to other single-family residences in the area, meeting the coastal resource protection policies of the LCP, and being accomplished using current construction technology. It can be reasonably assumed that it would not be cost-prohibitive to most of the people who wish to develop a single-family residence in Half Moon Bay. As such, the alternative is feasible even though the applicant finds it undesirable.

In addition, there are also manufactured homes that could fit into the available building envelope outside of the wetland buffer zone while meeting the applicable development standards. Through internet research, Commission staff found a 26'x40', 1,074 square feet, three bedroom, two bathroom manufactured home for sale which would fit within the building envelope outside of the wetland buffer and meet applicable residential development standards including setbacks and maximum building envelope (Exhibit 8, Pages 2 and 3).

The applicant may assert that while this home would be affordable, it would not meet his family's needs for three bedrooms and an office. Again, however, feasibility of the alternatives is not based on what the applicant is willing to accept in terms of size and amenities. Instead, the feasibility of alternatives analyzes whether a single-family home could be constructed, consistent with the wetland protection policies, within a reasonable period of time, taking into account economic, environmental, social, and technological factors. There is no evidence indicating that a smaller manufactured home could not be constructed within a reasonable amount time, at a cost typical for this type of home, which would respect the minimum wetland setback requirements and be accomplished with existing technology. The above referenced manufactured home would fit within the development envelope and would meet the applicable development standards, and as such is a feasible alternative.

In addition, the two-story home outside the 100-foot buffer that Mr. Gale applied to the City for in November 2006 is also feasible, as discussed in the substantial issues analysis, because while the development would require variances, adequate findings could be made to support the approval of the variances, and the resulting development would not be visually incompatible with character of the residential development in the surrounding area.

The Commission finds that because there are feasible alternatives to siting the proposed development within a wetland buffer, the proposed development is inconsistent with LUP

Policies 3-11, 3-12, and Section 18.38.080 of the Zoning Code in the City's certified LCP. The proposed development therefore must be denied.

Other Building Sites

In order for the proposed development to be consistent with the LCP, not only does the applicant need to demonstrate that no feasible alternatives exist, but also no other building site on the parcel exists. As discussed above, areas on the parcel outside of the buffer zone is approximately 5,500 square feet in size, and within that area, a two-story single family home approximately 2,700 square feet, which would meet the applicable development standards could be accommodated. Therefore, because there is another building site on the parcel, the proposed development is not consistent with the LUP Policy 3-11 and Section 18.38.080 of the Zoning Code in the certified LCP. The proposed development therefore must be denied.

Development adjacent to Sensitive Habitat

LUP Policy 3-3 requires development adjacent to sensitive habitats to be sited and designed to prevent significant adverse impacts and to be compatible with maintenance of biological productivity of the habitat. The proposed development would be located within the minimum 100-foot wetland buffer zone, approximately 40-feet away from the nearest wetland. Ecologically, a buffer is a transition zone between one type of habitat and another. Buffers provide an area of refuge for plants and animals between their normal or preferred habitat and human activities. Buffers also serve to lessen the impacts caused by paved area runoff, landscape fertilizing, and spills of other household hazardous materials that could severely reduce a wetland's ecological value and the quality of the water flowing outward or downward into surface or sub-surface waters. Residential development encroaching into a wetland buffer would increase disturbances to wildlife using the wetland and the buffer areas and cause increased sedimentation and pollution of the wetland.

The biological assessment found that San Francisco garter snakes, a federal and state endangered species, could occur in the wetlands adjacent to the property. In addition, Dave Johnston from the CDFG states that California red-legged frogs, a federally threatened species, could also occur. Because the proposed residential development would be sited as close at 40 feet to the adjacent wetland, the proposed development would increase the risks of disturbance to the San Francisco garter snake and California red-legged frogs by increasing noise and lighting. In addition, because natural vegetation within the 100-foot buffer would be replaced by residential development, the physical and chemical filtration functions of the buffer would be reduced, and as a result, more polluted runoff from the development could enter into the wetland increasing pollution and sedimentation of the wetland. Additionally, use of fertilizers and pesticides to maintain the landscaped rear yard within the buffer zone would increase the pollution of the wetland by those chemicals and also adversely affect the health and survival of San Francisco garter snakes and California red-legged frogs that use the wetland and the buffer zone. Furthermore, exotic invasive species used for landscaping could also invade the wetland and replace the native wetland vegetation, resulting in degradation of the

wetland and disruption of its biological productivity. As such, the proposed development would have a significant adverse impact on the wetland by contributing to the degradation of the wetland and the wildlife habitat and water quality in the wetland. The proposed development therefore would not maintain the biological productivity of the sensitive wetland habitat.

The biological assessment concludes that the residential development within the buffer zone would not result in adverse impacts:

Wetlands A [closest the approved development] and B offer some habitat value for wildlife species. However, since these features are relatively small, support seasonal hydrology and a limited suite of hydrophytes and a simplistic vegetative cover, they are regarded as providing limited habitat for wildlife species. As stated above, the potential for California red-legged frogs and/or San Francisco garter snakes occur on the adjacent Beachwood property is not likely. For these reasons, Wetlands A and B are limited in their functions and values.

Water quality of the seasonal wetlands post construction will not be adversely affected by the proposed project due to the overall distance as well as the preservation of grassy areas, between the proposed home and the wetlands... In addition, the overall surface hydrology is driven by a gentle east to west gradient whereas the proposed home will be located southwest of the seasonal wetlands, thus making it unlikely that the site runoff would flow northeast towards the wetlands. Regardless, from the northern edge of the property line, northwards towards Wetland A, there exists a broad expanse of non-native herbaceous habitat. These grassy areas will ensure that adequate bio-filtration of any site runoff will occur prior to it reaching Wetland A...

For the above reasons, although a portion of the property occurs within the 100-foot wetland buffer zone, it is our professional opinion that the proposed project will not adversely affect the functions and values of Wetlands A and B.

The biological assessment's conclusion that development within the buffer would not result in significant adverse impacts is based on the assumption that the wetlands are limited in their functions and values because of their size and because California red-legged frogs and San Francisco garter snakes are not likely to occur. As stated above, however, a CDFG biologist stated that the species could cross the site. Also, the assessment determines that the remaining buffer is adequate to filter any runoff from the site, but does not address how the biofiltration functions of the buffer would be decreased compared to a feasible development alternative that would not encroach into the buffer. Moreover, the assessment does not address the full suite of impacts from the proposed residential development such as noise, lighting, use of fertilizers and pesticides and exotic invasive plants for landscaping.

In summary, because the proposed development would result in significant adverse impacts that would contribute to the degradation of the wetland, and because there are feasible alternatives

which would avoid wetland impacts, the Commission finds that the proposed development is inconsistent with the sensitive habitat protection policies of the LCP. Therefore the proposed development must be denied.

Relevant Public Comments

Tom Roman, a resident of Half Moon Bay, writes in support of the applicant that “there is no feasible alternative outside of the buffer zone and that the potential impact to sensitive habitats is minimal, so the approved project is consistent with the certified LCP, including LUP Policy 3-3.”

Mr. Roman contends that in order for an alternative to be feasible, it needs to meet most of the applicant’s objectives which he lists as:

1. a usable active rear yard for a safe play area and family’s privacy and relaxation
2. normal setbacks to allow reasonable landscaping
3. a desire to avoid a two story design due to family history of knee problems and
4. sufficient floor area to support the family of four and two home businesses

Mr. Roman states that a feasible alternative must also meet objectives contained within the certified LCP:

1. require minimum lot size in this zone of 7,500 sq. ft.
2. restrict development to within setbacks and building envelope established for the zone and
3. fit in with neighborhood character.

As discussed above, there is a feasible alternative outside of the wetland buffer that would provide for an approximately 2,700 square foot house consistent with the applicable residential development standards of the Zoning Code. This alternative would support a family of four and allow the applicant to work from home and meet the development standards which would provide for setbacks normally allowed by the Zoning Code. In addition, the applicant originally applied for a two-story home, so a single-story residence is not a requirement that must be considered as a project objective. In terms of a usable active rear yard, a rear yard could be considered usable for relaxation and privacy even if no development occurred within it since there is no existing development north and east of the property, and the residence to the west already has a fence that provides the applicant some privacy. In addition, because the alternative would meet all of the applicable development standards, and would be of comparable size to other homes on Terrace Avenue and it would be compatible with the character of the surrounding neighborhood.

5.3 Conclusion

Because there is substantial evidence that there are feasible alternatives, and because there are other building sites on the parcel, the Commission finds that the proposed development which would be located within the 100-foot wetland buffer, is not consistent with LUP Policies 3-11 and 3-12 and Section 18.38.080 of the Zoning Code in the City’s certified LCP. Moreover,

because the proposed development would result in significant adverse impacts that would degrade the sensitive wetland habitat and would not be compatible with maintenance of the biological productivity of the habitat, the Commission finds that the proposed development is not consistent with LUP Policy 3-3 of the certified LCP. Therefore the proposed development must be denied.

Denial of the proposed permit will not eliminate all economically beneficial or productive use of the applicant's property or unreasonably limit the owner's reasonable investment backed expectations of the subject property. Denial of this application to develop the project site to the extent and manner proposed by the applicant would still leave the applicant feasible alternatives to use the property in a manner that is both economically beneficial as well as consistent with the certified LCP.

6.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

The Commission incorporates its findings on LCP policies at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse effects of the project that were received prior to the preparation of the staff report.


For the reasons described in the Commission findings above, the Commission finds that the proposed development is inconsistent with the wetland protection provisions of the certified LCP. As also discussed in the above findings, the Commission finds that there are feasible alternatives that would substantially lessen the significant adverse impacts of the development on the environment. Feasible alternatives to the proposed development include constructing a single-family home outside of the minimum 100-foot wetland buffer required by the LCP. The Commission thus finds that the proposed project cannot be found to be consistent with the requirements of the Coastal Act and does not conform to the requirements of CEQA.

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
(415) 904-5260 FAX (415) 904-5400
www.coastal.ca.gov



NOTIFICATION OF APPEAL PERIOD

DATE: May 22, 2007
TO: Sage Schaan, Assistant Planner
City of Half Moon Bay, Building & Planning Department
501 Main Street
Half Moon Bay, CA 94019
FROM: Yinlan Zhang, Coastal Program Analyst 
RE: **Application No. 2-HMB-06-210**

Please be advised that on May 21, 2007 our office received notice of local action on the coastal development permit described below:

Local Permit #: **PDP-051-06**
Applicant(s): **Saso Crnugelj-Gale**
Description: **Development of a 2,9335 square-foot single-family residence.**
Location: **684 Terrace Avenue, Half Moon Bay (San Mateo County) (APN(s) 056-081-350)**

Unless an appeal is filed with the Coastal Commission, the action will become final at the end of the Commission appeal period. The appeal period will end at 5:00 PM on June 5, 2007.

Our office will notify you if an appeal is filed.

If you have any questions, please contact me at the address and telephone number shown above.

cc: Saso Crnugelj-Gale
H.T. Harvey & Associates

EXHIBIT NO. 1
APPLICATION NO.
A-2-HMB-07-021 (GALE)
Notice of Final Local Action

(Page 1 of 23)

L-HMB-06-210

**NOTICE OF FINAL ACTION
Coastal Development Permit**
City of Half Moon Bay Planning Department
501 Main Street, Half Moon Bay, CA 94019
(650) 726-8250 FAX (650) 726-8261

RECEIVED

MAY 21 2007

**CALIFORNIA
COASTAL COMMISSION**

Date: May 16, 2007 File: PDP-051-06

Applicant/Owner: Saso Crnugelj-Gale
316 Van Buren #9
Monterey, CA 93940

Planner: Sage Schaan, Associate Planner

This notice is being distributed to the Coastal Commission and to those who requested notice. The following project is located within the appealable area of the Coastal Zone. The Planning Commission approved the Coastal Development Permit on March 22, 2007, by Resolution No. P-10-07. The Planning Commission decision was appealed to the Half Moon Bay City Council within the ten working-day appeal period that ended at 5:00 PM on April 5, 2007.

On May 15, 2007 the City Council determined that in order to file an appeal of a decision by the Planning Commission to approve a Coastal Development Permit the appellant must qualify as an aggrieved person as defined by Section 18.02.040 of the Zoning Code. An aggrieved person must in some way communicate his/her concerns about the Coastal Development Permit application to the City at a public hearing, or explain why they were unable to do so for a good cause. In this particular appeal the appellant stated that he was at the Planning Commission hearing when the item was reviewed, but did not speak or notify the City of his concerns prior to the final decision. Since the appellant stated he was at the hearing, but did nothing to notify the City of his concerns he did not have good cause to be an aggrieved person. The appellant failed to show up at the City Council appeal hearing to give testimony. Based on the claim of attending the hearing and the failure of the appellant provide testimony to the City Council, the Council rejected the appeal and the decision of the Planning Commission is upheld.

Project Description: Coastal Development Permit and Height Exception authorizing the development of a 2,935 square-foot single-family residence, as shown on plans with City date stamp of March 12, 2007, including any conditions of approval imposed by the Planning Commission.

Project Location: 684 Terrace Avenue, Half Moon Bay, CA 94019

APN: 056-081-350

APPROVED by the Planning Commission on March 22, 2007, based upon Findings for Approval contained in the attached Resolution for Approval.

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) 904-5260 for further information about the Commission's appeal process.

Exhibit 1
A-2-HMB-07-021
Page 2 of 23

**PLANNING COMMISSION RESOLUTION P-10-07
RESOLUTION FOR APPROVAL
PDP-051-06**

**Coastal Development Permit and Height Exception for a One-Story Single-Family
Residence Located at 684 Terrace Avenue (APN 056-081-350)**

WHEREAS, an application was submitted requesting approval of a Coastal Development Permit and Height Exception for the construction of a one-story, single-family residence on a vacant property located at 684 Terrace Avenue (APN 056-081-350), on a parcel zoned R-1-B-2, Single-Family Residential; and

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

WHEREAS, the Architectural Review Committee of the City of Half Moon Bay conducted a noticed public meeting on the project on January 21, 2004 and March 3, 2004, at which time all those desiring to be heard on the matter were given the opportunity to be heard; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on the project on January 25, 2007, February 8, 2007, and March 22, 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 has considered all written and oral testimony presented for their consideration; and

WHEREAS, the Planning Commission determines that the construction of the proposed single-family residence is categorically exempt from CEQA under Section 15303(a); and

WHEREAS, the Commission finds that the proposed single-family residence on an infill, residentially-zoned lot has a relatively small footprint, a one-story design and based on the professionally prepared biological report, report update, and comments from the departments of Fish and Wildlife and Fish and Game this specific project on this specific site will not provide a significant impact to the valued wetlands north of the subject site; and

WHEREAS, the biological report update, written after the denial of PDP-86-03, has provided clarification regarding statements made in the biological report about possible habitat for, and sightings of Red Legged Frogs and San Francisco Garner Snakes in other areas of the City, allowing the Commission to make the necessary findings for approval; and

WHEREAS, The Planning Commission's approval for development on this site is based on factors that are unique to this parcel and project proposal, and does not set a precedent for other sites as each case will be reviewed on a case-by-case basis based on, but not limited to, such factors as the environmental sensitivity of the area and the potential impacts of the proposed project; and

WHEREAS, the Planning Commission has made the required findings for approval of 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 approves the application (PDP-51-06).

PASSED AND ADOPTED by the City of Half Moon Bay Planning Commission at a duly noticed public hearing held on March 22, 2007, by the following vote:

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

NOES, Commissioners Lansing and McCarthy

ABSENT,

ABSTAIN,

APPROVED:

ATTEST:



Steve Flint, Planning Director


Jen Allis, Chair

**EXHIBIT A
FINDINGS AND EVIDENCE
PDP-051-06**

**Coastal Development Permit and Height Exception for a One-Story Single-Family
Residence Located at 684 Terrace Avenue (APN 056-081-350)**

Coastal Development Permit – Findings for the New Single-Family Residence

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 findings/conditions, conforms to the Local Coastal Program.

Planning Commission Findings: The proposed project is an infill house that does not interfere with the public's access to the coastal trail, beach or sea. Based on the professionally prepared biological report, report update, and comments from the Federal Department of Fish and Wildlife Services and the California Department of Fish and Game the project will not have any significant affects on the habitat located on the adjacent parcel to the north. The project has been reviewed for conformance with all policies of the Coastal Land Use Plan and has been determined to be consistent. The required buffer zone takes up almost half of the site leaving a very limited area where it would be feasible for a house to be built and provide private recreation area. Due to the fact that the site will still allow a 40-foot buffer from the adjacent coastal resource area and the fact that the specific subject site provides minimal to no habitat value the specific proposal will not have a significant impact to the adjacent resources. The following specific Coastal Act and local policies are especially noted:

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 on any artifacts that are found during construction.

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 single-family home is located within the predominantly built-out Newport Terrace neighborhood. The project site has access to existing infrastructure. The house will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Policy 3-11 (c) Establishment of Buffer Zones: *Along lakes, ponds, and other wet areas, extend buffer zones 100 feet from the high water point, except for man-made ponds and reservoirs used for agricultural purposes for which no buffer zone is designated.*

Compliance: The required biological report established the buffer zones of all coastal resource areas that are close to the subject site. One of the seasonal wetlands provides a buffer zone on the subject site but development in the buffer zone will be mitigated based on the recommendations from biological report and the Department of Fish and Game. The project will still allow a 40-foot buffer offsite, which is permitted based on the site's unique conditions and findings numbered 15-20 in this resolution. The Commission finds that the site is at least 40 feet away from the seasonal wetlands; thus, it should create an adequate buffer zone from wetlands, which are uphill from the subject site.

Policy 3-12 (a) Permitted Uses in Buffer Zones: *Within buffer zones, permit only the following uses: (1) uses permitted in riparian corridors, (2) structures on existing legal building sites, set back 20 feet from the limit of riparian vegetation, only if no feasible alternative exists, and only if no other building site on the parcel exists, (3) crop growing and grazing consistent with Policy 3-9, (4) timbering in "streamside corridors" as defined and controlled by State and County regulations for timber harvesting, and (5) no new parcels shall be created whose only building site is in the buffer area except for parcels created in compliance with Policies 3-3, 3-4, and 3-5 if consistent with existing development in the area and if building sites are set back 20 feet from the limit of riparian vegetation or if no vegetation, 20 feet from the bank edge of a perennial and 20 feet from the midpoint of an intermittent stream.*

Compliance: Subsection two of Policy 3-12(a) allows for structures on an existing legal building site that are setback at least 20 feet from the limit of riparian vegetation, if no feasible alternative exists. The subject site is legally subdivided and is zoned for single-family residence use. The residence will be approximately 60 feet away from the nearest wetland, which well exceeds the absolute minimum required 20 feet. Since findings for development in the buffer can be made for this specific project on this specific site, the buffer zone may be reduced to 20 feet. If the buffer zone is reduced based on findings numbered 15-20 it will still have an overall buffer area that is many times the size of the wetland itself. The project is a modest one-story building that does not have any other place on the site to be placed due to setback restrictions. A different two-story design without a recreational backyard and the requirement for approval of two Variances would not be feasible to meet common project objectives for an R-1-B-2 zoned parcel of approximately 8,000 square feet due to these restrictions. Since the only building site would require approval of Variances that would create an inconsistent neighborhood character there is no feasible alternative.

The Commission finds that a 20-foot buffer in this case is minimal and determines that the site is about 40 feet away providing a more realistic buffer for the unique species that may use the habitat to the north. Due to the relatively small footprint of the proposed residence, unique location and surroundings and incorporated mitigation measures, the Commission finds that the residential use will have little to no impact on the sensitive habitat nearby. Additionally, an alternative requiring two variances while providing very minimal

recreational yard space that is commonly associated with single-family residences is not feasible to meet City standards.

The site has a downward slope to the north to the rear property line and then the hill slopes upward toward the identified wetland. The fact that the site is still 40 feet away from the nearest wetland, the limited to no habitat value of the site, no possible alternative building site without approval of at least two Variances, and the unique topography from the site to the identified wetland the Commission finds that this specific proposal on this site with unique conditions is acceptable.

Policy 3-13 (a) Performance Standards in Buffer Zones: *Require uses permitted in buffer zones to: (1) minimize removal of vegetation, (2) conform to natural topography to minimize erosion potential, (3) make provision to (i.e. catch basins) to keep runoff and sedimentation from exceeding pre-development levels, (4) replant where appropriate with native and non-invasive exotics, (5) prevent discharge of toxic substances, such as fertilizers and pesticides, into the riparian corridor, (6) remove vegetation in or adjacent to man-made agricultural ponds if the life of the pond is endangered, (7) allow dredging in or adjacent to man-made ponds if the San Mateo County Resource Conservation District certifies that siltation imperils continued use of the pond for agricultural water storage and supply.*

Compliance: The site is mowed year to year for fire season weed abatement under a previously approved Coastal Development Permit obtained by the Half Moon Bay Fire Protection District. The site is dominated by non-natives plant species that provide little or no habitat value. The mowed non-native vegetation will be removed from the site. The site will be required to drain to the street to avoid all potential runoff from interfering with the adjacent wetlands. All runoff will not exceed preconstruction amounts as required by the Uniform Building Code. The mitigation measures incorporated into the conditions of approval will prevent hazardous runoff from the construction site.

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

Compliance: The conditions of approval require underground utilities and communications.

Policy 9-4: *All new development, other than development on parcels designated Urban Reserve or Open Space Reserve on the Land Use Plan Map permitted while designations are effective, shall have available water and sewer services and shall be accessed from a public street or shall have access over private streets to a public street. Prior to the issuance of a development permit, the Planning Commission or City Council shall make the finding that adequate services and resources will be available to serve the development upon its completion and that such development is located within and consistent with the policies applicable to such an area designated for development. The applicant shall assume full responsibility for costs incurred in the service extensions or improvements that are required as a result of the proposed project, or such share as shall be provided in such project would participate in an improvement or assessment district. Lack of available services or resources shall be grounds for denial of the project or reduction in the density otherwise indicated in the Land Use Plan.*

Compliance: The project has a 5/8" water connection, which is sufficient to serve a residence of this size. The property is assessed for two sewer benefit units, which is enough capacity to serve a single-family residence of this size. The Planning Commission finds that there are adequate services and resources for the development of the single-family residences.

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 project is consistent with the established growth control ordinance in Chapter 17.06 of the Municipal Code. The applicant has a valid Measure A certificate.

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 zoned R-1-B-2 (Single-Family Residential). As conditioned the project complies with all development standards including lot size, setbacks, lot-coverage, floor to area ratio and building envelope. All requirements of Chapter 18.38 (Coastal Resource Conservation Standards) and the design criteria in Chapter 18.21 of the Zoning code have been met.

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 within an existing subdivision with roads and other infrastructure serving the existing houses. One 5/8" non-priority water service connection is assigned to the property from Crystal Springs Phase 1. The property has been assessed for two benefit units, which is enough sewer capacity for one residential unit. The Commission finds that there is adequate service capacity to serve the proposed residence.

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 because it involves residential construction on an existing residential lot, does not involve new roads, does not alter existing access ways and will utilize existing access on Terrace Avenue.

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 meetings of January 21, 2004 and March 3, 2004, and the ARC made the necessary finding with the condition that the driveway is constructed on concrete and not asphalt.

Environmental Review – Findings

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

Planning Commission Findings: This project proposes the development of a new single-family residence and receives a Categorical Exemption under California Administrative Code 15303(a) new construction of single-family residences. The biological report prepared for the project was sent to the required local, State, and Federal agencies and not one of the notified agencies, including the Federal Department of Fish and Wildlife Services and the California Department of Fish and Game, implied that there would be a significant impact to the environment from the proposed project.

Exception to Height Standards - Findings

8. **Increased Building Height** – That the increased building height will result in more public visual open space and views than if the building was in compliance with the maximum building height for a two-story structure in the neighborhood.

Planning Commission Findings: The front of the single-story house is at sidewalk level and will block less views than would a two-story house. The increased height of the building pad at the rear of the site is an engineering necessity to ensure proper drainage since the lot slopes to the rear. The height increase will allow the project to meet the manufactured home requirement of a 20-inch foundation above finished grade.

9. **More Desirable Result** – That the increased building height will result in a more desirable architectural treatment of the building and a stronger and more appealing visual character of the area than if the maximum building height for a two-story structure in the neighborhood were complied with.

Planning Commission Findings: The adjacent house is a one-story building that is downhill from the subject site. Without the Height Exception the proposed project would be lower than the downhill house creating an odd neighborhood roofline and will not appear to be below the grade of Terrace Avenue.

- 10. No Undesirable Results** – That the increased building height will not result in undesirable or abrupt scale relationships being created between the structure and existing development in the district.

Planning Commission Findings: In the past we have found that allowing more height for single-story residences allows for more diversity of design and negates the desire to build a two-story residence. The scale and height of the residence will fit it with the houses in the surrounding neighborhood.

- 11. No More Floor Area** – The structure shall have no more floor area than could have been achieved without the Exception.

Planning Commission Findings: The additional height is requested for the rear of the structure to provide a flat building pad on a slightly sloping lot. The City generally discourages flat building pads on lots with steep slopes, but since the subject site has a slope of less than 5% a flat building pad is acceptable in this case. There will be no more floor area than could have been achieved without the Exception.

Variance – Findings Needed For Height Exception Although No Variance is Required

- 12. 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 project site is located near seasonal wetlands and the Height Exception will allow a higher building pad and finished lot grade that will deter any runoff from the single-family home site onto the sensitive wetland area to the north. Due to the location of the lot a Height Exception is warranted.

- 13. 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: The Height Exception is necessary to insure that there is proper drainage on the site. Due to the minimum slope of the lot and the slope of Terrace Avenue the project necessitates a Height Exception to avoid flooding of the residence during heavy rainfall. The Height Exception will allow the property owner to avoid this problem and will provide continual enjoyment of the property.

- 14. 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 additional height to the building pad of this single story house will not obstruct any more views from the neighboring houses and will not be detrimental or injurious to the public health, safety, or general welfare of the neighborhood.

Development within Wetland Buffer Zones – Findings

The following findings shall be supported by the contents of the required Biological Report and commented upon by various Federal, State, and Local agencies.

15. Special Circumstances – There are special circumstances or conditions affecting the property.

Planning Commission Findings: The project applicant's intent to build a single-family residence is consistent with current development in the project area. The overall lot size (75 feet wide by 107.5 feet deep) does not offer much flexibility in terms of locating the proposed residential structure further to the south (towards Terrace Avenue) while still maintaining a recreational yard area. The project applicant is willing to move the residence further to the south with a two story building, but this alternative would require a Variance to the front setback and Maximum Building Envelope and would provide very limited useable rear yard area.

The Commission finds that the site is very unique in the fact that it provides minimal habitat value and will still leave more than 40 feet for a buffer zone. The site slopes downward to the back of the property and once at the rear of the property it slopes back upward toward the identified wetlands. The unique slope of the lot and up to the wetlands provides a situation that may prevent an expansion of the wetlands up onto the property. The project encroachment is limited, still leaving a 40-foot buffer zone off site. The coastal resource buffer zone has placed a special circumstance on the property and the modest one-story residence will not have a significant impact to the adjacent habitat areas. Because of these factors the Commission finds that the special and unique circumstances of the subject site along with the specific proposal under consideration warrant the exception to the buffer zone standards. The Commission's decision is not precedential, and does not mandate similar action on the part of the Planning Commission for any future project in the area (*Miller v. Board of Supervisors of Santa Barbara County* (1981) 122 Cal.App.3d 539).

16. Permitted Activity – The project is necessary for the proper design and function of some permitted or existing activity on the property.

Planning Commission Findings: Residential houses already exist along the majority of Terrace Avenue and the remaining undeveloped lots, including the project site, are zoned for the use of single-family residences and have all required infrastructure in place. The R-1-B-2 zoning permits the proposed single-family residence. Since the site is a residentially zoned infill parcel and still provides a minimum of a 40-foot buffer zone from the adjacent coastal resources it will allow for an adequate buffer reduction and the proposal to be built as conditioned. This specific building site and project proposal has been evaluated by the Department of Fish and Game and, based on this evaluation, the Commission finds that this site and project as conditioned will ensure the function of the permitted use on the property.

17. Public Welfare – The project will not be detrimental to the public welfare or injurious to other property in the area in which the project is located.

Planning Commission Findings: The proposed residential structure will be constructed in compliance with all requirements of the Uniform Building Code. The placement or type of project will not be detrimental to the public welfare of adjacent property owners or the coastal resource areas to the north. This specific building site and project proposal has been evaluated by the Department of Fish and Game and, based on this evaluation, the Commission finds that this site and project will not have a significant effect on the wetlands to the north. Moreover, this finding is not precedential, and the Commission will not use this evaluation as a basis for permitting development on surrounding lots in the area. The Department and Fish and Game did not review any adjacent sites for the purposes of development on the surrounding parcels. The Commission finds that the biological report recommendation and the Department of Fish and Game comments are directly related to this lot and proposed projects and cannot be used in the evaluation of proposed development on adjacent properties, which may create substantial impacts to the coastal resources that are not found here.

- 18. Adversely Impact Habitat** - The project will not significantly reduce or adversely impact the sensitive habitat, or there is no feasible alternative which would be less damaging to the environment.

Planning Commission Findings: The construction of the single-family residence will not significantly impact the nearby wetlands, nor the riparian habitat associated with the earthen-lined drainage facility. The location of the house itself will be approximately 60 feet away from the nearest wetland. The project will still provide a minimum of a 40-foot buffer zone and the site is not completely within the minimum required 100-foot buffer zone. The lot has unique topography in relation to the identified wetlands, which will help preserve the valuable habitat to the northeast of the site. Construction activities will be limited to the project site itself and no direct impacts to these sensitive habitats are expected. Nonetheless, a construction fence will be on the northern property line to protect the wetlands from any potential indirect impacts. Additionally, the house will be a manufactured home, which will also minimize the amount of construction that will occur onsite. The Commission further finds that the relatively small building footprint and the one-story design will not have a significant impact to the identified adjacent coastal resource areas. The Department of Fish and Game has evaluated the project and visited the project site and determined that the project will not constitute a take of any species of environmentally sensitive habitat area.

- 19. Objectives of the L.C.P.** - The project is in accordance with the purpose of this Chapter and with the objectives of the L.C.P. Land Use Plan.

Planning Commission Findings: As shown by the policies listed above the project does not conflict with the intent of the L.C.P./Land Use Plan.

- 20. 20-Foot Buffer** - Development on a property, which has its only building site located in the buffer area, maintains a 20-foot buffer from the outer edge of any wetland.

Planning Commission Findings: The proposed structure cannot be sighted to completely avoid the 100-foot buffer zone. Given the dimensions of the lot and the need to conform

the location of the house to the other residences along Terrace Avenue, the owner has done all that is feasible to reduce the project's encroachment into the buffer, including maintaining a pervious surface in the backyard. The edge of the property is approximately 40 feet from the nearest wetland and the residence is proposed to be approximately 60 feet away from the same wetland. The project location well exceeds the absolute minimum of 20 feet that is required by this finding. As the buffer zone may be reduced to 20 feet if findings numbered 15-20 of this resolution can be made, it will remove the buffer zone from the subject site and still provide a buffer zone off site that is many times larger than the relatively small wetlands near the subject site.

The Commission finds that this finding allows the minimum required 100-foot buffer zone to be reduced to 20 feet, but in this case it is important to maintain at least a 40-foot buffer zone since examination of the site with the wetlands was not granted by the owners of that property. Except for the far northeast corner of the site there is at least a 50-foot buffer from the rest of the lot, which is equal to the minimum required buffer zone for perennial streams. The unique topography and special circumstances that apply to this particular lot allow the residentially permitted use without severe impacts to the adjacent resources.

**EXHIBIT B
CONDITIONS OF APPROVAL
PDP-051-06**

**Coastal Development Permit and Height Exception for a One-Story Single-Family
Residence Located at 684 Terrace Avenue (APN 056-081-350)**

Authorization: Approval of this permit authorizes development of a one-story, single-family dwelling of approximately 2,935 square feet of floor area on APN 056-081-350 as shown on plans with City date stamp of March 12, 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 March 12, 2007 except for any changes that may be required by these conditions of approval. 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)

PDP-051-06
Planning Commission Final Resolution P-10-07, March 22, 2007

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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 CAPACITY. The applicant shall demonstrate issuance of a sewer permit from the City of Half Moon Bay or Granada Sanitary District. ____
(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 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. Applicant shall not provide concentrated discharge or additional run off to adjacent properties to the north or west. Applicant shall provide appropriate measures to maintain current flow patterns and flow amounts. No additional drainage amount or altered flow patterns that create additional water shall take place in the coastal resource buffer zone than currently exists. ____ (Public Works/Building)
10. FIRE SPRINKLERS. As per Fire District ordinance, the applicant is required to install an automatic fire sprinkler system throughout the proposed or improved dwelling. All areas that are accessible for storage purposes shall be equipped with fire sprinklers. The plans for this system must be submitted to the City of Half Moon Bay Building Division. A building permit will not be issued until plans are received, reviewed, and approved. Upon submission of plans, the 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. 13. 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 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 existing street or road. _____ (Building)
14. EXTERIOR MATERIALS TO FINISHED GRADE. The exterior materials used for the residence must be extended all the way down to the finished grade. The plans submitted with a building permit application shall reflect this condition. ____ (Planning)
15. NO REAR YARD HARDSCAPE OR STRUCTURE DEED RESRICTION. The applicants shall provide notarized signatures on a deed restriction provided by the City that restricts any permanent rear yard hardscape (i.e. concrete, wood, etc.) or structures. The rear yard must be made up of plant materials. The only acceptable permanent placement of solid materials is a fence surrounding the property and the rear yard door concrete entry step. The deed restriction shall be recorded at the San Mateo County Recorder's Office prior to the issuance of a building permit. ____ (Planning)
16. NO GRADING BEFORE MAY OR AFTER SEPTEMBER. Due to the potential for unique species close to the site it is important that construction or grading of any kind does not start before the middle of May or after the middle of September. No building permit for the project site shall be issued before the month of May or after the month of September. _____ (Planning)
17. DRIVEWAY MATERIALS. The driveway must be constructed with concrete. No blacktop asphalt shall be allowed in the construction of the driveway. The plans submitted with a building permit application shall reflect this condition. ____ (Planning)

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

1. INSTALLATION OF HABITAT PROTECTION FENCE. **Prior to construction** the fence shall be constructed of overlapping panels of 4 x 8 plywood, installed with the bottom edge buried a minimum of 6" to 12" below grade and anchored with steel T- posts on the inside, to prevent snakes from climbing into the enclosure. Any gaps at the base will be covered

with soil; no gaps larger than 0.25 inch will remain. No silt fencing or erosion control blankets will be used in the area of the exclusion fence because they present an entrapment hazard. The fence shall be installed at the north and east property lines.

One-way exit funnels built to the above design will be installed with the fencing to allow snakes and frogs to leave the enclosure but not return. Funnels will be constructed with 1/8-inch hardware cloth and will be installed so that the wider opening is flush with the ground surface inside the fence, and the narrow exit opening will be no more than 2 inches off the ground on the outside of the fence. The exit funnel shall be 9 inches tall by 18 inches wide. Elevation of the exit opening will be sufficient to prevent re-entry of snakes and/or frogs. The fence shall be constructed along the northern and eastern property lines before any activities take place and the project will not receive any progress inspections until this condition is complied with. Grading and construction shall start immediately after the construction fence is in place. ____ (Planning/Building) **Compliance with this condition is not necessary if the applicant decides to construct the permanent fence, as outlined in condition C-13, prior to construction.**

2. **PRECONSTRUCTION ONSITE-BIOLOGIST EDUCATION/BIOLOGIST SIGNOFF.** **Prior to construction** a qualified biologist should hold a worker education training session at the beginning of the work to familiarize workers with the behavior of red-legged frogs and SF garter snakes, as well as what actions should be taken should one of the species be sighted in the work area. The biologist should prepare written materials so that new employees to the site can receive the information as well. The biologist must prepare a brief report that clearly indicates that he/she has made sure that conditions B-1 or C-13 and B-2 have been complied with prior to construction. ____ (Planning)
3. **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. _____
 - 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)
4. **DRAINAGE PLAN IMPLEMENTATION.** All drainage from the lot shall drain towards the public right-of-way roadway 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. If required, approved drainage BMP's shall be permitted by Public Works Department for drainage within the right(s)-of-way fronting the project for drainage to move unobstructed along the right(s)-of-way. _____ (Building/Public Works)
5. **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)
6. **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)
7. **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 from the site within 10 days of issuance of a Certificate of Occupancy or final inspection, whichever occurs first. The construction trailer may be converted to a sales office upon approval of a Use Permit. _____ (Building/Planning)
8. 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)
9. 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)
10. 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 top of the curb or the centerline crown of the roadway when no curb exists. _____ (Building)
11. 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 elevation specified in the approved plans. _____ (Building)
- C. The following must be fulfilled prior to Occupancy:**
1. INSTALLATION OF STREET TREES. One street tree shall be installed on the property's street frontage(s) and between the curb and sidewalks or on the private property immediately adjacent to the street right-of-way, whichever is preferred by the Public Works Department. The tree 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. 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. **REPLACEMENT OF DAMAGED RIGHT-OF-WAY IMPROVEMENTS.** The applicant shall replace all damaged curb, gutter, sidewalk and street pavement in front of the project site. Remove the unused driveway and replace it with a new sidewalk. ____ (Public Works)
10. **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)

11. **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)
12. **EXTERIOR BUILDING COLORS AND MATERIALS.** Exterior colors and materials shall be in substantial compliance with those shown on the color and materials board approved by the Architectural Review Committee (ARC) on March 3, 2004 for PDP-86-03. ____ (Planning)
13. **PERMINANT HABITAT PROTECTION/SEPARATION FENCE.** A twelve-inch tall masonry wall shall be constructed along the northern and eastern property lines. The northern masonry wall shall have one one-way habitat funnel in the center and the eastern portion of the wall shall have two one-way habitat funnels approximately 40 feet apart. One-way exit funnels will be installed with the fencing to allow snakes and frogs to leave the enclosure but not return. Funnels will be constructed with 1/8-inch hardware cloth and will be installed so that the wider opening is flush with the ground surface inside the fence, and the narrow exit opening will be no more than 2 inches off the ground on the outside of the fence. The exit funnel shall be 9 inches tall by 18 inches wide. Elevation of the exit opening will be sufficient to prevent re-entry of snakes and/or frogs.

There shall be a 3-5 foot fence constructed on top of the masonry twelve-inch wall in the same along the northern and eastern property lines. The total height of the fence and masonry portions of the wall shall not exceed what is permitted by Section 18.06.040(C) the Half Moon Bay Zoning Code. ____ (Planning)
14. **CANCELLATION OF STATE REGISTRATION.** Whenever a manufactured home is installed on a permanent foundation, any registration of said manufactured home with the State of California shall be canceled, pursuant to state laws and regulations. Before any occupancy certificate may be issued for use of such a manufactured home, the owner shall provide to the Building Official satisfactory evidence showing that the state registration of the manufactured home has been canceled; if the manufactured home is new and has never been registered with the state, the owner shall provide the Building Official with a statement to that effect from the dealer selling the home. ____ (Building/Planning)
15. **EXTERIOR MATERIALS TO FINISHED GRADE.** The exterior materials used for the residence must be extended all the way down to the finished grade. ____ (Planning)
16. **DRIVEWAY MATERIALS.** The driveway must be constructed with concrete. No blacktop asphalt shall be allowed in the construction of the driveway. ____ (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 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.
3. **ENCROACHMENTS NOT AUTHORIZED.** The property owner shall ensure that landscaping or fencing does not encroach into the right-of-way or any public easements, except for any street trees authorized by this permit.
4. **NO REAR YARD HARDSCAPE OR STRUCTURE.** The rear yard must be made up entirely of plant materials. Acceptable placement of permanent solid materials is a fence surrounding the property and the rear yard door concrete entry step. ____ (Planning)

E. Validity and Expiration of Permits

1. **EFFECTIVE DATE.** The Coastal Development Permit and Height Exception 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. **CDP AND HEIGHT EXCEPTION EXPIRATION.** The Coastal Development Permit and Height Exception 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.
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.

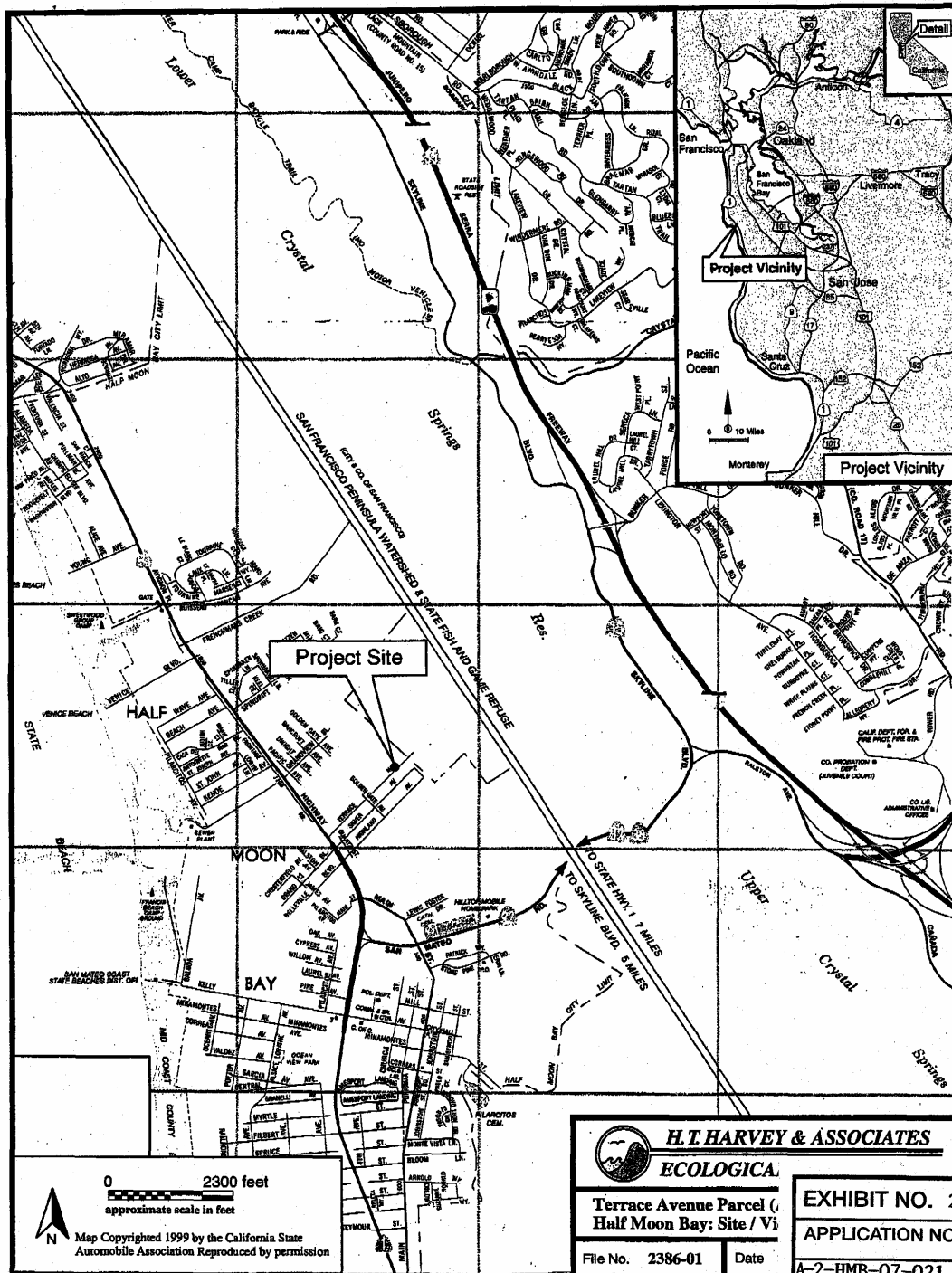
OWNER'S/PERMITEE'S CERTIFICATION:

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):

(Signature)

(Date)



Amended: 11-23-05



City of Half Moon Bay

Planning Department
 501 Main Street Half Moon Bay CA 94019
 Phone: 650.726.8250 / Fax: 650.726.8261

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PLANNING PERMIT APPLICATION FORM

Prior to submittal of planning permit application form, please inquire about a **Pre-application Meeting** with planning staff. Please call (650) 726-8250 to make an appointment.

Property Owner

Name SASO CRNUGELJ-GALE
 Signature Saso Crnugelj Gale
 Mailing Address 316 VAN BUREN #9, MONTEREY CA 93940
 Phone (W) 831-658-0359 (Fax) same

Project Applicant or Applicant's Representative (if different from Owner)

Name _____
 Mailing Address _____
 Phone (W) _____ (Fax) _____

Subject Property

If the subject property has no physical street number, locate the property in relation to its frontage street and nearest cross street

Address: 684 Terrace Ave, Half Moon Bay
 APN: 056-081-350
 Zoning District: R-1-B2
 Existing Use: Vacant land
 Proposed Use _____
 Proposed Development: Single-family 2-story house

Permit(s) Requested (Check where applicable)

- | | |
|--|---|
| <input type="checkbox"/> Temporary Use Permit | <input type="checkbox"/> Lot Merger |
| <input checked="" type="checkbox"/> Coastal Development Permit | <input type="checkbox"/> Exception for |
| <input type="checkbox"/> Use Permit | <input checked="" type="checkbox"/> Variance to <u>FRONT SETBACK, MAX BUILDING ENVELOPE</u> |
| <input type="checkbox"/> ARC Review (w/o CDP) | <input type="checkbox"/> Tentative Parcel Map |
| <input type="checkbox"/> Site & Design Permit | <input type="checkbox"/> Tentative Subdivision Map |
| <input type="checkbox"/> Lot Line Adjustment | <input type="checkbox"/> Environmental Review |

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 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 processing or 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. The applicant understands that there is a possibility of litigation and Coastal Commission enforcement act regarding the current Zoning Code provisions that apply to this application; the City makes no representations or warranties about the outcome of such actions or how they might impact the processing of this application or any permit issued based on this application.

Government Code Section 65105. Entry on land by planning agency personnel - In the performance of their duties, planning agency personnel may enter upon any land and make examinations and surveys, provided that the entry and surveys do not interfere with the use of the land by those persons lawfully entitled to the use thereof. SCG Owner(s) Initials

Signature of Applicant Saso Crnugelj Gale Date 11/14/2006

All applications must be submitted between 8:30AM and 1:00PM Monday through Friday

EXHIBIT NO. 3
APPLICATION NO.
A-2-HMB-07-021 (GALE)
Applicant's 11/14/06 CDP Application to HMB

(page 1 of 2)

Amended 11-23-05

	<p>City of Half Moon Bay Planning Department 501 Main Street Half Moon Bay CA 94019 Phone: 850.726.8250 / Fax: 650.726.8261</p>
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AFFIDAVIT of APPLICATION MATERIALS

I understand that the City is required by law to notify all those property owners within 300 feet that are shown on the latest assessment roll of the County of San Mateo. It is the responsibility of the applicant to list the names and addresses of those property owners on mailing labels and include them with your application submittal.

I, SASO CRNUGELJ-GALE hereby certify that I have read and understood this Affidavit of Certified Property Owners List. I understand that it is the Applicant's responsibility to provide all materials necessary for a complete application; and that processing will not proceed until application is complete.

I certify that all information provided by applicant is true and correct regarding application and proposed project.

I understand that erroneous information may be grounds for denial or modification/revocation of approved project.

Signed Saso Crnugelj-Gale Date 11/14/2006

Name of Owner SASO CRNUGELJ-GALE

Address 316 VAN BUREN #9, MONTEREY CA 93940

Telephone (day) 831-658-0359

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Exhibit 3
A-2-HMB-07-021
Page 2 of 2

CONTRACTOR: RAY SCHMIDT COASTAL HOME SOLUTIONS 1800 PERRIS ROAD FOUNTAIN VALLEY, CA 92707 (951) 663-1114 FAX (951) 663-1118		APN: 084-08-01-810 ADDRESS: SAND CREEK-JOHN VERONA GOLF 1401 HORN WAY, CA 94040 (708) 450-1100	
DATE: 01.23.03 DRAWN: RLS CHECKED: [] TITLE: EXTERIOR ELEVATIONS		3.1	

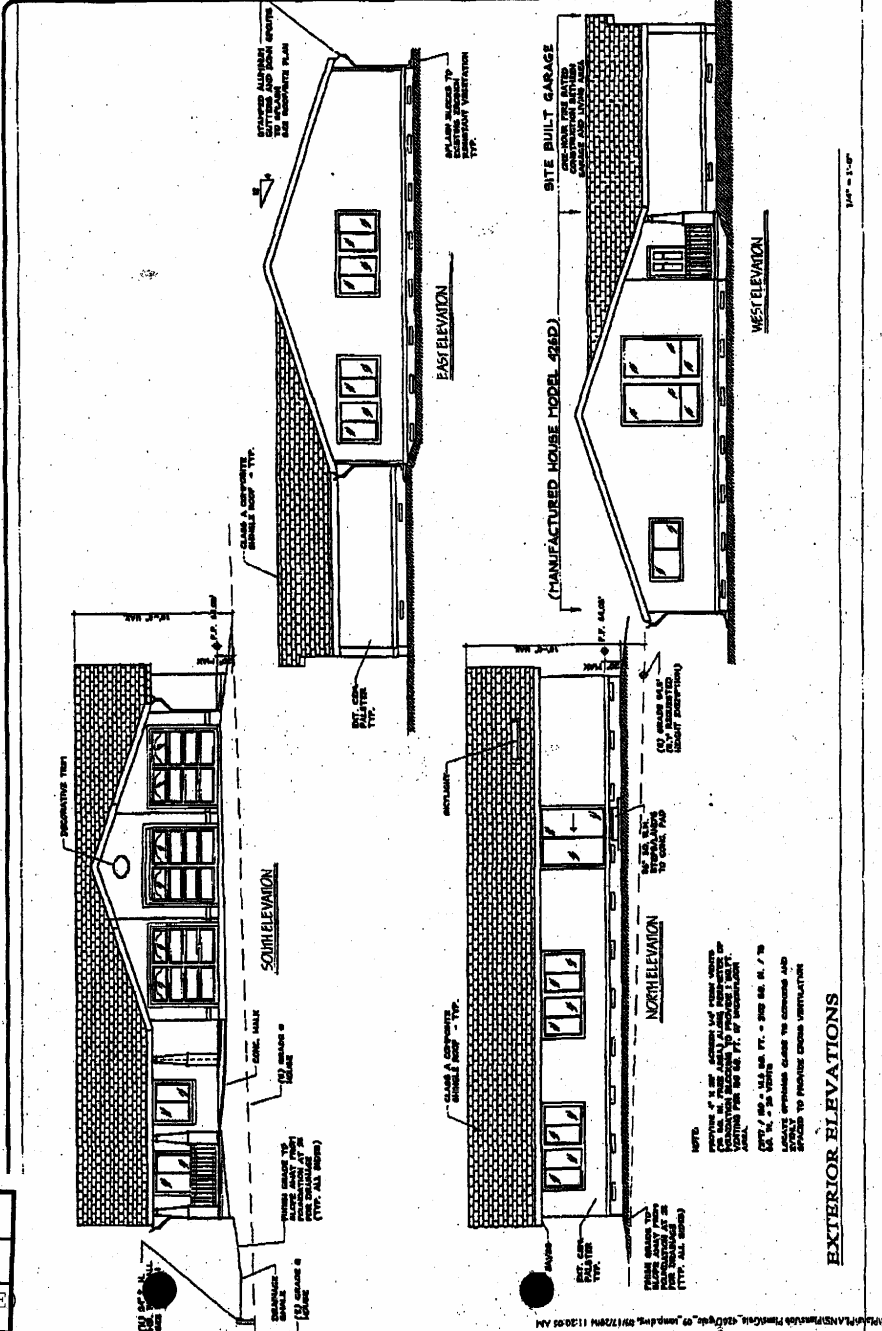


EXHIBIT NO. 4
 APPLICATION NO.
 A-2-HMB-07-021 (GALE)
 Project Plans of Approved
 Proposed Development
 (Page 1 of 3)

Attachment 4

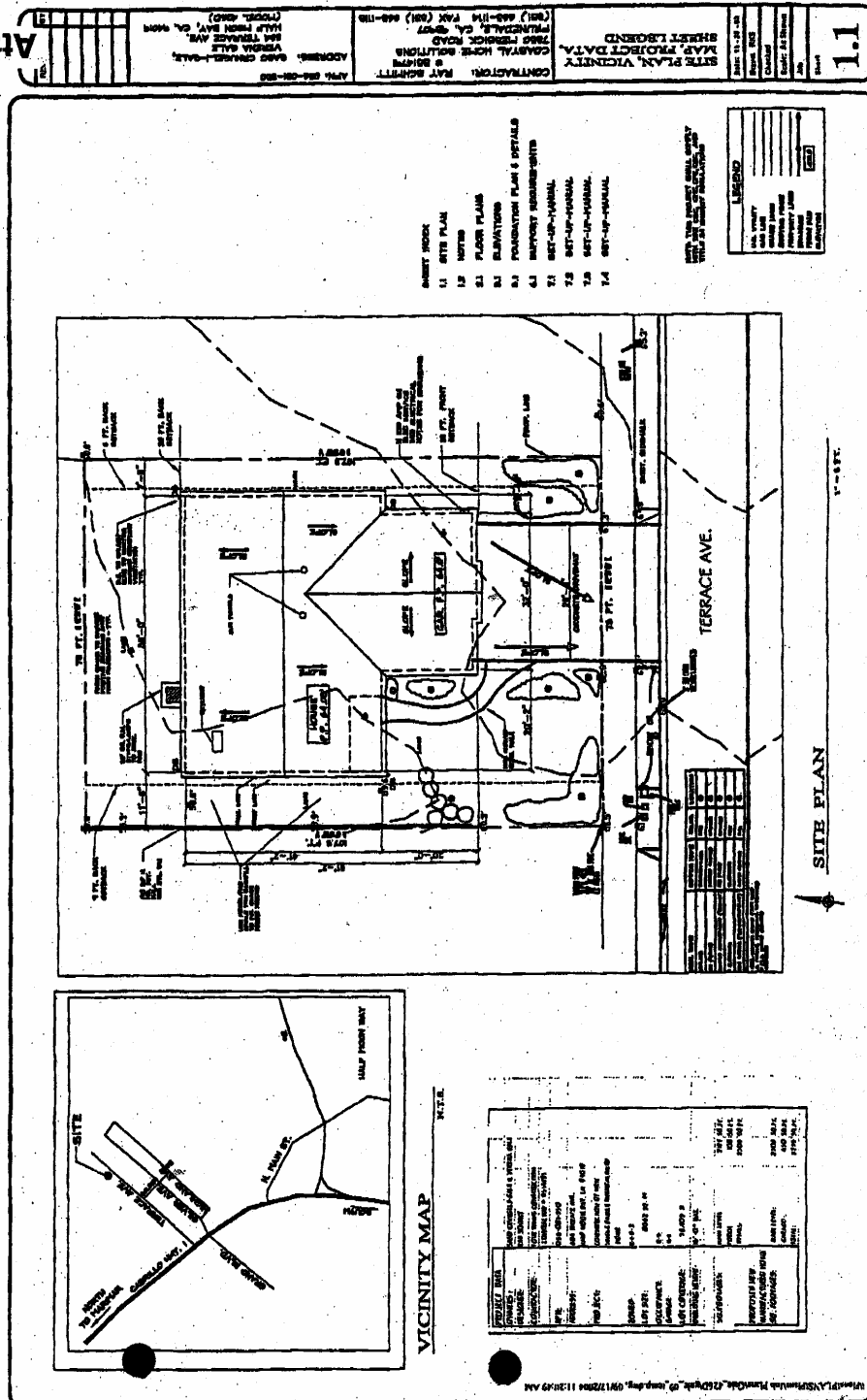


Exhibit 4
 A-2-HMB-07-021
 Page 2 of 3

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Coastal Home Solutions In 831 5631118

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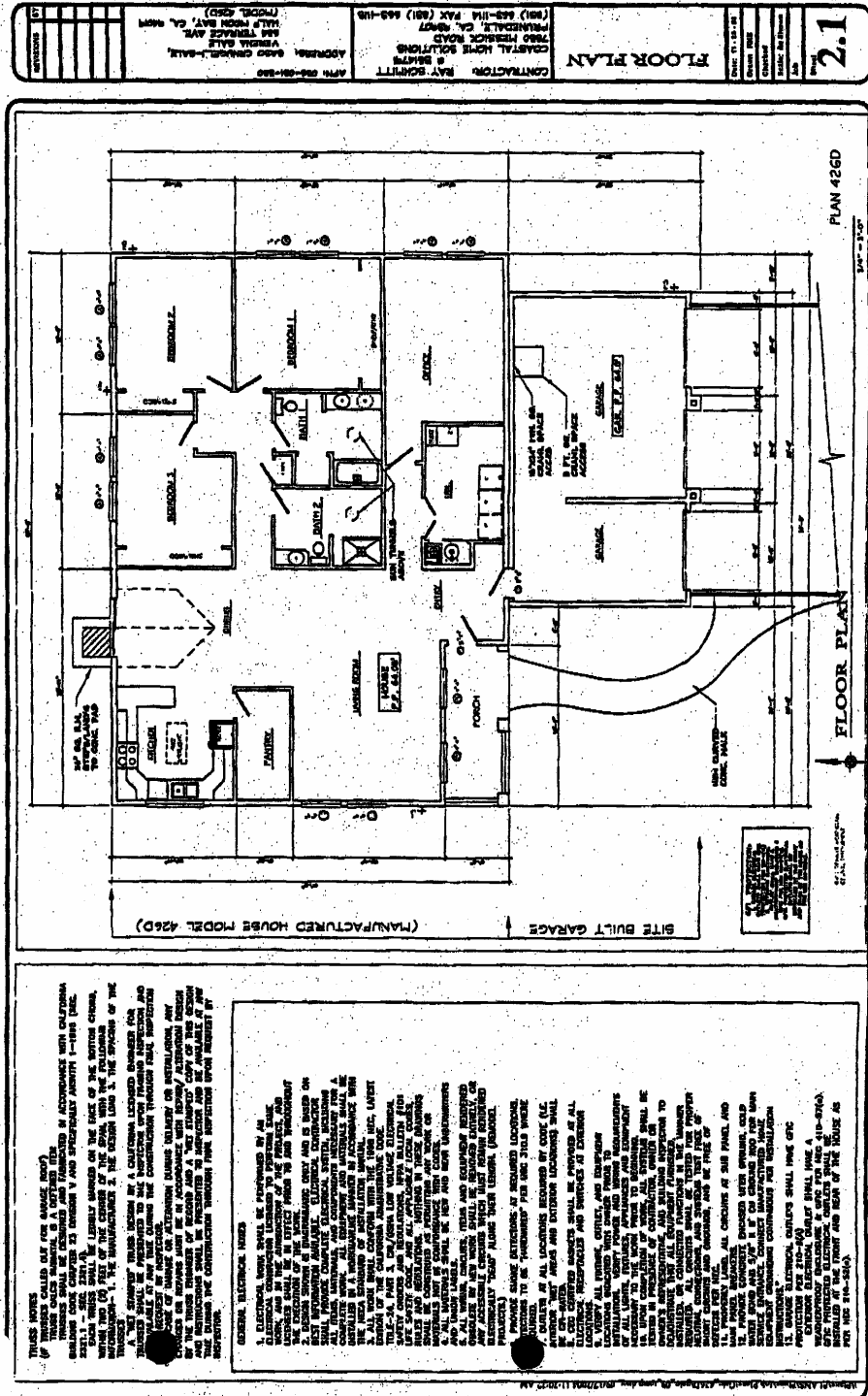


Exhibit 4
A-2-HMB-07-021
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EXTERIOR ELEVATIONS

WEST ELEVATION

NORTH ELEVATION

SOUTH ELEVATION

EAST ELEVATION

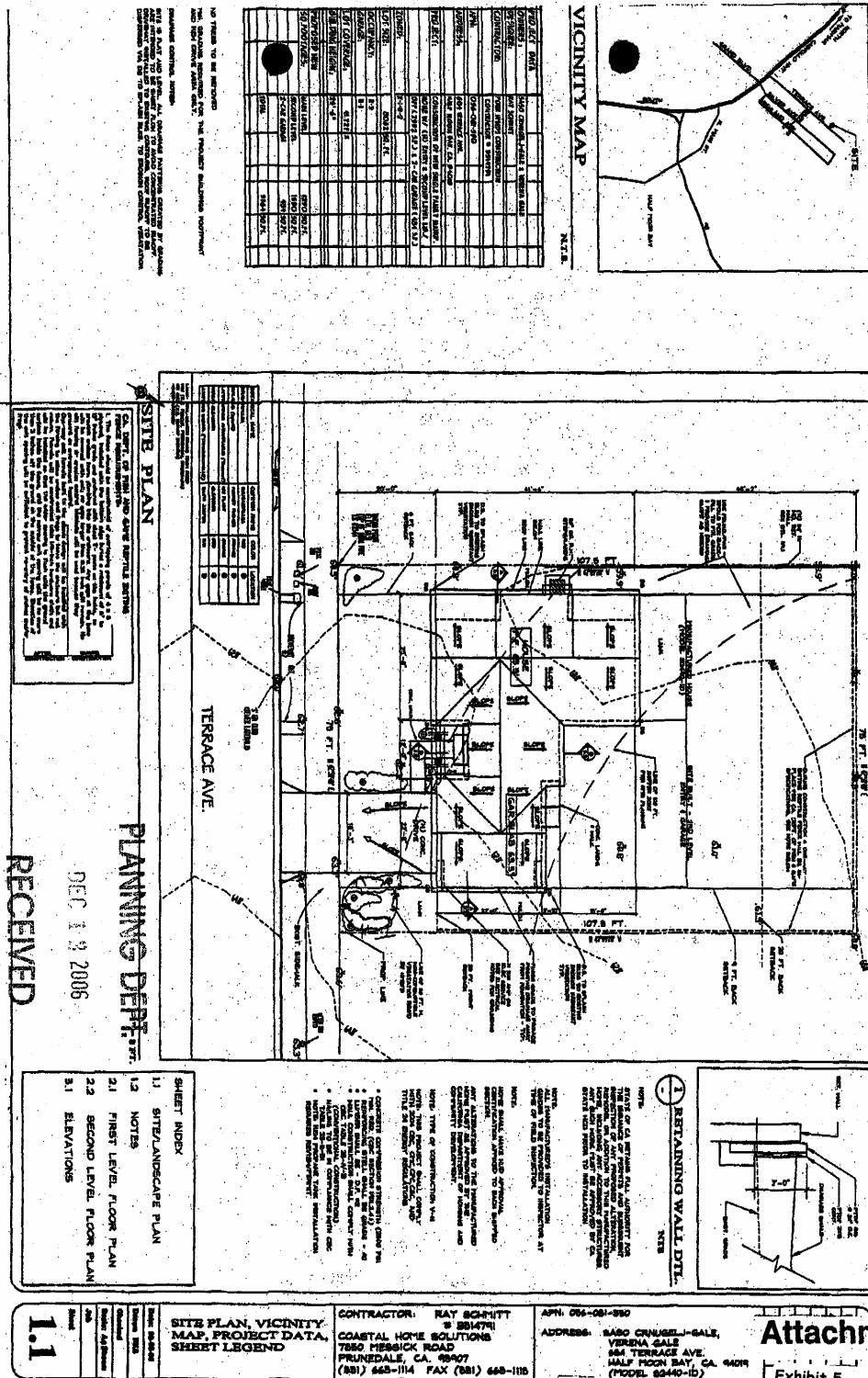
MANUFACTURED HOUSE (MODEL 82440-1D)

SITE SHED 1 - 2ND LEVEL

SITE SHED 2 - 2ND LEVEL

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3.1	EXTERIOR ELEVATIONS	CONTRACTOR: RAY SCHMITT # 8814781 COASTAL HOME SOLUTIONS 7850 MESSICK ROAD FRIEDLAND, CA, 95907 (916) 665-1114 FAX (916) 665-1118	APN: 056-081-990 ADDRESS: BABO CRUZEIRI-GALE, VERENA GALE 484 TERRACE AVE. HALF MOON BAY, CA, 940 (MODEL 82440-1D)
	EXHIBIT NO. 5 APPLICATION NO. A-2-HMB-07-021 (GALE) Project Plan for Two-story House Design		



Attachment 3

Exhibit 5
 A-2-HMB-07-021
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BUILDING SECTIONS

BUILDING SECTION AA

BUILDING SECTION AA

3.2	BUILDING SECTIONS	CONTRACTOR: RAY SCHMITT # 8814781 COASTAL HOME SOLUTIONS 7880 MESSICK ROAD PRUNEDALE, CA 95967 (916) 648-1114 FAX (916) 648-1118	APN: 056-081-890 ADDRESS: GABO CRUNIGEL-GALE, YERENA GALE 684 TERRACE AVE. HALF MOON BAY, CA 94041 (MODEL: 82440-10)
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EXHIBIT NO. 6
APPLICATION NO.
A-2-HMB-07-021 (GALE)
Photos of site and Surrounding (Page 1 of 2)



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July 14, 2006

PLANNING DEPT.

JUL 18 2006

RECEIVED

Sage Schaan
Planning Department
City of Half Moon Bay
501 Main Street
Half Moon Bay, CA 94019

Re: 684 Terrace Avenue Biological Report Update (HTH project #2386-02)

Mr. Schaan,

This letter contains the findings of our site visits as they relate to the initial Biological Resources Assessment we prepared in September 2004, an evaluation of the revised site plan, and a response to the comments provided by the California Department of Fish and Game.

Site Visits

In early July 2006, the site was re-visited by H.T. Harvey & Associates' botanist Brian Cleary and wildlife ecologist Laird Henkel. For this visit, access to the adjacent Beachwood Subdivision site was not granted. The project site was re-assessed for its potential to support habitat for rare and endangered plant species and/or unique plant species per the City of Half Moon Bay's zoning code (Section 18.38.035). Their site visits confirmed that the findings in our report of September 2004 are still valid, with two exceptions.

First, there have been a couple of updates to the CNDDB and an updated map has been provided (Figure 1). However, none of these additions affect the application in question.

Secondly, an additional potential seasonal wetland was detected (Wetland D, Figure 2). Permission for access to the adjacent Beachwood Subdivision property in order to examine the wetlands that might occur there was not granted for the purpose of this current study. Therefore, in order to map and describe all sensitive habitats, riparian areas and wetlands located on, or within, 200 feet of the project site, site conditions were observed from the northern boundary of the Terrace Avenue parcel or from vantage points due east within the adjacent undeveloped parcel along Terrace Ave. This new potential wetland area does not affect the 100-foot setback on the subject parcel, which has been updated on the revised figure (Figure 2).

EXHIBIT NO. 7
APPLICATION NO.
A-2-HMB-07-021 (GALE)
BIOLOGICAL ASSESSMENT

Page 1 of 24

Site Plan Evaluation

The proposed building location submitted to us in your letter dated June 6, 2006 represents a decrease in the potential impacts to adjacent sensitive resources. The revised site plan has the home positioned just outside the 100-foot setback, thereby eliminating the encroachment of the new structure from the wetland setback area.

CDFG Comments

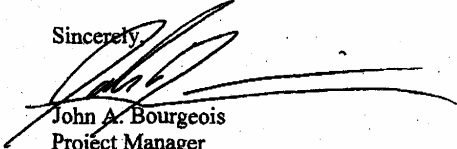
In an email to you from CDFG biologist Dave Johnston dated November 10, 2004, he suggests 3 additional measures to reduce the possibility of "take" of California red-legged frogs or San Francisco garter snakes. These measures are briefly summarized below:

1. Recommends plywood be used for the exclusion fence, with one-way exit funnels installed within the fence.
2. Burrows should be excavated by a qualified biologist.
3. A qualified biologist should hold a worker training session prior to commencement of work.

We concur with these recommendations, as they seem reasonable to reduce the possibility of "take."

We hope you find these comments useful for your planning purposes. Please do not hesitate to contact me with further comments or questions.

Sincerely,



John A. Bourgeois
Project Manager

Cc: DDS, file 2386-02

Exhibit 7
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Page 2 of 24

H. T. HARVEY & ASSOCIATES





PLANNING DEPT.

SEP 10 2004

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**TERRACE AVENUE PROPERTY (APN 056-081-350)
BIOLOGICAL REPORT
HALF MOON BAY, SAN MATEO COUNTY**

Prepared by

H. T. HARVEY & ASSOCIATES

Patrick Boursier, Ph.D., Principal
Mary Bacca, M.S. Project Manager
Laird Henkel, M.S. Wildlife Biologist

Prepared for:

Mr. Saso Crnugelj-Gale
316 Van Buren #9
Monterey, California 93940

September 7, 2004

Project Number 2386-01

Exhibit 7
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3150 Almaden Expressway, Suite 145 • San Jose, CA 95118 • (408) 448-9450 • Fax: (408) 448-9454

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EXISTING CONDITIONS

The Terrace Avenue project site (APN 056-081-350) is located in the City of Half Moon Bay, San Mateo County (Figure 1). The parcel is 75 feet by 107.5 feet and the limits of the proposed residential structure are staked with story poles. The majority of the lots along Terrace Avenue have been developed with homes. An existing home is located immediately west of the project site and additional homes are situated across the street (south of the site). The proposed Beachwood Subdivision property is located immediately adjacent to (north of) the existing lots along the north side of Terrace Avenue.

Topography of the site supports a very slight east to west gradient. The site is underlain by the Farallone coarse sandy loam, over coarse sands, gently sloping, seeped soil phase (Soil Conservation Service; SCS 1961). The sandy nature of the subsoil supports rapid permeability and thus, this soil has a low-water holding capacity.

The Terrace Avenue project site is dominated by a single biotic habitat that is characterized by non-native herbaceous vegetation such as wild oats (*Avena fatua*), soft brome (*Bromus hordeaceus*), ripgut brome (*Bromus diandrus*) and wild radish (*Raphanus sativus*).

The non-native herbaceous habitat on the property is likely to support a very low abundance and diversity of wildlife species. Although the parcel is adjacent to a substantial amount of open space, the site itself provides very poor habitat for wildlife. The lack of vegetation on-site rules out most wildlife species, most of which require some form of cover from predators. The site may support a few small mammals, such as the California vole (*Microtus californicus*) and Botta's pocket gopher (*Thomomys bottae*), and small reptiles such as the western fence lizard (*Sceloporus occidentalis*) and western terrestrial garter snake (*Thamnophis elegans*). The property is not likely to support any nesting birds, but some common birds, such as the Mourning Dove (*Zenaida macroura*), White-crowned Sparrow (*Zonotrichia leucophrys*) and Brewer's Blackbird (*Euphagus cyanocephalus*) may occasionally forage on-site.

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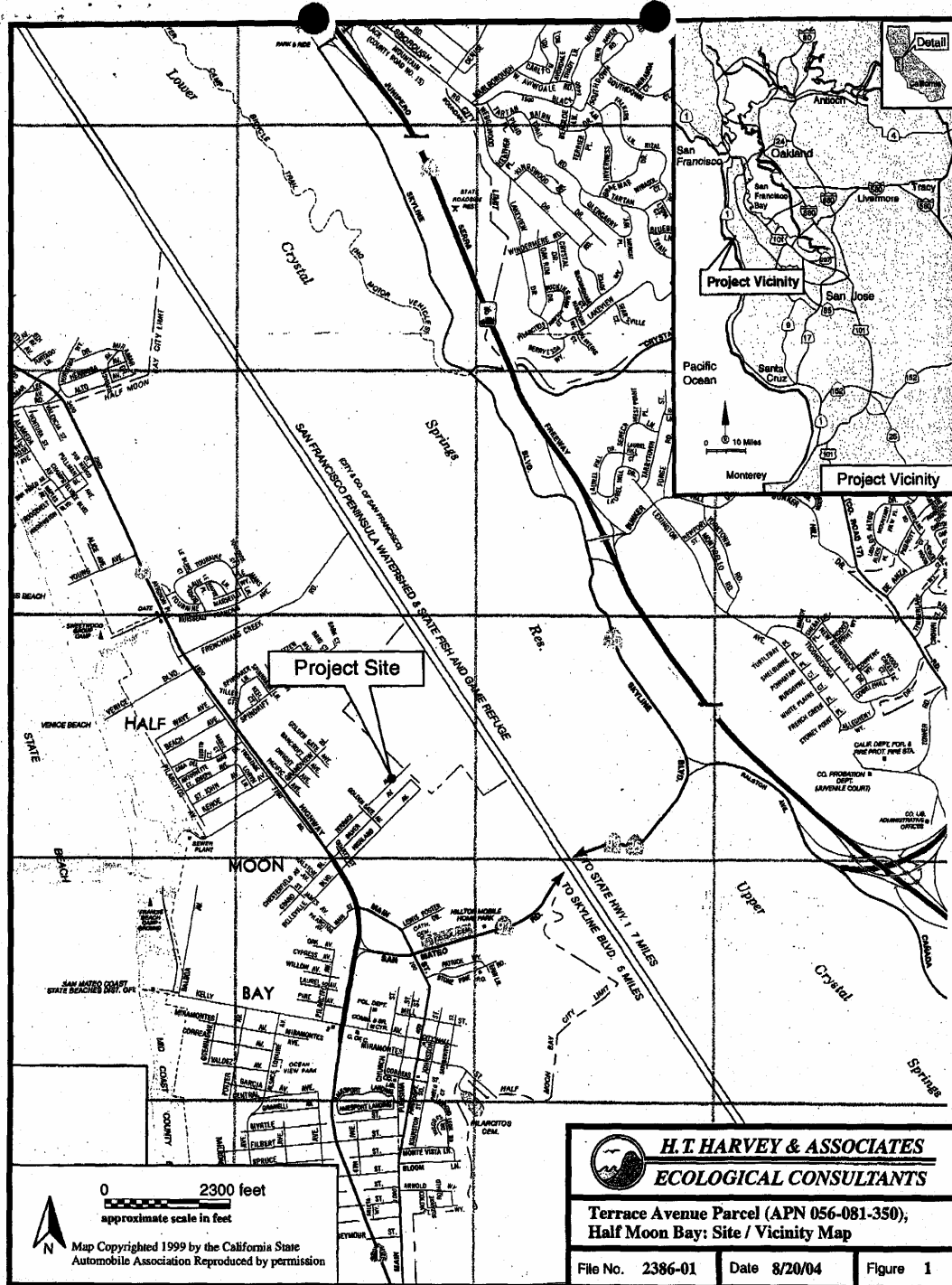


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METHODS

Wetland ecologist Mary Bacca, M.S., originally visited the site on April 27, 2004 to determine if the proposed project is located within a 100-foot wetland buffer zone. Prior to this site visit, the City of Half Moon Bay Planning Department was contacted to determine if the adjacent Beachwood Subdivision property could be accessed in order to examine any wetlands whose buffers may extend onto the Terrace Avenue project site. According to Donna Kenney (City of Half Moon Bay Planning Department, 650-726-8250), the Beachwood Subdivision property was accessible from the project site. An additional visit was conducted on August 18, 2004 to map and describe all sensitive habitats, riparian areas and wetlands located on or within 200 feet of the project site. For this second visit, access to the Beachwood Subdivision site was not granted. The project site was also assessed for its potential to support habitat for rare and endangered plant species and/or unique plant species per the City of Half Moon Bay's zoning code (Section 18.38.035).

Wildlife biologist Laird Henkel, M.S., visited the site on August 19, 2004 to assess the value of the site's habitats for wildlife. Special attention was given to the site's potential to support special-status wildlife species per the City of Half Moon Bay's zoning code (Section 18.38.035). In addition to the site visit, the potential for occurrence of special-status species was assessed by reviewing all California Natural Diversity Database records within five miles of the project site, and reviewing recent correspondence regarding special-status species at the adjacent Beachwood Property.

DESCRIPTION AND MAPPING OF COASTAL RESOURCES

Permission for access to the adjacent Beachwood Subdivision property in order to examine the wetlands that occur there was not granted for the purpose of this current study. Therefore, in order to map and describe all sensitive habitats, riparian areas and wetlands located on, or within, 200 feet of the project site, site conditions were observed from the northern boundary of the Terrace Avenue parcel or from vantage points due east within the adjacent undeveloped parcel along Terrace Ave in order to observe any and all habitats within 200 feet of the project site.

The base map used for mapping coastal resources was a rectified, 1-inch to 100-foot black and white 2001 aerial photograph provided by the City of Half Moon Bay. Using ArcInfo software, the project site was plotted on this aerial photograph based upon the lot dimensions and knowing that it is located immediately east of the existing residence along the north side of Terrace Avenue. From the boundaries of the lot, a 200-foot wide zone was delineated on the map to clearly identify the survey area.

The northeast corner of the project site was previously staked by the property owner and provided a point from which to indirectly measure the distance to any sensitive or riparian habitats within the 200-foot survey zone. Again, it was necessary for measurements to be indirect due to a lack of access to these off-site sensitive habitats. For example, if a wetland was located northeast of the project site, then it was indirectly measured, using a tape measurement wheel, from the project site's northeast staked corner to south of (*i.e.*, staying south of the Beachwood Subdivision property line) the wetland's westernmost edge. This distance was

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transferred to the aerial photograph. For locating sensitive habitats further to the east, the canopy drip line of the nearest eucalyptus tree east of the site was used as a point of reference for measurement. This indirect measurement method, combined with interpreting signatures on the aerial photograph, was used to map all sensitive habitats and riparian habitats observed within the 200-foot survey zone.

DESCRIPTION OF HABITAT REQUIREMENTS

Rare and Endangered Species and Unique Species

Information concerning threatened, endangered, or other special-status species (including unique species) that may occur in the area was collected from several sources and reviewed by H. T. Harvey & Associates biologists. The sources consulted included the California Department of Fish and Game's Natural Diversity Data Base (CNDDB 2004), City of Half Moon Bay Local Coastal Program Land Use Plan (1993), and miscellaneous information available through the U.S. Fish and Wildlife Service (USFWS), CDFG, and technical publications. The California Native Plant Society's (CNPS) *Inventory of Rare and Endangered Plants of California* (2001) and *The Jepson Manual* (Hickman 1993) supplied information regarding the distribution and habitats of vascular plants in the vicinity.

Chapter 3 of the City of Half Moon Bay Local Coastal Program Land Use Plan (Plan) identifies ten listed and proposed endangered, rare, or threatened wildlife species as being located in the San Mateo County Coastal Zone, as of 1993. These include: the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*), the California Least Tern (*Sterna albifrons browni*), the California Black Rail (*Laterallus jamaicensis coturniculus*), the California Brown Pelican (*Pelecanus occidentalis californicus*), the San Bruno elfin butterfly (*Icaricia icarioides missionensis*), the San Francisco tree lupine moth (*Grapholitha edwardisana*), the Guadalupe fur seal (*Arctocephalus townsendi*), the sea otter (*Enhydra lutris*), the California brackish water snail (*Tyronia imitator*) and the globose dune beetle (*Coelus globosus*). As of 2004, the San Francisco tree lupine moth, the globose dune beetle, and the California brackish water snail are no longer proposed for listing under the Federal Endangered Species Act.

In addition, the Plan identifies eight proposed or listed rare plants that are, or were at one time, located in San Mateo County's Coastal Zone. These include: the coast rock cress (*Arabis belpharophylla*), Davy's bush lupine (*Lupinus eximius*), Dolores campion (*Silene verecunda* ssp. *verecunda*), Gairdner's yampah (*Perideridia gairdneri*), Hickman's cinquefoil (*Potentilla hickmanii*), Montara manzanita (*Arctostaphylos montaraensis*), San Francisco wallflower (*Erysimum franciscanum* var. *franciscanum*) and yellow meadow foam (*Limnanthes douglassii* var. *sulphurea*).

In addition, a query of the California Natural Diversity Database (CNDDB 2004) was conducted to determine if additional rare and endangered and/or unique species potentially occur in the project vicinity. This query included a search of published accounts within the U.S.G.S. Half Moon Bay quadrangle, in which the project site occurs, and the five adjacent quadrangles including: Montara Mountain, San Mateo, Woodside, La Honda and San Gregorio using CNDDB Rarefind reports (2004). All species identified in these queries were then cross-

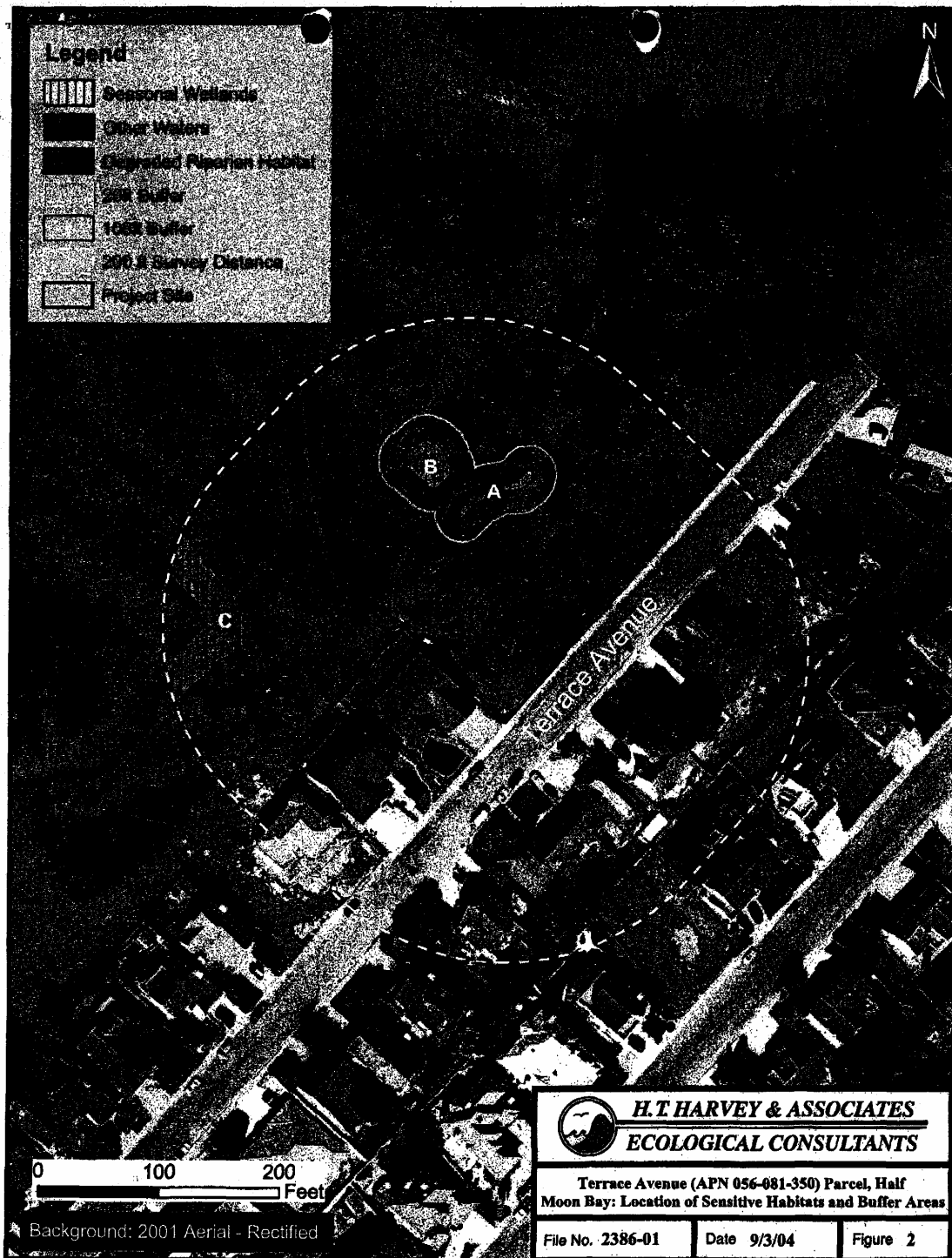


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transferred to the aerial photograph. For locating sensitive habitats further to the east, the canopy drip line of the nearest eucalyptus tree east of the site was used as a point of reference for measurement. This indirect measurement method, combined with interpreting signatures on the aerial photograph, was used to map all sensitive habitats and riparian habitats observed within the 200-foot survey zone.

DESCRIPTION OF HABITAT REQUIREMENTS

Rare and Endangered Species and Unique Species

Information concerning threatened, endangered, or other special-status species (including unique species) that may occur in the area was collected from several sources and reviewed by H. T. Harvey & Associates biologists. The sources consulted included the California Department of Fish and Game's Natural Diversity Data Base (CNDDDB 2004), City of Half Moon Bay Local Coastal Program Land Use Plan (1993), and miscellaneous information available through the U.S. Fish and Wildlife Service (USFWS), CDFG, and technical publications. The California Native Plant Society's (CNPS) *Inventory of Rare and Endangered Plants of California* (2001) and *The Jepson Manual* (Hickman 1993) supplied information regarding the distribution and habitats of vascular plants in the vicinity.

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In addition, a query of the California Natural Diversity Database (CNDDDB 2004) was conducted to determine if additional rare and endangered and/or unique species potentially occur in the project vicinity. This query included a search of published accounts within the U.S.G.S. Half Moon Bay quadrangle, in which the project site occurs, and the five adjacent quadrangles including: Montara Mountain, San Mateo, Woodside, La Honda and San Gregorio using CNDDDB Rarefind reports (2004). All species identified in these queries were then cross-

referenced with the most recent state and federal listing update according to the CDFG (2004 a, b, c, and d) to verify their status and identify recently listed species. In addition, the CNPS's *Inventory of Rare and Endangered Plants of California* (2001) was used to identify and assess additional species occurring in similar habitats throughout San Mateo County. All species listed as occurring in San Mateo County and present on CNPS Lists 1A, 1B, 2, 3 or 4 were reviewed. An overview of special-status species regulations is provided in Appendix A.

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RESULTS

DESCRIPTION AND MAPPING OF COASTAL RESOURCES

There are no sensitive habitats, riparian areas or wetlands located on the Terrace Avenue project site. The parcel is dominated by non-native herbaceous vegetation as described previously.

The adjacent Beachwood Subdivision property, located immediately northwest of the project site, does support seasonal wetlands and riparian habitat within 200 feet of the project site (Figure 2).

Seasonal Wetlands. Within the 200-foot survey area, two, small seasonal wetlands (Wetlands A and B) are located to the north of the northeastern property corner while a portion of a larger wetland (Wetland C) is located northwest of the project site (Figure 2).

Wetland A is closest to the project site and is a relatively long and narrow shallow depression that appears to become saturated or inundated by rainfall on a seasonal basis. The depression was dry at the time of the April and August 2004 site visits. According to Wetlands Research Associates, Inc., this feature "appears to be a former drainage channel which has filled in with sediment after water was diverted to the existing drainage channel" (Wetlands Research Associates, Inc. 1999). The existing drainage channel refers to the channel discussed under the riparian habitat section below. During the April 2004 site visit, evidence of seasonal hydrology within Wetland A was noted and included sediment deposits and scattered algal mats. Wetland A is dominated by hydrophytic species such as rush (*Juncus patens*) and bristly ox-tongue (*Picris echioides*). The western edge of Wetland A is estimated to be approximately 35 feet from the northeast corner of the Terrace Avenue project site.

Wetland B is located further to the north of the project site and is separated from Wetland A by a vegetated berm. According to prior assessments of the Beachwood property by others, this wetland is apparently an abandoned irrigation pond (Wetlands Research Associates, Inc. 1999). Direct observation of this wetland could not be done during the August 2004 site visit because of the raised berm and the restricted access. However, during the April 2004 site visit, Wetland B was visited; as explained previously, based upon communication with the Half Moon Bay Planning Department, access to the Beachwood Subdivision site in April 2004 was not denied. At that time, Wetland B supported rush, bristly ox-tongue, California blackberry (*Rubus ursinus*), meadow barley (*Hordeum brachyantherum*), quaking grass (*Briza minor*) and soft brome. The approximate extent and location of Wetland B is shown on Figure 2.

The U.S. Army Corps of Engineers (Corps) ultimately exerted Section 404 jurisdiction over Wetlands A and B in 2000.

Degraded Riparian Habitat. To the northeast of Wetland A, there exists an earthen lined drainage dominated by non-native eucalyptus trees (*Eucalyptus globulus*) (Figure 2). This habitat is considered to be low-quality due to the predominance of the eucalyptus trees, lack of diversity and structure within both the canopy and understory, and the relatively narrow and

seasonal nature of the channel. Runoff from the hillsides to the east flows into this drainage that then comes to an abrupt end approximately 150 feet northeast of the project site. Flows enter a vertical, 60-inch inlet structure at the downstream reach of this drainage.

Based upon a review of the USGS 7.5 minute topographic map for the Half Moon Bay quadrangle (1961; photo-revised 1968 and 1973), an intermittent blue-line drainage historically flowed from the eastern hillsides and veered towards the north and northwest of Terrace Avenue (through the Beachwood property). According to numerous reports and correspondence for the adjacent Beachwood Subdivision property that were provided by the City of Half Moon Bay as a component of the background review for this report, water from this drainage currently flows into an earthen, man-made ditch located to the northeast of the project site. This ditch abruptly ends more than 100 feet northeast of the project site with a 60-inch raised, vertical inlet structure. As stated in a letter from LSA Associates, Inc. dated January 17, 2000, "The stream flow as it enters the property (Beachwood) is now diverted into the Terrace Avenue storm drain. The majority of the outflow from the other stream (original blue-line drainage) is captured in an existing storm drain in the southeastern corner of the (Beachwood) property. A substantial amount of the flow from this stream has also been diverted into another watershed to fill an agricultural pond on the adjacent Pacific Ridge property."

In addition, a letter by William Crowell (September 9, 1999) states that, "In 1983, the City of Half Moon Bay included the Beachwood property within the Terrace Avenue Assessment District. This District was formed to provide drainage for the watershed surrounding the Beachwood property, to accommodate future development of the Beachwood site and to alleviate flooding of the adjacent developed properties. Construction activities included the installation of.....a 60-inch catch basin and 48-inch storm drain on the southern perimeter of the Beachwood property to capture the runoff from the Dykstra property..."

According to a February 24, 2000 letter from LSA Associated, Inc. to the City of Half Moon Bay, the Corps exerted Section 404 jurisdiction over the earthen lined drainage channel (as "other waters") in addition to Wetlands A and B.

DESCRIPTION OF HABITAT REQUIREMENTS

Below is a summary of a special-status species assessment of the project site based upon field visits and a review of various background resources such as the CNDDDB.

Rare and Endangered Wildlife Species

Of the ten special-status wildlife species identified in the Plan as potentially occurring in San Mateo County's Coastal Zone, three (the San Francisco tree lupine moth, the globose dune beetle, and the California brackish water snail) are no longer proposed for listing under the Federal Endangered Species Act, and are no longer considered special-status. Of the remaining seven species, two are marine mammals only occurring in marine waters (Guadalupe fur seal and sea otter), and three are birds that occur only in coastal marine and wetland habitats (Brown Pelican, Least Tern, and Black Rail). It should also be noted that the Black Rail occurs almost exclusively in the northern portions of San Francisco Bay. The San Bruno elfin butterfly occurs only where its host plant, stonecrop (*Sedum spathulifolium*), occurs on San Bruno Mountain and

a few other isolated rocky outcrops nearby. The only species on this list that could potentially occur near the project site in Half Moon Bay is the San Francisco Garter Snake.

In addition, there are several other species listed as Threatened or Endangered under state or federal Endangered Species acts that were listed since the 1993 Plan, or were overlooked in the Plan, that are likely to occur in the Coastal Zone of San Mateo County. These include steelhead (*Oncorhynchus mykiss*), coho salmon (*Oncorhynchus kisutch*), tidewater goby (*Eucyclogobius newberryi*), California red-legged frog (*Rana aurora draytonii*), American Peregrine Falcon (*Falco peregrinus anatum*), Marbled Murrelet (*Brachyramphus marmoratus*), Western Snowy Plover (*Charadrius alexandrinus nivosus*), Steller sea lion (*Eumetopias jubatus*), and several species of whale. All of these species except the red-legged frog and Peregrine Falcon occur only in marine habitats, riverine habitats, or on coastal beaches.

There are also several species listed by the state of California as Species of Special Concern could occur in the Coastal Zone of San Mateo County. These include the western pond turtle (*Emys marmorata*), coast horned lizard (*Phrynosoma coronatum*), Cooper's Hawk (*Accipiter cooperi*), Sharp-shinned Hawk (*Accipiter striatus*), Northern Harrier (*Circus cyaneus*), Merlin (*Falco columbarius*), Rhinoceros Auklet (*Cerorhinca monocerata*), Loggerhead Shrike (*Lanius ludovicianus*), Black Swift (*Cypeloides niger*), California Yellow Warbler (*Dendroica petechia brewsteri*), Saltmarsh Common Yellowthroat (*Geothlypis trichas sinuosa*), and Tricolored Blackbird (*Agelaius tricolor*). White-tailed Kite (*Elanus leucurus*), a species listed as "Fully Protected" by the CDFG also occurs in coastal San Mateo County.

Of these special-status species, none are likely to breed on the project site, which provides very poor wildlife habitat. Several species could occasionally forage on or pass through the project site, but would be unlikely to be affected by development of the site. These include the American Peregrine Falcon, Cooper's Hawk, Sharp-shinned Hawk, Northern Harrier, Merlin, Loggerhead Shrike, California Yellow Warbler, Tricolor Blackbird, and White-tailed Kite. Two Federally Listed species, the California red-legged frog and the San Francisco garter snake, occur in wetland habitats, and could potentially occur on the adjacent Beachwood property. These two species are addressed further below. No other special-status wildlife species are likely to occur on the project site. Figure 3 shows a CNDDB map for records of special-status species within five miles of the project site. Note that locations of San Francisco garter snakes are considered sensitive, and are not provided by the CNDDB.

California Red-legged Frog (*Rana aurora draytonii*). **Federal Listing Status: Threatened; State Listing Status: Species of Special Concern.** The red-legged frog is a medium-sized frog with reddish-colored legs. This subspecies is generally restricted to riparian and lacustrine habitats in California and northern Baja California. Red-legged frogs prefer deep, quiet pools (more than two feet deep) in creeks, rivers, or lakes below 1500 meters in elevation. Habitat requirements include fresh emergent or dense riparian vegetation, especially willows adjacent to shorelines. Red-legged frogs can survive in seasonal bodies of water that are dry for short periods if a permanent water body or dense vegetation stands are nearby. Adult red-legged frogs are normally active at night and breed in still water during the late winter or early spring after waters recede. Females attach eggs in a single cluster to a vegetation brace just under the surface of the water. The eggs hatch in just over a week and the resulting larvae feed on plant and

animal material on the bottom of the pond. It takes at least four months for the larvae to metamorphose into juvenile frogs. On rare occasions, larvae overwinter.

The USFWS listed the California red-legged frog as threatened in 1996, and Critical Habitat was designated in 2001, but much of this critical habitat was vacated (rescinded) in 2004. The project area was on the border of former Critical Habitat for the California red-legged frog. Several records for this species exist for the Half Moon Bay area (CNDDDB 2004), and red-legged frogs occur in aquatic habitat at several sites throughout San Mateo County. There are four records relatively close to the project site (Figure 3). There are two sightings more than one mile east of the site in the Pilarcitos Creek watershed, on Corinda Los Trancos Creek (2002), and on upper Pilarcitos Creek (1997). The closest record is west of Highway One, in lower Pilarcitos Creek (2000). An additional record, not shown on the CNDDDB map, was reported in 2004 off Seymour Street, west of Highway One, about two miles south of the project site. Questions have been raised regarding the potential for occurrence of this subspecies on the adjacent Beachwood Subdivision property. Small wetlands on the Beachwood property could potentially support California red-legged frogs. However, red-legged frogs require standing water into summer months, so that tadpoles have time to metamorphose into juvenile frogs, and standing water is apparently not available year-round on the Beachwood property. It is unlikely that individuals from the Pilarcitos Creek drainage would disperse through developed areas to the vicinity of Terrace Avenue. Thus, California red-legged frogs are not likely to occur on the Beachwood property, and according to a January 2000 letter from Steve Forman of LSA to the City of Half Moon Bay, the USFWS agrees. Even if red-legged frogs did occur on the Beachwood property, habitat is not suitable for them on the Terrace Avenue parcel in question, with no cover whatsoever. Thus, California red-legged frogs can be considered to be absent from the project site.

San Francisco Garter Snake (*Thamnophis sirtalis tetrataenia*). **Federal Listing Status: Endangered; State Listing Status: Endangered.** The San Francisco Garter Snake is a brightly colored snake that occurs almost exclusively in San Mateo County. San Francisco garter snakes occur only in and around wetland areas, where they feed on red-legged frogs and other amphibians. San Francisco garter snakes breed near wetlands during the spring and fall, and are most active from March through September. During summer, adults may occasionally disperse into upland habitats to feed on amphibians in rodent burrows, and during winter, these snakes hibernate in small mammal burrows in upland habitats adjacent to wetlands. Due to the extremely limited range of this subspecies, and threats to existing populations from development of habitat and illegal collecting, the USFWS listed the San Francisco garter snake as Endangered in 1967. The subspecies is also listed by the state of California as Endangered. Critical Habitat has not been designated for the subspecies.

As with the red-legged frog, questions have been raised regarding the potential for occurrence of San Francisco garter snakes on the adjacent Beachwood Subdivision property. According to the January 2000 letter mentioned above, it is unlikely that this subspecies occurs at the Beachwood site. However, trapping surveys have not been conducted for San Francisco garter snakes at that site, and there is a small potential for them to occur there. There are two CNDDDB records of San Francisco garter snakes in the Half Moon Bay USGS quadrangle, both along Pilarcitos Creek (CNDDDB 2004). One record, from 2004, is within one mile of the project site, between Highway

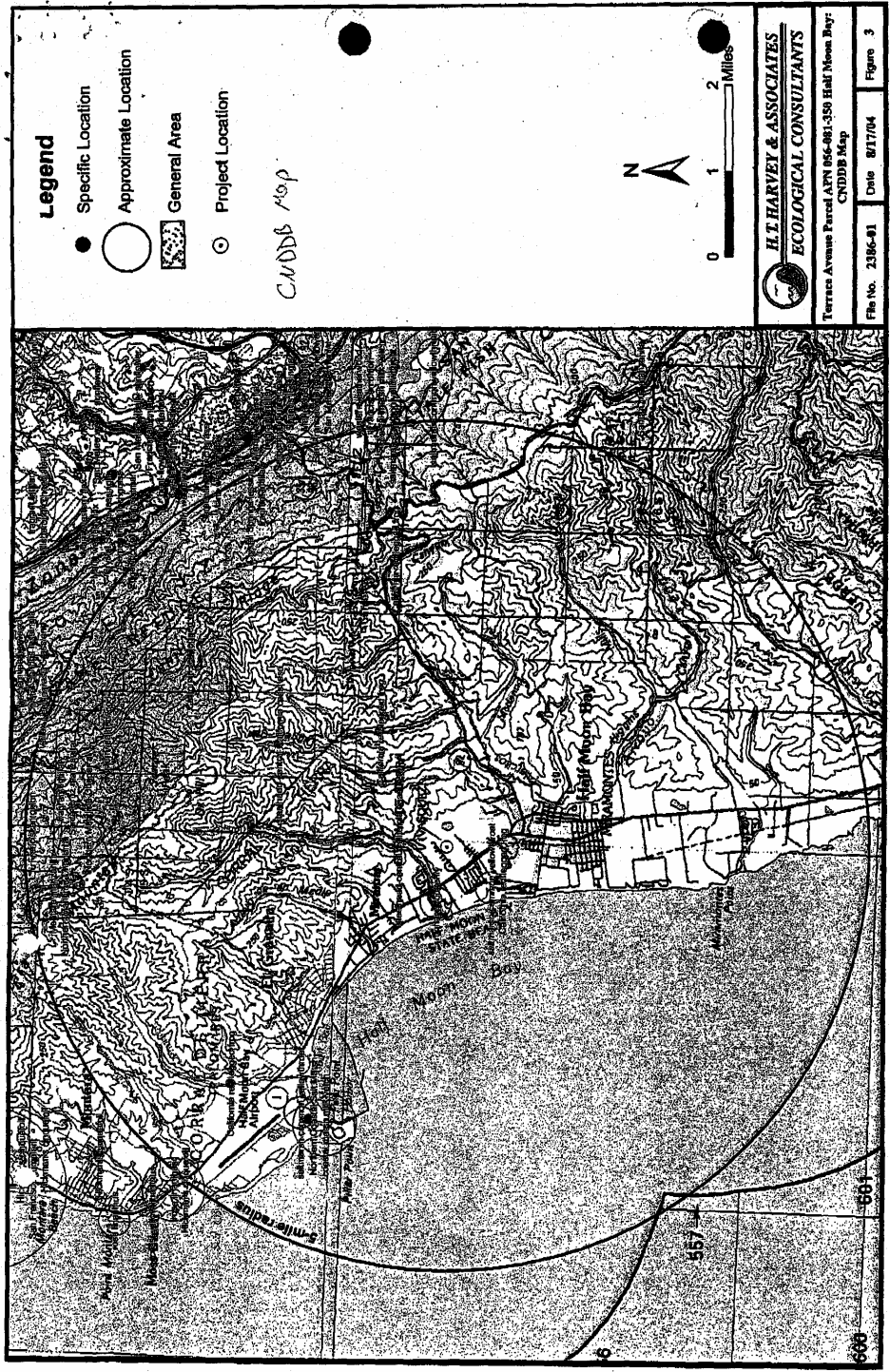


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92 and Pilarcitos Creek, 0.15 miles east of Highway One. The project site, however, does not support any wetlands, and thus does not provide good habitat for San Francisco garter snakes. However, although it is extremely unlikely, if San Francisco garter snakes occurred in wetlands on the Beachwood property, individuals could potentially disperse across the project site.

Unique Wildlife Species

One unique wildlife species not listed by the CDFG as a Species of Special Concern, is the monarch butterfly (*Danaus plexippus*), which also occurs locally. This species migrates through the coastal zone of San Mateo County, and roosts in large numbers in eucalyptus and cypress groves. There is no roosting habitat for this species on the project site, but individuals may occasionally pass through the site.

Rare and Endangered Plant Species

Of the eight special-status plant species identified in the Plan as potentially occurring in San Mateo County's Coastal Zone, only two species, Gairdner's yampah and Dolores campion (now known as San Francisco campion) could potentially occur in the non-native herbaceous habitat that occurs on the project site. However, based upon field visits that occurred during the blooming periods for these species, the relative disturbed nature of the site, and lack of associate native species, it was determined that Gairdner's yampah and San Francisco campion are not present on the site. In addition, appropriate microhabitat conditions (e.g., serpentine, clay soils) are absent from the site for the remaining six special-status plants listed in the Plan as potentially occurring in San Mateo County's Coastal Zone. Therefore, further surveys for these species are not warranted.

Following a review of additional species that occur throughout San Mateo County (CNPS 2001) and a query of the CNDDDB, an additional sixty-six special-status plant species were identified. Of these, seven species are regarded as having a marginal potential for occurring on the project site. These include bent-flowered fiddleneck (*Amsinckia lunaris*), San Francisco gumplant (*Grindelia hirsutula* var. *maritima*), Diablo helianthella (*Helianthella castanea*), bristly linanthus (*Linanthus acicularis*), large-flowered linanthus (*Linanthus grandiflorus*), marsh microseris (*Microseris paludosa*), and Dudley's lousewort (*Pedicularis dudleyi*). However, these species were not observed on the project site during visits in April and August 2004, a time period that encompassed the blooming periods of these species. Therefore, these species are considered to be absent from the project site and no further surveys are warranted.

Of the species considered, but rejected, twenty-two are serpentine endemics and/or associates for which there is no suitable substrate on site. The remaining thirty-six species considered, but rejected, were subsequently dismissed as potentially occurring due to the absence of suitable microhabitats or associate species, and/or the species have either been regarded as extirpated from San Mateo County, the most recent occurrences are historic, or they are considered extinct.

Unique Plant Species

There are no known unique plant species that occur either on, or near, the project site.

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IMPACTS AND MITIGATION MEASURES

POTENTIAL INDIRECT IMPACTS TO SEASONAL WETLANDS

The northeastern portion of the project site is located within the 100-foot wetland buffer zone for Wetlands A and B (Figure 2). A 100-foot buffer zone is mandated by the City of Half Moon Bay's zoning code Section 18.38.080(D). However, although the northeastern corner of the parcel is approximately 35 feet from Wetland A, the actual proposed residential structure would be set back further from this sensitive habitat, a distance of approximately 60 feet from Wetland A.

Wetlands A and B offer some habitat value for wildlife species. However, since these features are relatively small, support seasonal hydrology and a limited suite of hydrophytes and a simplistic vegetative structure (*i.e.*, mostly herbaceous species), they are regarded as providing limited habitat for wildlife species. As stated above, the potential for California red-legged frogs and/or San Francisco garter snakes occur on the adjacent Beachwood property is not likely. For these reasons, Wetlands A and B are limited in their functions and values.

Water quality of the seasonal wetlands (post construction) will not be adversely affected by the proposed project due to the overall distance, as well as the preservation of grassy areas, between the proposed home and the wetlands. The backyard of the property is to be planted with a sod lawn and no hardscape features (*e.g.*, deck, patio, etc.), other than a few entry steps from the sliding door are proposed (*pers. comm.* Saso Crmugelj-Gale, 831-658-0359). In addition, the overall surface hydrology is driven by a gentle east to west gradient whereas the proposed home will be located southwest of the seasonal wetlands, thus making it unlikely that site runoff would flow northeast towards the wetlands. Regardless, from the northern edge of the property line, northwards towards Wetland A, there exists a broad expanse of non-native herbaceous habitat (on the Beachwood property). These grassy areas will ensure that adequate bio-filtration of any site runoff will occur prior to it reaching Wetland A. Due to the presence of the berm between the project site and Wetland B, it is not expected that any site runoff could reach this former irrigation pond.

For the above reasons, although a portion of the property occurs within the 100-foot wetland buffer zone, it is our professional opinion that the proposed project will not adversely affect the functions and values of Wetlands A and B. However, there is a slight potential for these sensitive areas to be indirectly impacted during construction. Therefore, we propose that the following mitigation measure be implemented.

Mitigation Measure 1. Install Temporary Silt Fence Barrier During Construction. Prior to beginning construction, a temporary silt fence barrier, lined with hay bales along the project side of the fence, will be installed along the northern property line to ensure that no grading or other construction disturbance occurs within, or near, Wetlands A and B.

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POTENTIAL INDIRECT IMPACTS TO RIPARIAN HABITAT

The earthen lined drainage dominated by non-native eucalyptus trees located approximately 150 feet northeast of the project site is not expected to be directly impacted by the proposed project (But see, "Construction Impacts to Unique Wildlife Species" below).

Potential Loss of Habitat for Special-Status Wildlife Species. The project site does not provide any breeding or important foraging habitat for any special-status wildlife species. Development of this site will not result in a loss of habitat for any special-status wildlife species.

POTENTIAL CONSTRUCTION IMPACTS TO SPECIAL-STATUS WILDLIFE SPECIES

Two species listed under the Federal Endangered Species Act, the California red-legged frog and the San Francisco garter snake, occur in wetland habitats in San Mateo County, and could potentially occur on the adjacent Beachwood property. Because there are no year-round wetlands on the Beachwood property, we consider it extremely unlikely that either of these species occur there. However, there are several records of each of these species within several miles of the project site, and although these species are generally restricted to wetland habitats, they do occasionally disperse through adjacent upland habitats. Even if red-legged frogs occurred on the adjacent Beachwood property, the Terrace Avenue project site does not provide foraging or dispersal habitat for this species. Although it is extremely unlikely, it is possible that, if San Francisco garter snakes occur on the adjacent property, they could occasionally disperse onto the project site. For this reason, we recommend that prior to construction, the following mitigation measure be implemented.

Mitigation Measure 1. Conduct Pre-construction Survey and Install Exclusion Fencing. Prior to the onset of any ground disturbing activities (e.g., grading, excavating, filling, clearing and grubbing, etc.), a qualified wildlife biologist shall conduct a preconstruction survey for San Francisco garter snakes on the Terrace Avenue project site. If results are negative, then immediately following the survey, an exclusion fence will be established around the northwest and northeast edges of the Terrace Avenue project site so that no snakes could disperse onto the site. Exclusion fencing will consist of silt-fencing or similar material at least 36 inches in height that is buried six inches in the ground to prevent incursion under the fence. This exclusion fencing can also serve as the silt fencing recommended to prevent impacts to wetlands (see above). In the unlikely event that a San Francisco garter snake is found on the project site during the survey, all construction work will be delayed and the U.S. Fish and Wildlife Service will be contacted to determine the appropriate course of action.

POTENTIAL LOSS OF HABITAT FOR UNIQUE WILDLIFE SPECIES

The project site does not provide any breeding or important foraging habitat for any unique wildlife species. Development of this site will not result in a loss of habitat for any unique wildlife species.

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POTENTIAL CONSTRUCTION IMPACTS TO UNIQUE WILDLIFE SPECIES

The large grove of eucalyptus northwest of the site could potentially support nesting raptors, such as Red-tailed Hawks (*Buteo jamaicensis*). Raptors, as well as other nesting birds, are protected in California under the federal Migratory Bird Treaty Act, and under California Department of Fish and Game code. No nests were seen in this grove within 250 feet of the project site during the August 2004 site visit. However, if work is scheduled to begin within the nesting season of most local raptors (March 1 through September 1), we recommend pre-construction surveys, conducted by a qualified ornithologist, to ensure that no nesting raptors are disturbed during construction.

This eucalyptus grove could potentially also provide habitat for monarch butterflies a species of local concern. However, development of the parcel in question would not result in impacts to this grove, and thus would not affect monarch butterflies.

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**FINDINGS FOR DEVELOPMENT WITHIN WETLANDS BUFFER ZONE
(SECTION 18.38.080[H])**

1. There are special circumstances or conditions affecting the property.

The project applicant has already purchased the Terrace Avenue project site (APN 056-081-350) and his intent to build a single-family residence is consistent with current development in the project area. The overall lot size (75 feet by 107.5 feet) does not offer much flexibility in terms of locating the proposed residential structure further to the south (towards Terrace Avenue). However, the project applicant is willing to move the proposed home further to the south by 5 feet (towards Terrace Avenue and further away from the wetlands) if the development standards in force at the time of the applicant's Planning Commission hearing allow for this shift. In case the development standards remain as they are currently enforced, there would not be enough space to move the house 5 feet to the south because the garage is already sitting at the property's front setback line.

2. The project is necessary for the proper design and function of some permitted or existing activity on the property.

Residential homes already exist along the majority of Terrace Avenue and the remaining undeveloped lots, including the project site, are zoned for construction of single-family homes and have the required utility connections in place.

3. The project will not be detrimental to the public welfare or injurious to other property in the area in which the project is located.

The proposed residential structure will be constructed using licensed contractors in accordance with existing building codes of the City of Half Moon Bay. Therefore, the project will not be detrimental to the public welfare or injurious to other property in the area in which the project is located.

4. The project will not significantly reduce or adversely impact the sensitive habitat, or there is no feasible alternative which would be less damaging to the environment.

The construction of the single-family home will not significantly impact Wetlands A and B, nor the low-quality riparian habitat associated with the earthen-lined drainage. The location of the home itself will be approximately 60 feet from Wetland A, the nearest wetland to the site. Construction activities will be limited to the project site itself and no direct impacts to these sensitive habitats are expected. Nonetheless, a silt fence and hay bale barrier will be constructed along the northern property line to protect the wetlands from any potential indirect impacts.

5. The project is in accordance with the purpose of this Chapter (Chapter 18.38 [Coastal Resource Conservation Standards] of the City of Half Moon Bay Zoning Code) and with the objectives of the L.C.P. Land Use Plan.

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Page 22 of 24

After reviewing Chapter 18.38 of the City of Half Moon Bay Zoning Code and the objectives of the LCP Land Use Plan, it is concluded that the proposed project does not violate these regulations.

6. Development on a property, which has its only building site located in the buffer area, maintains a 20-foot buffer from the outer edge of any wetland.

The proposed structure cannot be sighted to completely avoid the 100-foot wetland buffer. Given the dimensions of the lot and the need to conform the location of the proposed home to the other residences along the north side of Terrace Avenue, the owner has done all that is feasible to reduce his project's encroachment into the buffer, including maintaining a pervious surface (sod grass lawn) in the backyard. If development standards permit, the owner is considering moving the location of the proposed home 5 feet to the south that would place the structure even further away from the wetlands. Currently, the property's northeast corner is located approximately 35 feet from the nearest wetland (Wetland A) and the proposed structure will be approximately 60 feet from Wetland A. These distances far exceed the minimum 20-foot buffer that the City of Half Moon Bay allows when a development is located in a wetland buffer area.

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A-2-HMB-07-021
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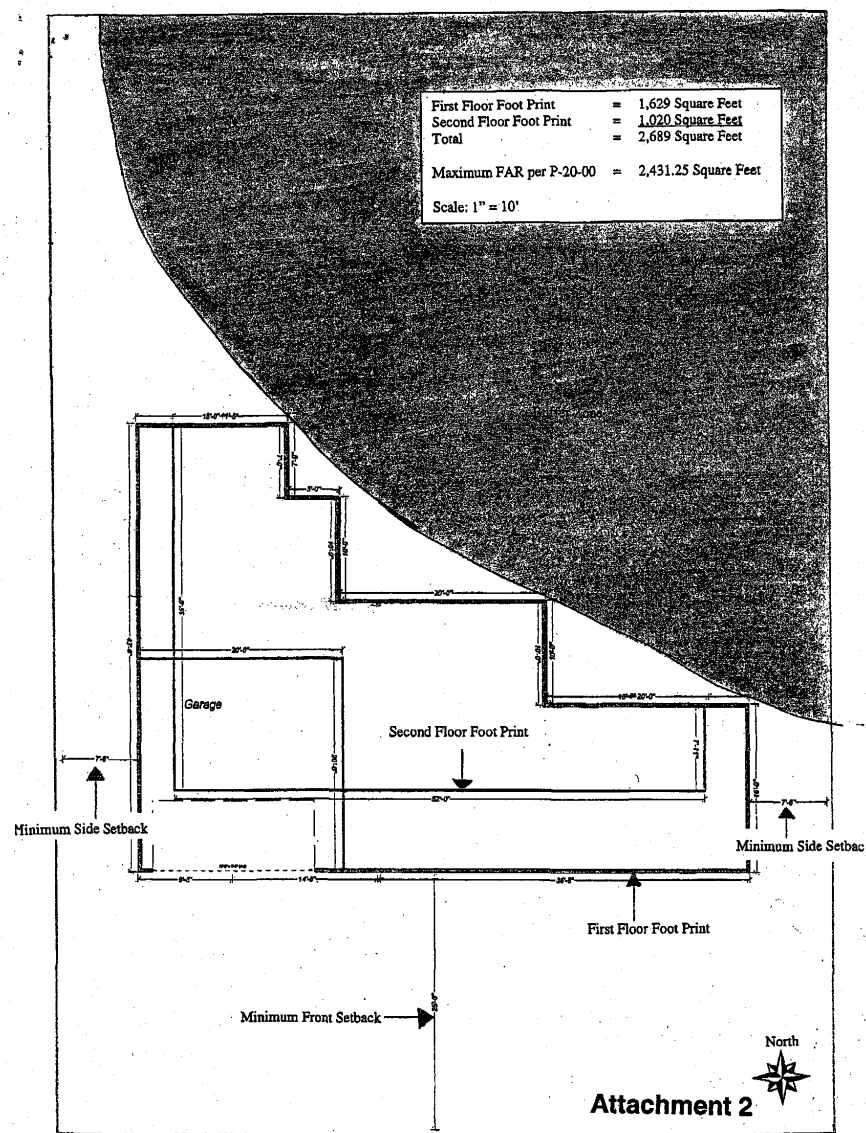
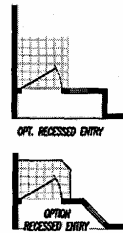
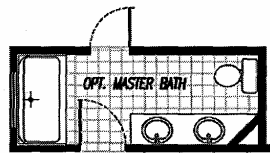
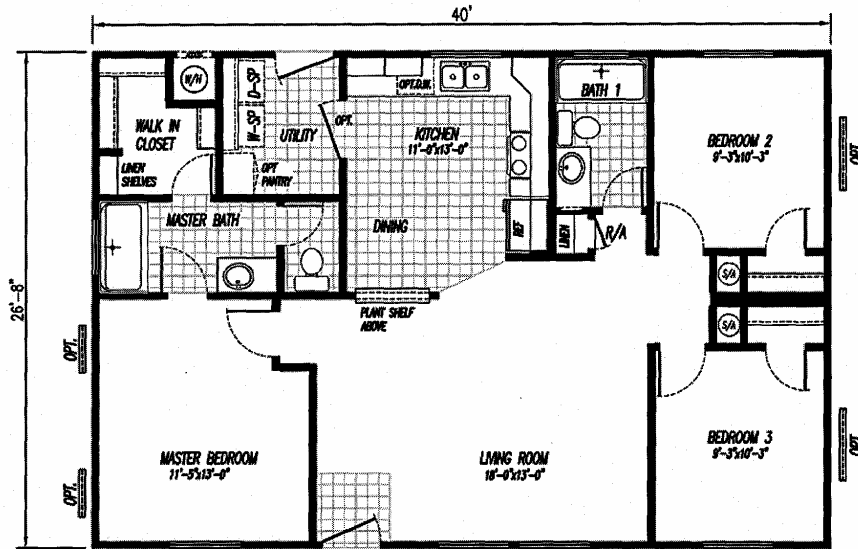
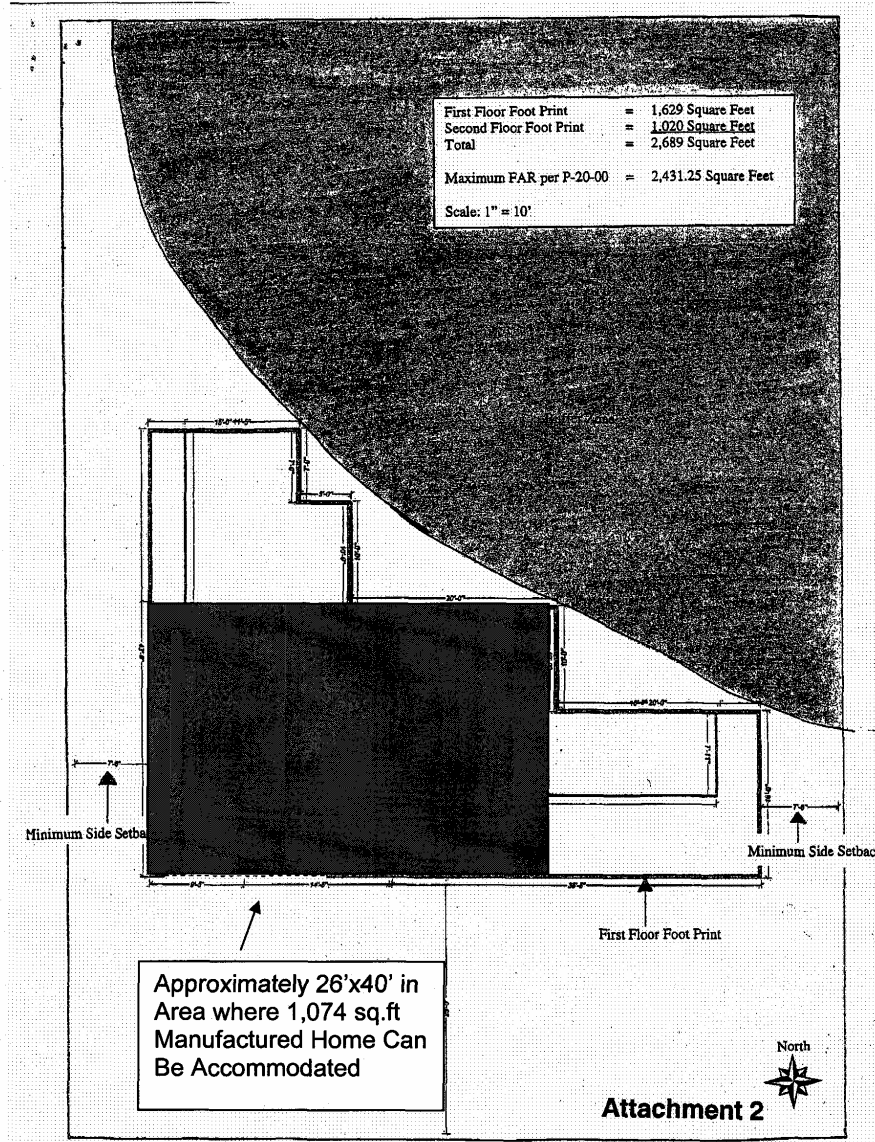


EXHIBIT NO. 8
APPLICATION NO.
A-2-HMB-07-021 (GALE)
ALTERNATIVES ANALYSIS (Page 1 of 3)

Floor Plan of 26'x40' Manufactured Home
<http://factoryselecthomes.com/Redding.asp>





06/27/2007 13:16 1-831-6580359

GALE

PAGE 01/03

Item No: Th 5a
Permit Number: A-2-HMB-07-021
Saso Crmugelj-Gale and Verena Gale
In favor of project (=against the appeal)

June 27, 2007

California Coastal Commission
North Central Coast Office
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219
Fax: 415-904-5400
Attn: Ms. Yinlan Zhang, Coastal Program Analyst

Re: Permit Number: A-2-HMB-07-021

Dear Ms. Zhang,

As per your requests during our telephone conversations between June 25 and June 27, 2007, this fax is to elaborate on a few details about the two considered designs and clarify our position on the proposal for our future home at 684 Terrace Avenue in Half Moon Bay, CA.

On March 22, 2007, the City of Half Moon Bay's Planning Commission approved a Coastal Development Permit for a single-story, manufactured house proposal. This Coastal Development Permit was approved after a careful evaluation and consideration of proposals for a single-story manufactured house (application submitted in 2004) and an alternate 2-story manufactured home (application submitted in 2006). Both proposals involved our property at 684 Terrace Avenue. The property appears to be affected by a wetland buffer zone and at least three (3) biologists visited and studied the property on different occasions during the last four (4) years. The biologists consistently concluded, and put it in writing, that the proposed single-story project will not have any significant impact on the environment. Biologists also agreed on a host of mitigation measures for the proposed single-story project and we accepted them all.

The alternate 2-story proposal:

- faces major physical limitations imposed by the triangular shape and small size of the buildable area on the portion of the lot that is unaffected by the buffer zone; and
- needs multiple variances (a variance for the front setback, a variance for the daylight plane envelope on the left side, and a variance for the daylight plane envelope at the front); and
- is subject to inherent limitations of manufactured houses in regard to scaling (each of the house's four (4) sections - two for the 1st floor and two for the 2nd floor - which are completed in a factory and trucked to the building site, is approximately 13 feet wide. The length of the house is determined by the manufacturer's house plan and changes to offered plans are limited since all plans needs to go through a federal approval process before they can be offered for sale. It is possible to stretch the house (sections), but the house (sections) cannot be made shorter, or narrower, or wider, or lower, or higher; and

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JUN 27 2007
CALIFORNIA
COASTAL COMMISSION

EXHIBIT NO. 9
APPLICATION NO.
A-2-HMB-07-021 GALE)
JUNE 27 LETTER FROM MR. GALE PAGE 1 OF 3

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GALE

PAGE 02/03

June 26, 2007

Item No: Th 5a
Permit Number: A-2-HMB-07-021
Saso Crnugelj-Gale and Verena Gale
In favor of project (=against the appeal)

- needs to meet the City requirements that pertain to manufactured houses (e.g. the width of a manufactured home shall be at least 18 feet at its narrowest point, which automatically precludes the use of manufactured homes that are only one section wide), and
- does not provide for any usable backyard space for the occupants and, at the same time, reduces the front yard, and
- has the majority of the house mass concentrated at the front (street) portion of the lot, and
- faced a very strong opposition of the neighbors,
- did not pass the scrutiny of the City's Planning Commission.

We can assure you that we were thorough in our quest for the alternate project: we reviewed and evaluated over one hundred different manufactured house plans offered by different manufacturers. For each of them, we carefully evaluated the dimensions and the configuration possibilities. Since we only managed to find one proposal (the alternate 2-story design) that worked with the site to a degree (but only if it got the three variances), we also evaluated the on-site-construction option. Unfortunately, the research of the standard construction approach only confirmed what we found out at the very beginning, when we decided on a manufactured house: a manufactured house runs around \$110/sq. ft. while a site-constructed house runs upwards from \$250/sq. ft. and the only house that is financially feasible for us is a manufactured house.

Our desire is to be able to build the single-story manufactured house for which the City of Half Moon Bay approved a Coastal Development Permit.

Currently, it appears that there are concerns with this permit and it has been appealed to the California Coastal Commission. We, too, are concerned about the environment and any potential endangered species. This is why we accepted the mitigation measures proposed by biologists who visited the site and remain willing to consider any reasonable conditions that would help protect the wetland.

Our family has endeavored, unsuccessfully, to building a home at 684 Terrace Avenue in Half Moon Bay for the past four (4) years. Bottom line, we wish to build a home in Half Moon Bay and we are amenable to working with both the California Coastal Commission and the City of Half Moon Bay to come up with a proposal that is acceptable to all.

What is unacceptable is to jam us, the applicants, in the middle: having the City of Half Moon Bay approve a project only to be denied by the California Coastal Commission, which might be the direction we are heading; or having the Commission approve a project only to have the City deny variances or permits necessary to build our home; or having the City require that we re-submit a proposal and get in line to go through each step of the permit process, as if this were a brand new project.

06/27/2007 13:16

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GALE

PAGE 03/03

June 26, 2007

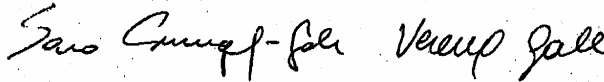
Item No: Th 5a
Permit Number: A-2-HMB-07-021
Saso Crnugelj-Gale and Verena Gale
In favor of project (=against the appeal)

Isn't this the time that the Commission, the City and the applicants work together to stop any of these undesirable outcomes and to ensure that an acceptable project can be summarily approved?

We respectfully request an opportunity to meet/work with both authorities, together and as soon as possible, to discuss how our family may successfully build a home on this site in the near future. To the extent necessary or required, please consider this our request that the project description be amended to reflect a single-story manufactured home at 684 Terrace Avenue, as approved by the City of Half Moon Bay.

Please do not hesitate to contact us at (831) 658-0359 if you have any further questions.

Thank you and kind regards,



Saso Crnugelj-Gale and Verena Gale

Coastal Commission Appeal No. A-2-HMB-07-021

Tom Roman

June 13, 2007

California Coastal Commission
North Central Coast Office
45 Fremont St, Suite 2000
San Francisco, CA 94105-2219
Attn: Ms. Yinlan Zhang, Coastal Program Analyst

RECEIVED

JUN 19 2007

Re: Commission Appeal No. A-2-HMB-07-021 (Crnugelj-Gale)

CALIFORNIA
COASTAL COMMISSION

Dear Ms. Zhang,

I am writing regarding the appeal referenced above which concerns a coastal development permit for a single family home on 684 Terrace Ave in Half Moon Bay. Please note that I am a Half Moon Bay Planning Commissioner, but the views in this letter are my own as an individual. I'd also like to make it clear that I have no personal interest, financial or otherwise, in this project. I request that you consider this information in writing the staff report, and also provide a copy to all of the Commissioners for the public hearing on the appeal.

Executive Summary

The appeal of the CDP for the single family home at 684 Terrace Avenue in Half Moon Bay should be **denied** due to the lack of a substantial issue. The appeal discussion fails to provide a factual justification for the following reasons:

1. The appeal declares that there is a "feasible" alternative to the approved project without variances outside of the wetland buffer zone, but offers no supporting facts. Also, the discussion indicates that the appellants consider feasibility in terms of locating the building footprint outside of the buffer, and do not take into account the full scope of development associated with this residential project, including the building's mass, useable and active rear and side yard areas, patios, landscaping, fencing, etc.
2. The appeal declares that the approved project is inconsistent with LUP policy 3-3 that protects wetlands from **significant** adverse impacts, without providing any supporting facts. The public record clearly contradicts this assertion, given conclusions in the biological report and from a CDFG biologist who visited the site that there would be "minimal impact" to the wetland with the included mitigation measures.

The analysis below shows that there is, in fact, no feasible alternative outside of the buffer zone, and that the potential impact to sensitive habitats is minimal, so the approved project is consistent with the certified LCP, including LUP Policy 3-3.

Discussion

1. Feasible Alternative

First, it is important to realize that a feasible project alternative must take into account the entire scope of development, not just the building site or building footprint. It does not make sense to keep the building footprint out of a buffer zone if other development, such as a useable and active rear yard area, patios, sidewalks, fences, landscaping, etc, can encroach. Conversely, if mitigation measures located within the buffer zone, such as permanent physical barriers, are sufficient to protect the wetland, then it makes no sense to be concerned with the location of the building.

In a hearing related to this project, the Half Moon Bay City Attorney was asked to draft a memo providing a legal definition of the term "feasible alternative". The memo is part of the public record and is attached for reference (Attachment A). According to the memo, in order to be feasible the proposed alternative must, among other things, "meet most of the project objectives". It goes on to say "what constitutes the feasible alternative will vary according to the facts of each particular land use application". In this case, the Gale's have stated their objectives at the public hearings, which include:

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APPLICATION NO.
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LETTER FROM TOM ROMAN

(Page 1 of 11)

Coastal Commission Appeal No. A-2-HMB-07-021

Tom Roman

- a useable and active rear yard area for a safe play area for their children so they can avoid Terrace Ave traffic which will increase once the Pacific Ridge development is completed,
- a useable and active rear yard area for the family's privacy and relaxation,
- normal setbacks to allow reasonable landscaping,
- a desire to avoid a two story design (i.e. stairs) due to family history of knee problems, and
- sufficient floor area to support the family of four and two home businesses.

The City also has objectives as articulated in the certified LCP:

- require minimum lot size in this zone of 7500 sq ft (HMB Municipal Code 18.06.030),
- restrict development to within setbacks and building envelope established for the zone (HMB Municipal Code 18.06.030 and 18.06.040), and
- the project must fit in with neighborhood character. (HMB Municipal Code 18.21.035)

The figure in Attachment B shows the lot dimensions and delineates the part of the lot that intersects the buffer zone. If all development is restricted to outside of the buffer, and a permanent exclusion wall is built on the buffer zone boundary, the lot size will be reduced to approximately 4100 square feet. It also takes on a very unusual and difficult to develop shape. This reduced lot would be considered substandard for this zone, which requires a minimum lot size of 7500 sq ft. It is also worth noting that the minimum residential lot size across the entire City is 5000 sq ft. While a 4100 sq ft lot might be sufficient for some individuals or families, it clearly cannot meet the needs of every family. If that were the case, there would be no need for lots larger in size.

The figure in Attachment C shows the potential building site outside of the buffer zone with conforming side and front setbacks. Normally the 20 foot rear setback requirement sets a standard for a minimum sized rear yard, but if that were relaxed in this case to 14 feet, a very small active backyard could be preserved. However, the lot area left for a building site would then be reduced to approximately 900 sq ft. A 900 sq ft single story home is very small by today's standards and arguably inadequate for a family of four and two home businesses. So in reality, neither project objective is adequately addressed.

A two-story building that is constrained by setbacks and maximum building envelope and the shape of the building site might yield 1500 sq ft of floor area (~1100 sq ft of living space), but would likely be aesthetically unattractive and inconsistent with the neighborhood character. Allowing variances for the maximum building envelope, front and side setbacks would increase the living space, but would only further concentrate the mass of the building against the single family home next door, and further conflict with the siting and design of homes in this neighborhood.

While it is impossible to exhaustively prove that every conceivable alternative is not feasible, the qualitative and quantitative analysis presented here is based on facts from the public record, and reasonable scenarios. This analysis shows that it is nearly impossible to simultaneously meet most project objectives, such as adequate living space, useable rear yard area, minimum lot size, single story design etc using only the part of the lot that is outside of the buffer. Therefore it is reasonable to conclude that there are no feasible alternatives to this particular project.

2. Impact to Wetlands

The appeal discussion implies that the mere existence of an alternative "feasible" project that complies with the wetland buffer zone setback is sufficient to determine that the approved project "would have **significant** adverse impacts on Sensitive Habitat areas" and/or "could **significantly** degrade the Sensitive Habitats" (quoted text is from LUP policy 3-3, emphasis added). This is not logical, as the assessment of the potential impact of the approved project should be conducted on its own merits and facts. However, the appeal discussion offers no facts supporting the conclusion that the approved project would have a **significant** adverse impact on the wetland.

In fact, such a conclusion is in direct conflict with the evidence in the public record. A biological report for an earlier permit application on this project was circulated to the California Coastal Commission, the Calif. Dept of Fish and Game, the Army Corp of Engineers and the US Fish and Wildlife Service. The report concludes that with mitigation measures, the "project will not adversely affect the functions and values of

Coastal Commission Appeal No. A-2-HMB-07-021

Tom Roman

Wetlands A and B" (which are the two wetlands nearest to the project site).

Comments were received from CDFG, and a followup site visit was made by Dave Johnston, the CDFG environmental scientist. Mr. Johnston provided written and verbal comments to the project planner regarding mitigation measures that would be sufficient to reduce the impact to minimal. All mitigation measures were incorporated as conditions of approval into the current CDP. The project planner further pressed the USFWS biologist for comments, and she responded that she concurs with the CDFG opinion. These communications are all in the public record. The CDFG site visit and verbal comments are documented on page 7 of the March 22, 2007 staff report for PDP-051-06, the most recent Planning Commission public hearing on this project. Email correspondence from Dave Johnston of CDFG is included as attachments D (email dated Nov 10, 2004) and E (email dated Feb 15, 2005). These emails document the written correspondence regarding the site visit and suggested mitigation measures for the project.

Finally, the evidence of minimal impact is further supported by the fact that the size of the two wetlands is tiny in comparison to the buffer zones (see attachment F). The closest wetland (which is seasonal with no standing water) is approximately 5 ft by 75 ft, or 375 sq ft in area. A 100 ft setback creates a buffer zone of approximately 200 ft by 275 feet, or 55,000 sq ft in area, which is about 146 times the size of the wetland itself. There is a vast field to the north and west of the wetlands, which logically provides a more attractive direction of dispersal than towards the existing row of developed lots and the street. The permanent physical barrier ("frog wall") would logically provide a clear separation between human activities and wildlife, and would further encourage listed species to migrate in the opposite direction. As approved, there would still be a setback of at least 40 feet from the nearest wetland, twice that required by the LCP.

While it might be tempting to require the Gales to accept an inferior project (with respect to the project objectives) outside of the buffer in order to pursue a potential marginal increase in wetland protection, such a directive would be beyond the scope of LUP policy 3-3 since the impact is *not significant* to begin with. For these reasons and based on these facts, I conclude that the approved project is in fact completely consistent with LUP Policy 3-3.

Regards,



Tom Roman
417 Wave Ave
Half Moon Bay, CA 94019
Office: 408-531-2498
Mobile: 408-489-3643
Email: troman9@sbcglobal.net

cc: Steve Flint, Planning Director, Half Moon Bay

Attachments

- A - City Attorney Memo
- B - Lot with Buffer Zone overlay
- C - Potential building footprint on remaining lot
- D - Dave Johnston of CDFG email dated 11-10-2004
- E - Dave Johnston of CDFG email dated 2-15-2005
- F - Wetland delineation map from H.T. Harvey biological report.

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Attachment
A

meyers | nave riback silver & wilson
professional law corporation

Adam U. Lindgren
Attorney at Law
510.341.4300

MEMORANDUM

DATE: June 3, 2005
TO: Jack Liebster
Planning Director
FROM: Adam Lindgren
RE: "Feasible" Finding

ISSUE

What factors should the City consider in determining whether a feasible alternative exists to the siting of a structure in a riparian corridor or buffer zone?

BACKGROUND

Section 18.38.080(H)(4) of the Half Moon Bay Municipal Code allows certain permitted uses in a riparian zone if "no feasible alternative" exists.

SHORT ANSWER

When determining whether a "feasible alternative" exists I recommend using the definition of "feasible" in the California Coastal Act and California Environmental Quality Act (CEQA), and the description of a reasonable "alternative" under CEQA case law and the CEQA Guidelines.

Under the foregoing definitions, "Feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors."¹

A project "alternative" is one that would "feasibly obtain most of the basic objectives of the project ..."² As one court explained: An alternative need not satisfy all project objectives [sic], "it must merely meet 'most' of them." *Mira Mar Mobile Community v. City of Oceanside*, 119 Cal.

¹ Pub. Res. Code Sections 30108 and 2106.1. Please note that "feasible" is defined in an identical, or similar, manner in numerous other state laws. See, e.g., Gov. Code Section 14710, Gov. Code Section 53096, Gov. Code Section 56038.5, and Gov. Code Section 65589.5.

² See generally CEQA Guidelines 15126.6(a) and *Mira Mar Mobile Community v. City of Oceanside*, 119 Cal. App. 4th 477 (2004).

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From: Adam U. Lindgren, City Attorney
Re: "Feasible" Finding
Date: June 3, 2005
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App. 4th 477, 489 (2004). Although this definition of an "alternative" is derived from the CEQA context, the use of alternatives in other land use evaluation processes is sufficiently similar in nature to make the CEQA definition informative in this case.

Combining the above definitions would suggest that a "feasible alternative" exists if:

- there is an alternative site (either on or off site,³ depending on the circumstances);
- that meets most of the project objectives; and
- it is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

What constitutes a "feasible alternative" will vary according to the facts of each particular land use application. See generally *Mira Mar* at 487 (finding that the identification and scope of alternatives to be analyzed are subject to a "rule of reason" and must be evaluated based on the facts of each case and in light of statutory purposes).

For example, a "reduced development" project alternative was found infeasible in the CEQA context because "while potentially protecting the wetlands, [it] would not achieve the objective of consolidating [the winery's] operations to minimize cost and reduce highway usage." *Sierra Club v. County of Napa*, 121 Cal. App. 4th 1490, 1507-1508 (2004). One of the winery's objectives in developing the project was "to consolidate its operations and reduce its costs." The court said "Beringer [the winery] made a persuasive argument that the project could not be reconfigured so as to allow it to install the buildings, the ponds, and the vineyards and yet maintain required setbacks from No Name Creek and all wetlands." *Id.* Sierra Club argued that the County findings of infeasibility were "conclusory," but the court found "although the record certainly could have included more evidence on the point, there is evidence, even without the Beringer letter, from which the [County was] entitled to find that none of the alternatives were feasible." *Id.*

However, other courts have found that a reduced project may be a feasible alternative. For example, in *Citizens of Goleta Valley v. County of Santa Barbara* a court found that a hotel smaller than the one proposed by the applicant (340 rooms versus 524) should not have been dismissed as an "infeasible" alternative in an Environmental Impact Report when there was no substantial evidence to support that finding. *Citizens of Goleta Valley v. County of Santa Barbara*, 197 Cal. App. 3d 1167, 1180 (1988). The court said "[t]he fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project." *Id.* at 1081. In addition, because the County's

³ Factors to consider when assessing the feasibility of an off-site alternative in particular include: site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with regionally significant impacts should consider the regional context), and whether the project applicant already owns the alternative site or can reasonably acquire, control, or otherwise have access to it. See CEQA Guidelines 15126.6(f)(1); see also *Practice Under the California Environmental Quality Act Section 15.29* (CEB, 2004).

To: Jack Liebster, Planning Director
From: Adam U. Lindgren, City Attorney
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coastal zoning ordinance only allowed a project to be approved if adverse impacts are mitigated to the "maximum extent feasible," the court found that the County's imposing conditions on the project "to partially ameliorate" adverse impacts did not excuse the County's failure to evaluate a scaled-down alternative. "In as much as there was no substantial evidence to support respondent's finding that the alternate design was economically infeasible, further consideration at the administrative level is required." *Id.* at 1183-1184.

Evidentiary Support

Findings of feasibility (or infeasibility) must be supported by substantial evidence in the record, as the above cases illustrate, so it is advisable to fully describe the data and analysis that led to the City's conclusions in the body of the staff report.

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Tom Roman

Attachment B

684 Terrace Ave, Half Moon Bay
Lot Layout showing Buffer Zone Intersection

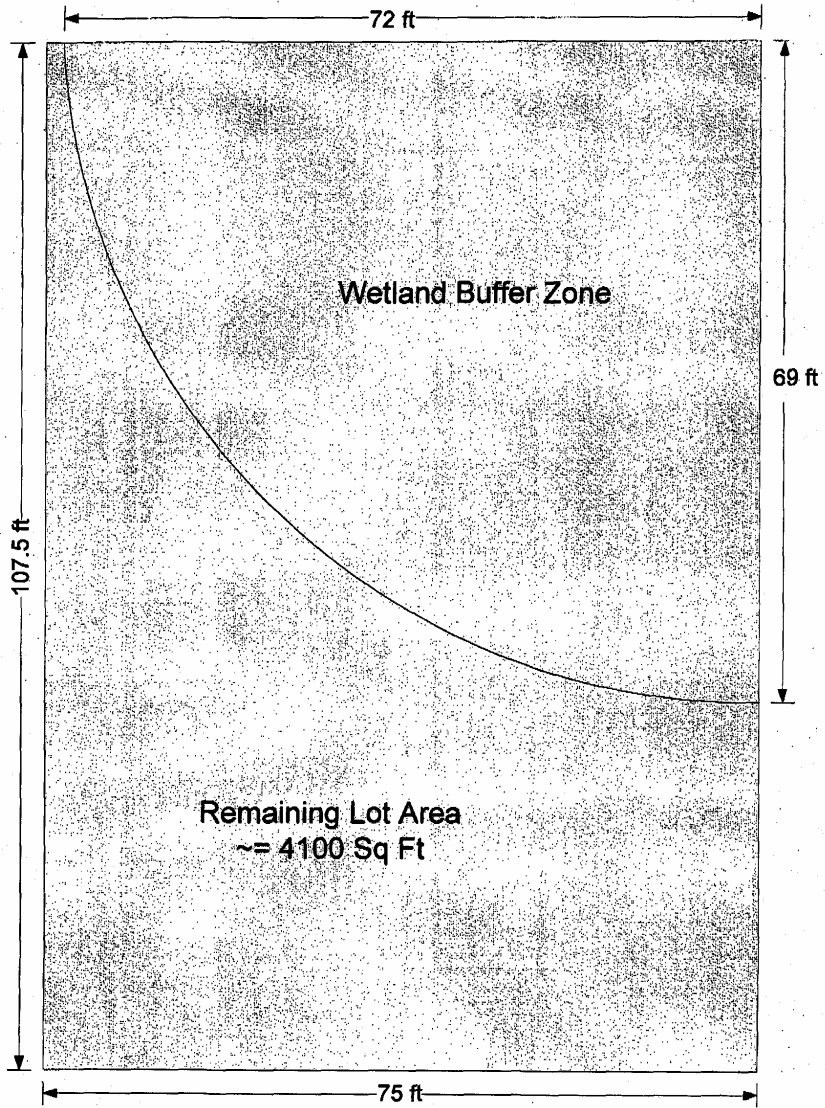


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Tom Roman

Attachment C

684 Terrace Ave, Half Moon Bay
Remaining Lot (excluding buffer zone) showing potential building site with conforming setbacks

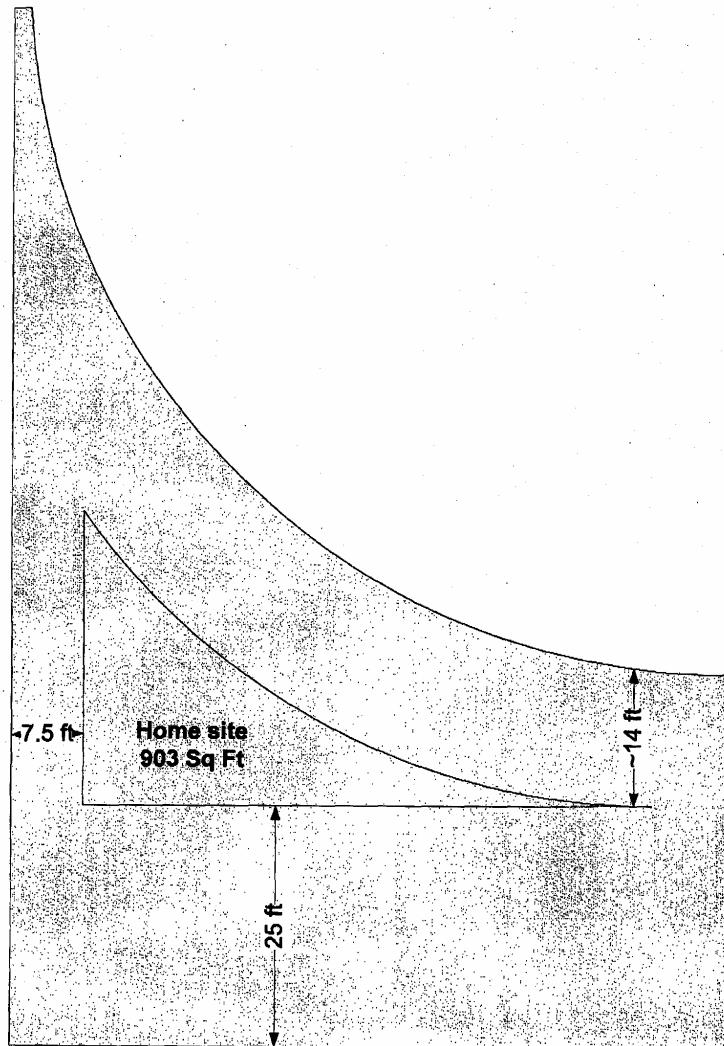


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Sage Schaun

From: David Johnston [DJOHNSTON@dfg.ca.gov]
Sent: Wednesday, November 10, 2004 3:44 PM
To: Sschan@ci.half-moon-bay.ca.us
Cc: Kathy Geary; Mary_Hammer@fws.gov
Subject: Your file PDP-86-03, DFG file CEQA 2004-1011-R3 Terrace AveSFD



Header

Sage

My apologies if this is a repeat of an earlier e-mail; I had prepared one earlier (around the 26th) and when I attempted to send it, my hard drive failed. It doesn't look like it went out, but if it did, disregard this one.

I concur generally with the report by H.T. Harvey for the site and agree that San Francisco garter snakes and (possibly) California red-legged frogs could cross the site. I recommend the following additional measures to reduce the possibility of a 'take' of individuals of either species.

1. The fence should be constructed of overlapping panels of 4 x 8 plywood, installed with the bottom edge buried a minimum of 6" to 12" below grade and anchored with steel T- posts on the inside, to prevent snakes from climbing into the enclosure. Any gaps at the base will be covered with soil; no gaps larger than 0.25 inch will remain. No silt fencing or erosion control blankets will be used because they present an entrapment hazard.

One-way exit funnels built to the above design will be installed with the fencing to allow snakes and frogs to leave the enclosure but not return. Funnels will be constructed with 1/8-inch hardware cloth and will be installed so that the wider opening is flush with the ground surface inside the fence, and the narrow exit opening will be no more than 2 inches off the ground on the outside of the fence. Elevation of the exit opening will be sufficient to prevent re-entry of snakes and/or frogs.

2. During the initial survey, any burrows on the project site should be excavated by a qualified biologist.

3. A qualified biologist should hold a worker education training session at the beginning of the work to familiarize workers with the appearance and behavior of the two species, as well as what actions should be taken should one be sighted in the work area. Written materials should be prepared so that new employees can receive the information as well.

Please let me know if you have any questions.

Dave Johnston
Calif. Department of Fish and Game
(831)475-9065

Attachment
D

1

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Sage Schaan

From: David Johnston [djohnston@dfg.ca.gov]
Sent: Tuesday, February 15, 2005 3:03 PM
To: Sage Schaan
Subject: Re: Development and grading on Terrace AvSage:enue site afterMay

Thanks for the follow-up.

The best window would be mid-May through mid September and the survey should be done immediately before grading.

It would be a good idea to weed-whack any grass before grading so that the survey can actually observe any burrows.

Feel free to check on any issues you might have.

Dave

Dave Johnston
Calif. Department of Fish and Game
(831)475-9065

>>> "Sage Schaan" <SSchaan@ci.half-moon-bay.ca.us> 02/15/05 10:16 AM
>>>

Dear Dave,

When we visited the site on Terrace Avenue in HMB last month for a proposed one-story house you mentioned that there should not be any grading before May.

Is there a window period in which they should get grading done, i.e. May to August, September, etc.?

Can the preconstruction biological survey be done before May? I assume this is something that should be done immediately before construction starts, so I assume it should happen after May but right before construction, is this correct?

Thanks a lot for your help on this Dave. I want to make sure if anything is allowed to be built on this site that is built with the correct mitigation measures.

Sage Schaan
Associate Planner



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Substantial Issue and De Novo Staff Report