

## CALIFORNIA COASTAL COMMISSION

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

**W6a**

December 19, 2008

TO: Commissioners and Interested Parties

FROM: Charles Lester, Deputy Director  
Ruby Pap, North Central Coast District Supervisor  
Doug Macmillan, Coastal Planner

SUBJECT: **CITY OF HALF MOON BAY LOCAL COASTAL PROGRAM  
AMENDMENT NO. 1-08 (Major).** (For public hearing and Commission action at its meeting of January 7, 2009 in Oceanside)

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**SYNOPSIS**

The City of Half Moon Bay proposes to amend the Implementation Plan (IP) of its LCP to rezone an approximately 0.8-acre site in the Addition to Arleta Park Subdivision in Half Moon Bay, San Mateo County, from Single-Family Residential (R-1-B-2) to Single-Family Residential (R-1-B-1). This change would increase the development potential of on the site from 3 to 4 conforming lots/units. The new density would remain consistent with the range of 2.1-8.0 Units per Acre allowed by the Medium Density Residential designation in the Land Use Plan.

The staff recommends that the Commission, **certify the IP amendment request as submitted.** If the Commission certifies the IP amendment as submitted, because the Commission has not adopted any suggested modifications, the IP amendment will take effect upon Commission action consistent with the terms of the City's resolution of submittal.

The IP amendment would allow for conforming infill residential development on currently vacant land at a slightly higher density than existing zoning allows, but within the maximum potentially allowable density of the Medium Density Residential Land Use Designation. It is narrowly focused on one site and would not be growth inducing or significantly impact coastal resources, consistent with the policies of the certified Land Use Plan, which is the standard of review.

Staff Note: LCP amendment HMB-MAJ-1-08 was filed as complete on September 15, 2008. Pursuant to Coastal Act Section 30517, the Commission voted on November 12, 2008 to extend the 60-day time limit to act on the Amendment by a period of one year, from November 14, 2008 to November 14, 2009.

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## 1. STANDARD OF REVIEW

The standard of review for proposed amendments to the City's IP is that they must conform with and be adequate to carry out the policies of the Land Use Plan (LUP). In general, Coastal Act policies set broad statewide direction that are generally refined by local government LUP policies giving local guidance as to the kinds, locations, and intensities of coastal development. IP (zoning) standards then typically further refine LUP policies to provide guidance on a parcel-by-parcel level. Because this is an IP (only) LCP amendment, the standard of review is the certified Land Use Plan (LUP).

## 2. STAFF RECOMMENDATION

### **STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:**

Staff recommends a **NO** vote on the motion below. Following the staff recommendation will result in Commission certification of the implementation plan amendment as submitted and adoption of the following resolution and findings. The motion passes only upon an affirmative vote of the majority of the Commissioners present.

**MOTION:** *I move that the Commission reject Implementation Program Amendment No. HMB-MAJ-1-08 as submitted by the City of Half Moon Bay.*

### **RESOLUTION TO CERTIFY LUP AMENDMENT NO. HMB-MAJ-1-08:**

The Commission hereby **certifies** Implementation Plan Amendment No. HMB-MAJ-1-08 for the City of Half Moon Bay and adopts the findings set forth below on the grounds that the Implementation plan amendment as submitted will meet the requirements of and be in conformity with the Certified Land Use Plan. Certification of the Implementation plan amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the land use plan amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Implementation plan amendment may have on the environment.

## 3. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

### A. Amendment Description

On April 21, 2008 the City of Half Moon Bay submitted a proposal to amend the City's Local Coastal Program to rezone an approximately 0.8-acre site from Single-Family Residential (R-1-B-2) to Single-Family Residential (R-1-B-1). The R-1-B-2 zoning designation requires that lots be a minimum of 7,500 sq.ft. in area and an average width of 75 ft. The R-1-B-1 allows lots that are a minimum of 6,000 sq.ft. in area and an



average width of 60 ft. The LCP designates the area as Residential-Medium Density, with a range of 2.1-8.0 units per acre. The amendment would not change the existing Land Use designation. Any future residential development would be required to meet the R-1-B-1 standards, and would require a Coastal Development Permit. The development would also be appealable to the Coastal Commission as the site lies between the first public road and the sea.

#### B. Site Description

The site is an undeveloped, 0.8-acre area on Lots 1-9 of Block 10 of the Addition to Arleta Park Subdivision, and encompasses three APN's: 064-332-180, 064-332-190, and 064-332-200. The nine lots shown on the subdivision map are approximately 31.5 by 124 feet. Under the existing IP provisions, the nine lots are considered severely substandard as they provide less than 50% of the required lot width in the R-1-B-2 zone (75 ft). The property owner's representative has stated that the owner intends to apply to the City to merge the nine lots into four standard lots once the zoning is amended to allow for four such lots.<sup>1</sup>

The site is generally bounded by Magnolia Street on the north, Second Avenue to the west, Magnolia City Park to the east, and Seymour Street to the south. The majority of residences in the Addition to Arleta Park Subdivision have been constructed to the standards of the R-1-B-1 zoning designation. The existing residences along Seymour Street and the two existing residences on the western end of Magnolia Street are within the R-1-B-2 zoning district but have been built to the R-1-B-1 development standards per a recorded development agreement.

#### C. Analysis

As summarized above, the proposed IP amendment would rezone an approximately 0.8-acre site from Single-Family Residential (R-1-B-2) to Single-Family Residential (R-1-B-1). The R-1-B-2 zoning designation requires that lots be a minimum of 7,500 sq.ft. in area and an average width of 75 ft. The R-1-B-1 allows lots that are a minimum of 6,000 sq.ft. in area and an average width of 60 ft. Again, the property owner's representative has stated that the purpose of the amendment is to allow for the subsequent merger of the property into four conforming standard lots.<sup>2</sup> Only three conforming lots would be allowed under the current R-1-B-2 zoning. Thus, the most likely effect of the amendment would be to increase the potential development on the site from three to four conforming lots.<sup>3</sup>

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<sup>1</sup> Personal Communication, Kerry Burke to Charles Lester, 12/17/08. The Commission expresses no opinion on the number or validity of existing lots on the three APNs at this time, and is merely reviewing the proposed potentially allowable maximum density for conformity with the Land Use Plan. The City acknowledges this in their September 4, 2008 and August 15, 2008 letters to the Commission regarding the filing of the rezone amendment. [See Exhibit 4].

<sup>2</sup> *Id.*

<sup>3</sup> The City's LCP also potentially provides for the development of substandard and severely substandard lots if certain requirements and findings are met. If the property were considered for development under these provisions,



Section 30250(a) of the Coastal Act requires that new development be located in or near existing developed areas able to accommodate it and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. The intent of this policy is to concentrate development to minimize adverse impacts on coastal resources. Section 30250 of the Coastal Act is incorporated as a guiding policy of the LCP by LUP Policy 1-1. To implement this policy, Half Moon Bay LUP policy 9-4 requires that new development be adequately served by water and sewer service, and be accessible via public streets. The subject site has Crystal Springs Water non-priority service connections sufficient for five single-family residences, one more than would be needed for conforming development under the proposed zoning. The site is 0.2 mile west of Highway 1 but Magnolia Street does not connect directly to it. Any future development would access Highway 1 via Second or Third Avenue and Grove Street. Poplar Beach is 0.45 mile to the west and access to the shore would not be impacted.

The proposed zoning would remain consistent with the Land Use Plan density for this existing developed area. While there may be an increase in potential conforming development over the existing zoning, the increase would not have a significant impact on coastal resources. First, any future development would constitute infill in a largely already developed area, and would be required to meet all the standards of the LCP, including approval of a local Coastal Development Permit that is appealable to the Commission. Any significant impacts identified through the CDP review would need to be addressed at that time. The proposed changes would have no affect on the City's growth control ordinance (Measure A) and would therefore not be growth inducing. (see below).

Second, Coastal Act sections 30240 and 30233, which also are incorporated into the City's LCP as a guiding policy by LUP Policy 1-1, as well as specific ESHA and wetlands/riparian policies of the LCP, require protection of Environmentally Sensitive Habitat Areas (ESHAs), wetlands, and riparian zones. In accordance with the City's LCP Chapter 3, a Biotic Assessment was performed on the site by LSA Associates and it determined that no potential wetlands or riparian areas were present. Nor was any ESHA identified on the site. Therefore, the proposed change in density would not impact such resources.

Finally, the LCP also protects scenic resources and other coastal resources, such as cultural resources. Given the urban infill context of the property, the small increase in development potential will not result in any significant public visual resource impacts. Nor has the potential for other resource impacts been identified that could not be addressed at the project development stage.

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it is possible that the development potential could be greater than three or four units, depending on how many lots were proposed and/or legally recognized. However, the IP amendment does not materially change the development under this substandard lot scenario. That is, development on all of the severely substandard lots potentially could be proposed on the property in either case (with or without the amendment). The impacts of such proposals, as well as the legal basis for the underlying lots, would need to be considered at the time the number of lots was proposed.



Therefore, the Commission finds that proposed Amendment No. 1-08 to the Implementation Plan conforms to and is adequate to carry out the Land Use Plan.

D. Consistency with the California Environmental Quality Act (CEQA)

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) – exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission and the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required, in approving an LCP submittal, or, as in this case, an LCP amendment submittal, to find that the approval of the proposed IP, as amended, does conform with CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended IP will not be approved or adopted as proposed if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13542(a), 13540(f), and 13555(b).

This staff report has discussed the relevant coastal resource issues with the proposal. All public comments received to date have been addressed in the findings above. The above findings regarding consistency of the proposed implementation plan amendment with the certified LUP are incorporated herein in their entirety by reference.

As such, there are neither additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment within the meaning of CEQA. Thus the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

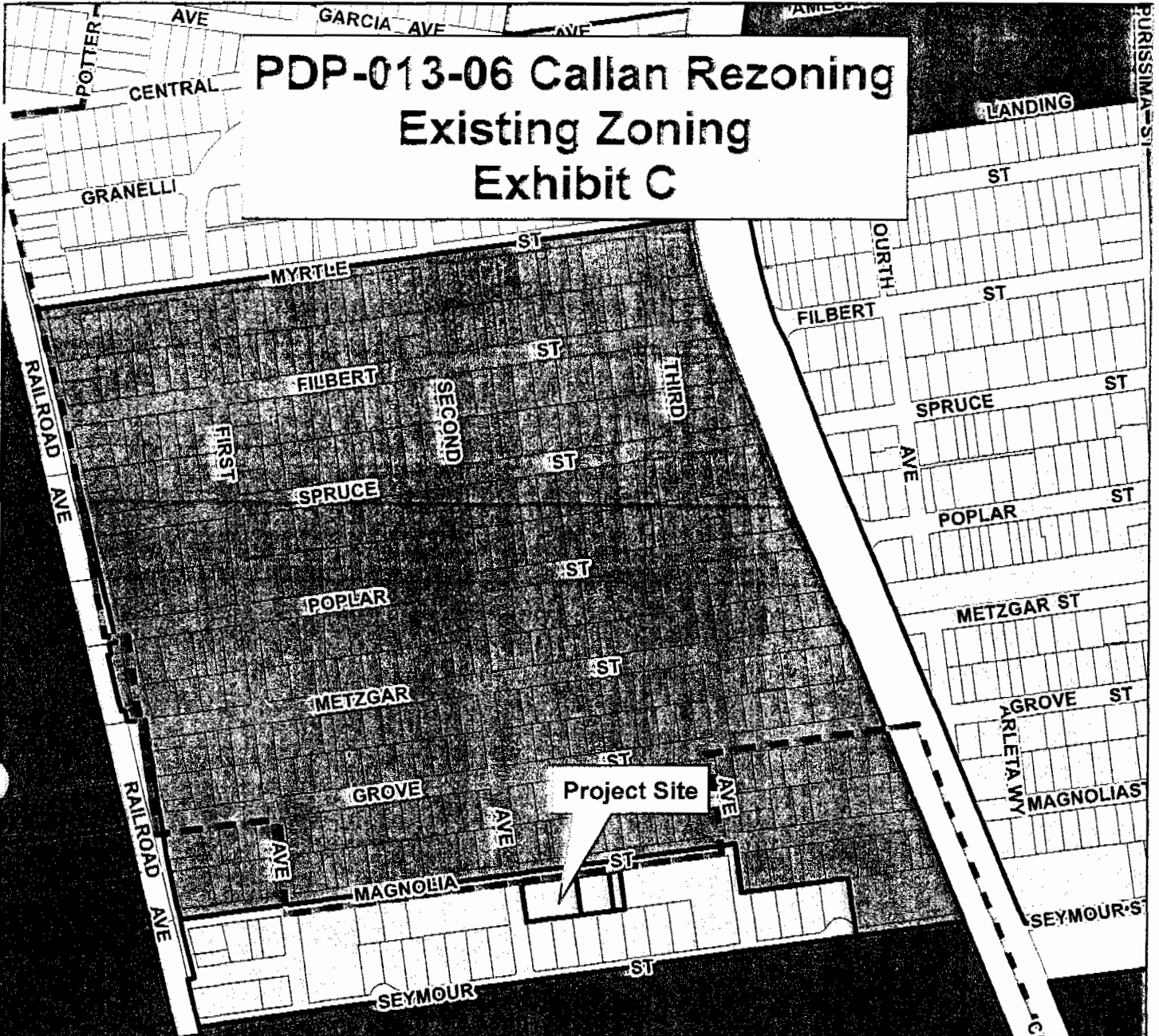
Exhibits:

1. Vicinity Map
2. Existing and Proposed Zoning maps
3. City Ordinance No. C-2-08
4. Correspondence from City












# PDP-013-06 Callan Rezoning Existing Zoning Exhibit C

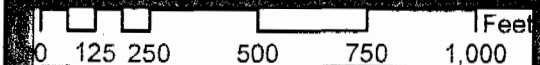


## Legend

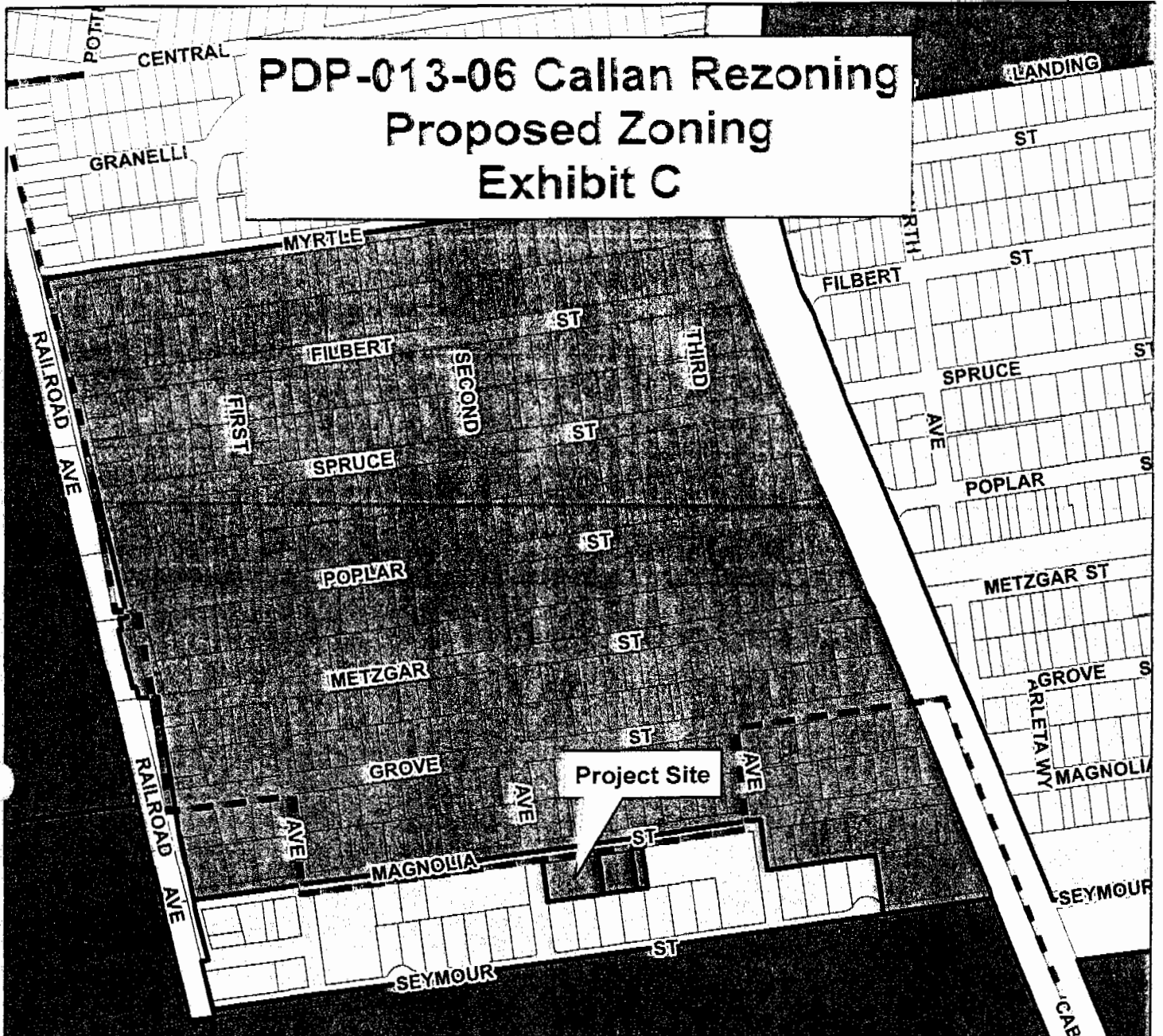
-  CCC Appeal Zone
-  Existing R-1-B-2 Zoning

## Zoning Districts



-  R-1 Single Family Residential (5,000 sq.' lot)
-  R-1-B-1 Single Family Residential (6,000 sq.' lot)
-  R-1-B-2 Single Family Residential (7,500 sq.' lot)
-  R-2 Two Family Residential
-  PUD Planned Unit Development



# PDP-013-06 Callan Rezoning Proposed Zoning Exhibit C



## Legend

-  CCC Appeal Zone
-  Proposed R-1-B-1 Zoning

## Zoning Districts






-  R-1 Single Family Residential (5,000 sq.' lot)
-  R-1-B-1 Single Family Residential (6,000 sq.' lot)
-  R-1-B-2 Single Family Residential (7,500 sq.' lot)
-  R-2 Two Family Residential
-  PUD Planned Unit Development

Exhibit No. 2  
CITY OF HALF MOON BAY LOCAL COASTAL  
PROGRAM AMENDMENT NO. 1-08 (MAJOR)  
Existing and Proposed Zoning maps



THE CITY OF HALF MOON BAY

ORDINANCE NO. C- 02-08

**AN ORDINANCE OF THE CITY OF HALF MOON BAY AMENDING ORDINANCE C-12-07 BY RESCINDING APPROVAL OF A COASTAL DEVELOPMENT PERMIT AND LOT MERGER, AND APPROVING A ZONING MAP AMENDMENT ON AN EXISTING SITE FROM SINGLE-FAMILY RESIDENTIAL (R-1-B-2) TO SINGLE-FAMILY RESIDENTIAL (R-1-B-1) LOCATED AT THE SOUTHEAST CORNER OF MAGNOLIA STREET AND SECOND AVENUE (APNS: 064-332-180, 064-332-190, AND 064-332-200)**

**Callan Rezoning PDP-013-06:** The Zoning Map Amendment changes the zoning designation from Single-Family Residential (R-1-B-2) to Single-Family Residential (R-1-B-1) on lots 1-9 of Block 10 of the Addition to Arleta Park Subdivision, as shown on the attached Zoning Map (Exhibit 'C'), known as Assessors Parcel Numbers 064-332-180, 064-332-190, and 064-332-200, generally bounded by Magnolia Street on the north, Second Avenue to the west, Magnolia Park to the east and Seymour Street to the south. The General Plan designation remains Medium Density Residential.

**RECITALS**

**WHEREAS**, the procedures for amending the Zoning Map for the subject properties as set forth in the California Government Code have been followed; and

**WHEREAS**, the procedures for amending the Zoning Map for the subject properties as set forth in the Half Moon Bay Municipal Code and State law have been followed; and

**WHEREAS**, the property owner requested the rezoning of the subject properties from the Single-Family Residential (R-1-B-2) to Single-Family Residential (R-1-B-1) Zoning Districts; and

**WHEREAS**, the amendment to the Zoning Map for the subject properties requires the preparation and acceptance of an environmental document in accordance with CEQA; and

**WHEREAS**, an Initial Study/Mitigated Negative Declaration and Mitigation Monitoring Program has been prepared for the requested rezoning for the subject properties; and

**WHEREAS**, the City Council has reviewed the Initial Study/Mitigated Negative Declaration, and Mitigation Monitoring Program and accepts the environmental documentation as complete and adequate; and

**WHEREAS**, the City of Half Moon Bay is committed to maximum public participation and involvement in matters pertaining to the General Plan and its Elements, the Land Use Plan, and the Zoning Code; and

**WHEREAS**, a notice containing a brief description of this application and the date, time and place of the City Council public hearing was mailed to all persons expressing an interest in these proceedings, to all property owners within 300 feet of the site, and to all County, State, and Federal agencies with an interest in the City's General Plan/Land Use Plan; and

**WHEREAS**, a notice containing a brief description of the application and the date, time and place of the City Council public hearing was published in the Half Moon Bay Review, a newspaper of general circulation in the City; and

**WHEREAS**, a notice containing the Initial Study/Mitigated Negative Declaration with a brief description of the application and the date, time and place of the Planning Commission public hearing was filed with the County of San Mateo Records Office on September 21, 2007 and remained posted until October 24, 2007; and

**WHEREAS**, the Planning Commission conducted a duly noticed public hearing on October 25, 2007 and forwarded a recommendation to the City Council within a timely manner; and

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

**WHEREAS**, the Planning Commission voted unanimously to recommend to the City Council approval of the Coastal Development Permit, Rezoning, Lot Merger, and Zoning Map Amendment are in accordance with all applicable policies of the Local Coastal Program Land Use Plan, the General Plan and its Elements, and the Half Moon Bay Municipal Code; and

**WHEREAS**, the City Council considered the application and the recommendation of the Planning Commission at a duly notice public hearing on November 6, 2007 and November 20, 2007; and

**WHEREAS**, the City Council adopted Ordinance C-12-07 and Resolution C-58-07 approving Coastal Development Permit PDP-013-06 at a duly noticed public hearing on December 4, 2007; and

**WHEREAS**, on January 8, 2008, the California Coastal Commission filed a timely appeal (A-2-HMB-08-002) with the City as a result of notification of an approved Coastal Development Permit prior to the filing of the Local Coastal Plan Amendment (LCPA) to the Coastal Commission; and

**WHEREAS**, the City Council has since determined that the approval of a Coastal Development Permit adopted by Resolution C-58-07 is invalid based on reasons described in Coastal Commission Appeal (A-2-HMB-08-002) and that, as a result, the legality and enforceability of Resolution C-58-07 have been called into question; and

**WHEREAS**, on March 4, 2008, the City Council considered an ordinance amending Ordinance C-12-07 to rescind the approval of a Coastal Development Permit (CDP) and Lot Merger, and approve the amendment of the Zoning District Map to rezone an existing site from Single-Family Residential (R-1-B-2) to Single-Family Residential (R-1-B-1), located at the southeast corner of Magnolia Street and Second Avenue; and

**WHEREAS**, the City Council finds that based on the reasons stated within the Coastal Commission Appeal that a Coastal Development Permit and Lot Merger are not required for the processing of PDP-013-06.

### **DECISION**

Exhibit No. 3  
CITY OF HALF MOON BAY LOCAL COASTAL  
PROGRAM AMENDMENT NO. 1-08 (MAJOR)  
City Ordinance No. C-2-08

**NOW THEREFORE, BE IT ORDAINED** that the City Council of the City of Half Moon Bay hereby approves ORDINANCE NO. C-\_\_-08 (PDP-013-06), as described herein and as shown in the attached Exhibit C.

**SECTION 1. Rezoning.** The Zoning Map Amendment pertains to Lots 1-9 of Block 10 of the Addition to Arleta Park Subdivision those properties shown on the proposed Zoning Map (Exhibit 'C') known as Assessors Parcel Numbers 064-332-180, 064-332-190, and 064-332-200 generally bounded by Magnolia Street on the north, Second Avenue to the west, Magnolia City Park to the east, and Seymour Street to the south. The Zoning Map Amendment changes the map designation from the Single-Family Residential (R-1-B-2) District to the Single-Family Residential (R-1-B-1) District. The General Plan designation would remain Medium Density Residential.

**SECTION 2. Effective Date.** Pursuant to Section 36937 of the Government Code of the State of California, this ordinance shall take effect and be in full force only after the Zoning Map Amendment is certified by the California Coastal Commission pursuant to Chapter 6, Article 2, of the California Coastal Act. In the event that the Coastal Commission certifies the amendment subject to certain modifications, the amendment shall not become effective until the modifications have been approved by this Council and confirmed by the Executive Director of the California Coastal Commission.

**SECTION 3. Publication.** The City Clerk shall cause this ordinance to be published and posted in accordance with the requirements of Section 36933 of the Government Code of the State of California.

**SECTION 4. Coastal Act Conformity.** The City Council of the City of Half Moon Bay acknowledges that the Coastal Commission may require other terms and modifications that may be suggested by a resolution of certification, agrees to issue coastal development permits consistent with these modifications, and intends for the Local Coastal Program, as amended by this ordinance, to be carried out in a manner fully in conformity with the California Coastal Act.

**SECTION 4. Severability.** In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

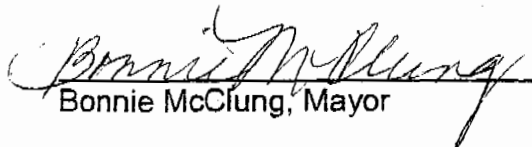
**PASSED AND ADOPTED** this 18th day of March, 2008, by the following votes:

AYES: Fraser, Grady, Muller, Patridge & Mayor McClung

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

  
Bonnie McClung, Mayor

ATTEST:


  
Siobhan Smith, City Clerk

Exhibit No. 3  
CITY OF HALF MOON BAY LOCAL COASTAL  
PROGRAM AMENDMENT NO. 1-08 (MAJOR)  
City Ordinance No. C-2-08



## CITY OF HALF MOON BAY

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

**RECEIVED**  
**SEP 12 2008**  
CALIFORNIA  
COASTAL COMMISSION

September 4, 2008

California Coastal Commission  
Attn: Madeline Cavalieri, Coastal Planner  
45 Fremont Street  
Suite 2000  
San Francisco, CA 94105-2219

Subject: LCP Amendment Major 1-08 (Callan Rezoning)

Dear Ms. Cavalieri:

Thank you for your letter dated June 18, 2008 in which Commission staff questioned the validity of the Addition to Arleta Park Subdivision Map and the legality of Lots 1-9. In response, City staff forwarded the letter to City Attorney, Anthony P. Condotti. Please review the attached reply as it provides a comprehensive response to the question of the application's completeness.

As the letter points out, City staff originally processed an application for a Coastal Development Permit (CDP), Rezoning, Lot Merger, and Zoning Map Amendment by approval of Resolution No. C-58-07. After the approval, the CDP was appealed by the Coastal Commission and at the direction of Coastal staff; the City Council rescinded the CDP by adopting Resolution 16-08.

The City Attorney states that "as limited by the Council's subsequent action, the legality of Lots 1-9 no longer appears to be at issue. The standards that apply to the rezoning are the same whether the subject property is viewed as a single parcel or nine contiguous parcels."

It is certain that when an application is submitted for development on any of these lots, that development will have to conform to the new zoning criteria approved. City staff agrees with the City Attorney's opinion that the legality of the lots is irrelevant to the issue of conformity of the rezoning with the policies of the Coastal Act and agrees that it would be more appropriate to review during the CDP process, after the new zoning designation is established.

It may be beneficial, as suggested by Mr. Condotti, to arrange a meeting between Coastal Commission staff, City staff, and the applicant's consultant to discuss this issue in an effort to move the application forward. If you should need any additional information, please contact me at 650-726-8251.

Exhibit No. 4  
CITY OF HALF MOON BAY LOCAL COASTAL  
PROGRAM AMENDMENT NO. 1-08 (MAJOR)  
Correspondence from City

Ms. Madeline Cavaliere  
Half Moon Bay LCPA  
September 4, 2008

Sincerely,  
City of Half Moon Bay

A handwritten signature in black ink that reads "Tonya Ward". The signature is written in a cursive, flowing style.

Tonya Ward  
Associate Planner

Attachment

cc: Charles Lester, Senior Deputy Director, California Coastal Commission  
Steve Flint, Planning Director  
Kerry Burke, Burke Land Use (Applicant)  
Jennifer Desler (Applicant)  
Gladys A. Callan, Trustee (Property Owner)

**ATCHISON, BARISONE, CONDOTTI & KOVACEVICH**

A PROFESSIONAL CORPORATION

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JOHN G. BARISONE  
ANYTHONY P. CONDOTTI  
GEORGE J. KOVACEVICH  
BARBARA H. CHOI  
SUSAN E. BARISONE  
CELESTIAL S.D. CASSMAN

**PLANNING DEPT.**

AUG 18 2008

**RECEIVED**

August 15, 2008

Steve Flint, Planning Director  
CITY OF HALF MOON BAY  
501 Main Street  
Half Moon Bay, CA 94019

**Re: LCP Amendment Major 1-08 (Callan Rezoning)**

Dear Steve:

Per your request I have reviewed the correspondence dated May 7, 2008 and June 18, 2008 from California Coastal Commission Planner Madeline Cavalieri, and pertaining to the above-referenced rezoning application. Ms. Cavalieri's letters question the validity of Addition to Arleta Park Subdivision Map, which was apparently recorded in 1906 and 1909. The subject property is identified as Lots 1-9 of Block 10 of the maps. Ms. Cavalieri asserts that the application is "incomplete pursuant to Title 14 CCR Section 13553" because of her uncertainty about whether Lots 1-9 were legally created.

It is my understanding that this project was originally submitted as a request for a zoning map amendment and rezoning from Single-Family Residential (R-1-B-2) to Single-Family Residential R-1-B-1). On December 4, 2007 the City Council adopted Resolution No. C-58-07 issuing a Coastal Development Permit, Rezoning, Lot Merger and Zoning Map Amendment for the project. Resolution No. C-58-07 approved a coastal development permit and a merger of 9 contiguous lots into four standard sized lots for the future development of four single-family residences. After the original approval was appealed by the Coastal Commission, on March 4, 2008 the City Council adopted Resolution 16-08, rescinding the prior action and issued a new approval that was limited to the rezoning.

As limited by the Council's subsequent action, the legality of Lots 1-9 no longer appears to be at issue. The standards that apply to the rezoning are the same whether the subject property is viewed as a single parcel or nine contiguous parcels. Assuming that the rezoning is approved, any development application that is presented will be required to conform to the new zoning criteria, and the individual lots to be developed will have to conform to the zoning criteria as approved. Since the legality of the lots is irrelevant to the issue of the conformity of the rezoning with the policies of the Coastal Act, it would be improper, in my opinion, to deny the rezoning on the basis that the lots have not been legally subdivided. It is likewise improper, in my opinion, to conclude that the application is incomplete and refuse to process it on this basis.

Exhibit No. 4  
CITY OF HALF MOON BAY LOCAL COASTAL  
PROGRAM AMENDMENT NO. 1-08 (MAJOR)  
Correspondence from City

Steve Flint, Planning Director

August 14, 2008

Page 2 of 2

In sum, I disagree with Ms. Cavaliere's statement that "the legality of the nine lots must be established" in order for the Commission to review the amendment's conformity with the policies of the Coastal Act. On the other hand, a determination of the legality of Lots 1-9 would be appropriate in the context of a coastal development permit application process, after the rezoning is approved. I recommend that we attempt to meet with Coastal Commission staff, with the applicant's consultant, to discuss this issue in an effort to move this application forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony P. Condotti", enclosed within a large, hand-drawn oval.

Anthony P. Condotti  
City Attorney

cc: Marcia Raines, City Manager  
Kerry L. Burke