

CALIFORNIA COASTAL COMMISSION

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W10b



Filed: January 8, 2010
49 Days: February 26, 2010
Staff: M. Cavalieri
Staff Report: January 28, 2010
Hearing Date: February 10, 2010

STAFF REPORT: APPEAL **SUBSTANTIAL ISSUE**

LOCAL GOVERNMENT: City of Half Moon Bay

LOCAL DECISION: Approval with conditions

APPEAL NUMBER: Appeal A-2-HMB-10-001

APPLICANT: Marcos and Esther Hernandez

APPELLANTS: Commissioners Mark Stone and Steve Blank

PROJECT LOCATION: 306 Ralston Avenue, Half Moon Bay, San Mateo County

PROJECT DESCRIPTION: Construction of a new two-story single-family residence with road extension and associated infrastructure

Recommendation: Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which appeal A-2-HMB-10-001 was filed. Staff recommends a **NO** vote on the following motion & resolution:

***Motion & Resolution.** I move that the Commission determine and resolve that: Appeal Number A-2-HMB-10-001 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Coastal Act Section 30603 regarding consistency with the certified Local Coastal Program and/or the public access policies of the Coastal Act.*

Following the staff recommendation via a NO vote will result in the Commission conducting a *de novo* hearing on the application and adoption of the following findings. Passage of this motion, via a YES vote, thereby rejecting the staff recommendation, 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.



Findings: On December 7, 2009, the City of Half Moon Bay approved a coastal development permit to authorize the construction of a new, two-story single-family residence with road extension and associated infrastructure located within an R-1-B-2 district. The development site consists of one assessor's parcel number (APN) that is purportedly made up of five, 25' wide lots. The City's approval includes a condition requiring three of those purportedly divided lots to be merged. The appellants, Commissioners Mark Stone and Steve Blank, claim the approved development is inconsistent with the policies of the City's certified Local Coastal Program, including policies related to coastal development permit (CDP) requirements, public access, visual resources, development, and infrastructure.

Coastal Act section 30625(b) requires the Commission to hear an appeal unless it determines that no substantial issue exists with respect to the grounds on which the appeal has been filed.¹ Commission staff has analyzed the City's Final Local Action Notice for the development (Exhibit 1), appellant's claims (Exhibit 2), and the relevant requirements of the LCP (Exhibit 3). The appeal raises a substantial issue of conformance with the LCP as explained below.

A Division of Land Requires A CDP

The five purportedly divided 25' lots are shown on a map of the Ocean Shore Tract dated 1907. However, appellate case law has definitively instructed that appearance on such a map does not establish that the property was legally divided. Instead, the Court of Appeal decisions in both *Witt Home Ranch v. County of Sonoma* (2008) and *Abernathy Valley, Inc. v. County of Solano* (2009) instruct that the legal status of lots appearing on these ancient subdivision maps is that they are still in common ownership. In addition, because there is evidence that the subject property was historically transferred as a single parcel and because it is currently in single ownership, the development potential of the parcel may be limited to a single economic unit. Further, there is no evidence that the applicant obtained a CDP for land division when they purchased the subject property, even though the property was a portion of a larger property in the same Ocean Shore Tract, dated 1907, that was historically transferred as a single parcel. Additional analysis of both the legality and the development potential of the property proposed for development is required before any development may be authorized on the property, thereby raising a substantial issue of conformance of the approved development with coastal development permit requirements of the certified LCP.

In addition, the R-1-B-2 development standards require at least a 7,500 square foot site area and a 75-foot site width. The City's decision to require the merger of three of the five lots that were purportedly divided would create one standard-sized, 7,500 square foot, 75-foot wide parcel, and either one 50-foot wide substandard parcel, or two 25-foot wide severely substandard parcels.

¹ The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. In previous decisions on appeals, the Commission has generally been guided by the following factors in making substantial issue determinations: the degree of factual and legal support for the local government's decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government's decision for future interpretations of its LCP; and, whether the appeal raises only local issues, or those of regional or statewide significance.



However, if the five lots comprising the single assessor parcel that was purportedly divided constitute a developable parcel, the requirement to merge three of the five lots that were purportedly divided may instead constitute a division of a legal parcel into two legal parcels, one of which does not conform to the current zoning requirements. Further, it is unclear if the subject property even comprises one legal parcel, because there is no evidence of a CDP for the division of the subject property from the adjacent property.

An approved division of land is considered development under section 18.20.020.C of the certified Implementation Plan (IP), and therefore requires a coastal development permit. Pursuant to IP section 18.20.070, a CDP may only be approved after the approving authority has made findings that the development conforms to the LCP, that it is consistent with the property development standards of the zoning ordinance, and that the proposed development would be provided with adequate services and infrastructure.

The Commission finds that the appeal raises a substantial issue regarding conformity of the approved development with LCP section 18.20.020 et seq. because a land division of the property: (1) has not been evaluated for consistency with the LCP; (2) has not been authorized through a CDP; and (3) could conflict with the site area requirements of the zoning ordinance. Further, the City did not make the findings required in IP section 18.20.070.

Public Access and Road Capacity

The LUP contains policies that require new development to be served by adequate road facilities that must also serve priority uses such as public access and recreation. These LCP policies, including Policies 9-2, 9-4, 10-4, and 10-25, carry out the requirements of Coastal Act Sections 30250(a) and 30252, which the City has adopted as guiding policies to the LCP (See Exhibit 3 for the text of these provisions).

Residential development in the Mid-Coast region is the primary cause of the severe traffic congestion on Mid-Coast Highways 1 and 92. Any increase in the potential level of build-out caused by new subdivisions will lead to even greater demands on infrastructure that cannot support build-out of the existing supply of legal lots in the region. Because there are no alternative access routes to and along the coastline in this area of the coast, the extreme traffic congestion on Highways 1 and 92 significantly interferes with the public's ability to access the area's substantial public beaches and other visitor serving coastal resources in conflict with these policies.

The Commission finds that the appeal raises a substantial issue with regard to LCP policies related to public access, infrastructure and road capacity, including the above mentioned policies, because it could result in an increase in the supply of existing legal lots in Half Moon Bay causing significant adverse cumulative impacts to regional traffic congestion and the public's ability to access the coast.

Infrastructure



As discussed above, LUP Policies 9-2, 9-4, and IP section 18.20.070.D require that development shall be served with adequate services and that lack of adequate services shall be grounds for denial of a development permit or reduction in the density otherwise allowed under the LUP.

The Commission finds that the appeal raises a substantial issue of conformance of the approved development with the LCP because the City did not evaluate whether adequate services would be available for the newly created lots and the City did not make the required findings.

Visual Resources

The City has adopted various Coastal Act sections as guiding policies for the LCP, including Coastal Act section 30251, Visual resources LUP policy 7-5, and Chapter 18.37 of the certified IP. These policies establish visual resource protection standards that apply to all new development. (Exhibit 3)

The City did not evaluate the land division resulting from the required lot merger for consistency with the visual resources policies of the LCP. The approved land division could result in development of substandard or severely substandard residential lots, potentially leading to more numerous and taller homes that may not be in character with the surrounding neighborhood, thereby raising a substantial issue of conformance with Coastal Act section 30251, LUP policy 7-5, and IP Chapter 18.37. Therefore, the Commission finds that the appeal raises a substantial issue of conformity of the approved development with the visual resources policies of the certified LCP.

Substantial Issue Conclusion

The City has not provided factual and legal evidence to support its approval of a new single-family residence and a lot merger at this location. The appeal raises a substantial issue with respect to the conformity of the approved development with the development, public access, infrastructure and visual resources policies of the LUP. These issues are issues of statewide concern addressed in Sections 30210, 30211, 30212 and 30251 of the Coastal Act.

Therefore, for the reasons stated above, the Commission finds that Appeal Number A-2-HMB-10-001 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency of the approved development with the certified Local Coastal Program and the public access policies of the Coastal Act.

Information Needed for *De Novo* Review of Application

As stated above, Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed. Section 30621 of the Coastal Act instructs the Commission to provide for a *de novo* hearing on all appeals where it has determined that a substantial issue exists with respect to the grounds on which an appeal has been filed. If the Commission finds substantial issue as recommended above, staff also recommends that the Commission continue



the *de novo* hearing to a subsequent date. The *de novo* portion of the appeal must be continued because the Commission does not have sufficient information to determine what, if any, development can be approved, consistent with the certified LCP.

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

Information Needed to Evaluate the Legality of the parcel

Because appearance on a 1907 map does not establish lot legality and there is evidence that the property to be developed was historically transferred as a single parcel and is in single ownership, further analysis of both the legality and the development potential of the property proposed for development is required before any development may be authorized on the property. This analysis must include, but is not limited to, the following:

- A. The historic chain of title for all undeveloped property held by either the current or previous landowner or the previous landowner's management company in the Ocean Shore Tract, including the property to be developed and all adjacent property;
- B. Information to establish the legality of all undeveloped property held by either the current or previous landowner or the previous landowner's management company in the Ocean Shore Tract, including the property to be developed and all adjacent property. Such information shall include certificates of compliance, grant deeds and information demonstrating whether all such property complies with the provisions of the Subdivision Map Act and the County Ordinances enacted pursuant.



CALIFORNIA COASTAL COMMISSION

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**NOTIFICATION OF APPEAL PERIOD**

DATE: December 29, 2009
TO: Tonya Ward, Associate Planner
City of Half Moon Bay, Building & Planning Department
501 Main Street
Half Moon Bay, CA 94019
FROM: Madeline Cavalieri, Coastal Program Analyst *RP (for)*
RE: **Application No. 2-HMB-09-189**

Please be advised that on December 23, 2009 our office received notice of local action on the coastal development permit described below:

Local Permit #: PDP-056-07

Applicant(s): Marcos Hernandez

Description: Construction of a new two-story single story single-family residence with road extension and associated infrastructure located within a R-1-B-2 (Single-Family Residential) district as shown on plans with City date stamp of November 16, 2009, including any conditions imposed by the Planning Director.

Location: 306 Ralston Avenue, Half Moon Bay (San Mateo County) (APN(s) 056-055-130)

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 January 8, 2010.

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: Marcos Hernandez

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

Date: December 21, 2009 File: PDP-056-07

Applicants/Owners: Marcos & Esther Hernandez
419 Grand Boulevard
Half Moon Bay, CA 94019

Planner: Tonya Ward, 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 Director approved the Coastal Development Permit on December 7, 2009, by Resolution No. PDR-09-09. The Planning Director's decision was not appealed to the Half Moon Bay Planning Commission within the ten working-day appeal period.

Project Description: Coastal Development Permit to authorize the construction of a new two-story single-family residence with road extension and associated infrastructure located within a R-1-B-2 (Single-Family Residential) district as shown on plans with City date stamp of November 16, 2009, including any conditions of approval imposed by the Planning Director.

Project Location: 306 Ralston Avenue, Half Moon Bay, CA 94019

APNS: 056-055-130

APPROVED by the Planning Director on December 7, 2009, 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.

PLANNING DIRECTOR RESOLUTION PDR-09-09
RESOLUTION FOR APPROVAL
PDP-056-07

Coastal Development Permit for a Two-Story, Single-Family Residence, Road Extension and Associated Infrastructure Located at 306 Ralston Avenue (APN 056-055-130)

WHEREAS, an application was submitted requesting approval a Coastal Development Permit for of the construction of a two-story, single-family residence on a vacant standard size parcel, road extension and associated infrastructure located at 306 Ralston Avenue (APN 056-055-130), 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 noticed public meetings for the project on March 19, 2008, October 21, 2009 and November 18, 2009 at which time all those desiring to be heard on the matter were given the opportunity to be heard; and

WHEREAS, the Planning Director conducted a duly noticed public hearing on December 7, 2009, at which time all those desiring to be heard on the matter were given an opportunity to be heard; and

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

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

WHEREAS, the Planning Director 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 Director approves the application (PDP-056-07).

PASSED AND ADOPTED by the City of Half Moon Bay Planning Director at a duly noticed public hearing held on December 7, 2009.

APPROVED:



Steve Flint, Planning Director

**EXHIBIT A
FINDINGS AND EVIDENCE
PDP-056-07**

**Coastal Development Permit for a Two-Story, Single-Family Residence, Road Extension
and Associated Infrastructure Located at 306 Ralston Avenue (APN 056-055-130)**

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 Finding**– The development as proposed or as modified by conditions, conforms to the Local Coastal Program (LCP).

Evidence: The proposed project is an infill house that does not interfere with the public's access to the coastal trail, beach or sea. It has been reviewed for conformance with all policies of the LCP and has been determined to be consistent. 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 at or near identified archaeological or paleontological resources and therefore will not adversely impact said resources. Nonetheless, 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 or, where such areas are not 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 proposed project is located within an existing developed area that is able to accommodate it given that its location is within an existing neighborhood that contains adequate sewer and water infrastructure to meet the existing needs of the immediate neighborhood. Significant adverse effects, either individually or cumulatively, on coastal resources are not anticipated from this development as the proposed project will be designed in a manner than is compatible with and, where feasible, complementary to the existing development and character of the immediate area.

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

Compliance: As part of the conditions of approval, the applicant is required to install all utilities and communications underground.

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

Evidence: Pursuant to Half Moon Bay Municipal Code Section 17.06 (Residential Dwelling Unit Building Permit Allocation System), the proposed project is consistent with the established growth control ordinance. The applicant received a valid Measure A Certificate (4 of 32) on May 18, 2007.

3. **Zoning Provisions Finding**– 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 (Title 18).

Evidence: As currently proposed, the project complies with all applicable development regulations of the R-1-B-2 Zoning Designation for single-family dwelling units on a site including, but not limited to, required setbacks, lot coverage, floor area ratio (FAR), and maximum building envelope. In addition, the project has been reviewed for compliance with the design review criteria as set forth in HMB Municipal Code Section 18.21.

4. **Adequate Services Finding**– 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.

Evidence: The project is located within an existing subdivision with existing water and sewer facilities. The site currently has a 5/8" (20gpm) non-priority water connection and assessed with one sewer benefit unit. The purchase of one additional unit will be required prior to the issuance of a building permit. Two sewer benefit units together with the existing water allocation are adequate to serve a single-family residence.

Street, curb, and sidewalk do not currently exist at the corner of Chesterfield and Ralston Avenue. Consequently, the Public Works Department and Coastside Fire Protection District have conditioned the project to include construction of right-of-way improvements with a fire turn around on Ralston Avenue and a 8-foot wide walkway to connect from this turn around and extend along the south side of the unimproved Chesterfield Avenue frontage (Lots 24-26). The applicant will be required to enter into a street deferral agreement to agree to construct public improvements such as curb, gutter, sidewalk, and street paving on Chesterfield Avenue when the City determines it is necessary.

5. **California Coastal Act Finding**– 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.

Evidence: The project will not restrict or otherwise adversely affect public coastal access or public coastal recreational opportunities because it involves residential construction and utility extension on a privately owned lot zoned for residential uses. The applicant is required to construct a road extension on Ralston Avenue that will connect to the road network to serve the subject site. The Director finds that there is sufficient infrastructure to serve the proposed project with the improvements that are conditions of approval.

Site and Design Review – The required Coastal Development Permit for the construction of a residence may only be approved only after the approving authority has made the following finding per Municipal Code Section 18.21.040:

- 6. Architectural Review Finding-** 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.

Evidence: On October 21, 2009, the Architectural Review Committee (ARC) reviewed the project and raised several design concerns which included providing a more aesthetic garage door, addressing the stone wainscoting and pillars at entry way and correcting window elevations. The applicant was provided general direction to mitigate design concerns and asked to return with changes to the meeting of November 18, 2009.

At this second meeting, the applicant presented a street elevation that no longer illustrates one garage door for the 2 car spaces, but instead two separate "carriage style" doors with a trellis atop. The Chesterfield Avenue elevation (Front/North-West) includes clad with matching stone wainscoting, columns, and a fixed door with sidelites similar in style to the entry door on Ralston Avenue. The ARC made the necessary finding by Section 18.21.040 of the Half Moon Bay Zoning Code.

Environmental Review –

- 7. CEQA Finding-** Pursuant to California Administrative Code Section 15300 (Categorical Exemptions), the approving authority is required to determine whether the proposed project will have a significant effect on the environment and if not, to declare that the project be categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA).

Evidence: The proposed project is consistent with CEQA guidelines and is categorically exempt under California Administrative Code Section 15303(a) and 15303(d), the construction of a new single-family residence and the limited extension of utilities and road improvements to serve the construction of a single-family residence.

EXHIBIT B
CONDITIONS OF APPROVAL
PDP-056-07

Coastal Development Permit for a Two-Story, Single-Family Residence, Road Extension and Associated Infrastructure Located at 306 Ralston Avenue (APN 056-055-130)

Authorization: Approval of this permit authorizes development of a two-story, single-family dwelling of approximately 3,497 square feet of floor area on APN 056-055-130 and the construction of a road extension and utility connection as shown on plans with City date stamp of November 16, 2009, 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 November 16, 2009 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 Director review and approval, the applicant shall submit the revised plans for consideration at a public hearing before the Planning Director. _____ (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 CBC. All structures shall be constructed in compliance with the standards of the 2007 California Building Code Regulations for building and structure earthquake safety as required by Title 24 of the California Administrative Code. _____ (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, Code for the Abatement of Dangerous Buildings, Plumbing Code, Electrical Code) and with Half Moon Bay Public Works 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 of the California Code of Regulations 2007 Edition and shall be Exposure C. _____ (Building)
5. 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)
6. 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)

7. VALID MEASURE A CERTIFICATE. The Planning Department shall verify two Measure A Certificates issued for the property have not expired, remain valid, and, if applicable, the recordation of any required owner occupancy deed restriction has taken place. _____ (Planning)
8. 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. _____ (Public Works/Building)
9. 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)
10. 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)
11. 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., shall follow the same height and structure guidelines for facilities that are located in building setback areas. _____ (Building/Planning)
12. FINISHED FLOOR ABOVE CURB OR CROWN. The plans submitted for a building permit shall show the finished floor a minimum of twelve (12) inches above the height of curb, or in cases where there is no curb, from the height of other crown of the existing street or road. _____ (Building)

13. OFF-SITE IMPROVEMENT PLANS. The applicant shall construct curb, gutter, sidewalk, road extension with fire-turn around on Ralston Avenue in accordance with City standards. The plans shall also illustrate an 8-foot wide walkway comprised of 3 inch asphalt over an 8 inch compacted (95%) Type 2 road base or similar extending from the northwest corner of Ralston Avenue where the fire turn around ends along the southerly side of Chesterfield Avenue of Lots 24 through 26. All improvements required by the Half Moon Bay Fire Protection District and Department of Public Works and Building shall be designed subject to ADA standards and the review and approval of the City Engineer and Fire Marshal. The applicant shall submit plans to the Public Works Department for City Engineer approval prior to issuance of a building permit. _____(Public Works/Building)

14. DEFERRED PUBLIC IMPROVEMENTS FOR CHESTERFIELD AVENUE RIGHTS-OF-WAY. Applicant(s) shall execute a recorded street agreement for future construction of public improvements adjacent to the project site frontage (Chesterfield Avenue) including City standard curb, gutter, sidewalk, and roadway improvements as approved by the Public Works Director/City Engineer. This plan shall be reviewed and approved by the Public Works Director/City Engineer prior to the issuance of a building permit or at another date stipulated in the improvement agreement. All improvements when required by the Half Moon Bay Fire Protection District and Department of Public Works and Building shall be designed subject to ADA standards and the review and approval of the City Engineer and Fire Marshal. The applicant shall complete all street improvements required by the Fire District and Public Works Department. _____ (Public Works/Building)

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

1. STORMWATER MANAGEMENT / EROSION CONTROL. During Construction the applicant shall minimize the transport and discharge of storm water from the project site by incorporation of the following measures into the construction site practices:
 - a. Identify all storm drains, drainage swails 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)
2. 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-of-way(s) fronting the project for drainage to move unobstructed along the right-of-way(s). _____ (Building/Public Works)
3. DISCOVERY OF ARCHAEOLOGICAL RESOURCES. If historic or archaeological resources are uncovered during grading activities, all work shall stop and the applicant shall retain a qualified archaeologist. At the applicant's expense the qualified archaeologist will perform an archaeological reconnaissance and develop mitigation measures to protect archaeological resources. _____ (Building)
4. HOURS OF CONSTRUCTION. The hours of construction shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Friday, 8:00 a.m. to 6:00 p.m. Saturday, and 10:00 a.m. to 6:00 p.m. Sundays and Holidays. _____ (Building)
5. CONSTRUCTION TRAILERS. Temporary construction trailers are permitted as accessory uses in conjunction with the development of this site, subject to the following conditions:
- a. The construction trailer shall be used as a temporary construction office only.
 - b. Neither sanitation facilities nor plumbed water is permitted within the trailer.
 - c. No overnight inhabitation of the construction trailer is permitted.
 - d. No construction trailers are permitted on site prior to building permit issuance. A-2-HMB-10-001

e. The construction trailer shall be removed prior to final inspection. Use Permit approval is required for construction trailers beyond final inspection. _____ (Building/Planning)

6. LOT GRADING, MATERIALS, EQUIPMENT AND VEHICLE STORAGE. No lot site grading or preparation nor storage or placement of construction materials, equipment or vehicles shall take place prior to submittal and approval of building plans by the Public Works Department. Any earth movement on or off the site in excess of 50 cubic yards shall require the submittal of a grading plan for review and approval by the Public Works Department. Lot Grading includes, but is not limited to, any leveling, scraping, clearing, or removal of lot surface area. Materials, Equipment, and Vehicles include, but are not limited to:

- a. All masonry, wood, and steel construction materials
- b. All construction-related equipment and storage containers.
- c. All construction-related vehicles including temporary trailers _____ (Building)

7. HAZARDOUS MATERIALS. Any materials deemed hazardous by the San Mateo County Department of Health that are uncovered or discovered during the course of work under this permit shall be disposed in accordance with regulations of the San Mateo County of Health. _____ (Building/County Health)

8. FIRST FLOOR HEIGHT VERIFICATION. Prior to below floor framing or concrete slab steel reinforcement inspection, a stamped and signed building height verification letter shall be submitted to the City from a licensed land survey certifying that the first floor height as constructed is equal (or less) to the elevation specified for the first floor height in the approved plans. The building pad shall be at least one-foot above the centerline crown of the roadway or the top of the curb. _____ (Building)

9. STRUCTURAL ROOF HEIGHT VERIFICATION. Prior to roof sheathing inspection, a stamped and signed building height verification letter shall be submitted to the City from a licensed land surveyor certifying that the highest top elevation of the roof, peak, or ridge first floor height as constructed is equal (or less) to the elevation specified in the approved plans. _____ (Building)

C. The following must be fulfilled prior to Occupancy:

1. DEDICATION FOR EMERGENCY TURN AROUND ACCESS. Applicant shall enter into an agreement with City, subject to approval by City Engineer and/or City Attorney, for the dedication of a 10-foot wide public access easement or street right-of-way along the northwesterly 50 feet of property frontage on Ralston Avenue prior to occupancy. _____ (Public Works/Building)

2. LOT MERGER. The applicant shall submit the required information to the City to merge the recorded lots that the building will be constructed on into a single legal parcel of record and record the action with the San Mateo County Recorder's Office. This must be completed and evidence must be provided to the City prior to the issuance of occupancy. _____ (Planning/Public Works)

3. 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)

4. 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)
5. COMPLETION OF FIRE DISTRICT REQUIREMENTS. All requirements of the Half Moon Bay Fire Protection District shall be met _____(Building/Fire)
6. COMPLETION OF DRAINAGE IMPROVEMENTS. All surface and subsurface storm drainage facilities necessary for the development of this parcel shall be constructed pursuant to the approved Lot Drainage Plan. Run-off from and to adjacent properties must be considered in the proposed plans. All roof drainage shall be collected and conveyed directly to an approved Best Management Practice (BMP) facility. An erosion and sediment control plan shall be submitted to the City Engineer and the City Planning Department for review and approval prior to issuance of a grading permit. Sediment and hydrocarbon separation devices that have been reviewed and approved by the City Engineer shall be installed in on-site storm drains prior to discharging any on-site storm water into the off-site City storm drainage system. _____ (Engineering/Building)
7. 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)
8. 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. The sanitary sewer line and lateral facilities for complete and adequate service for this parcel shall be connected to the public sewer lines. _____ (Building)
9. 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)
10. UNDERGROUND UTILITIES. All utilities for energy and communications shall be installed underground. _____ (Building)
11. 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)
12. 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)

13. EXTERIOR BUILDING COLORS AND MATERIALS. Exterior colors and materials shall be in substantial compliance with those shown on the color and materials board, with the City date stamp of November 16, 2009, as approved by the Architectural Review Committee (ARC) meeting of November 18, 2009. _____ (Planning)
14. COMPLETION OF OFF-SITE IMPROVEMENTS. The applicant shall construct curb, gutter, sidewalk, road extension with fire turn-around on Ralston Avenue in accordance with City standards. Applicant shall have constructed an 8-foot wide walkway comprised of 3 inch asphalt over an 8 inch compacted (95%) Type 2 road base or similar extending from the northwest corner of Ralston Avenue where the fire turn-around ends, along the southerly side of Chesterfield Avenue of Lots 24 through 26. All improvements shall be subject to ADA standards and reviewed and approved by the Coastside County Fire Protection District and Department of Public Works and Building. The applicant shall complete these improvements to the satisfaction of the Public Works Department and Fire Marshall prior to issuance of occupancy. _____(Public Works/Building/Fire Marshall)

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.

E. Validity and Expiration of Permits

1. EFFECTIVE DATE. The Coastal Development Permit approval shall take effect after final local action or 10 working days after receipt of the Notice of Final Action by the Coastal Commission for projects that are located in the Coastal Appeal Areas. The applicant/owner's shall submit a signed copy of these conditions of approval to the Planning Department before they can obtain a building permit. _____
2. ACCURACY OF APPLICATION MATERIALS. The applicant shall be responsible for the completeness and accuracy of all forms and material submitted for this application. Any errors or discrepancies found therein may be grounds for the revocation or modification of this permit and/or any other City approvals. _____
3. EXPIRATION. The Coastal Development Permit approval shall expire on the latest expiration date applicable to any other discretionary or ministerial permit or approval required for the development, including any extension granted for other permits or approvals. Should the development not require City permits or approvals other than a Coastal Development Permit, the Coastal Development Permit shall expire one year from its date of approval if the development has not begun during that time.

4. HOLD HARMLESS. The applicant agrees as a condition of approval of this application to indemnify, protect, defend with counsel selected by the City, and hold harmless, the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents, from and against an and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorney's fees and disbursements (collectively, "Claims") arising out of or in any way relating to the approval of this application, any actions taken by the City related to this entitlement, any review by the California Coastal Commission conducted under the California Coastal Act Public Resources Code Section 30000 et seq., or any environmental review conducted under the California Environmental Quality Act, Public Resources Code Section 210000 et seq., for this entitlement and related actions. The indemnification shall include any Claims that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents. The applicant's duty to defend the City shall not apply in those instances when the applicant has asserted the Claims, although the applicant shall still have a duty to indemnify, protect and hold harmless the City. _____
5. PERMIT RUNS WITH THE LAND. The Coastal Development Permit runs with the land and the rights and obligations thereunder, including the responsibility to comply with conditions of approval, shall be binding upon successors in interest in the real property unless or until such permits are expressly abandoned.

OWNER'S/PERMITTEE'S CERTIFICATION:

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

OWNER(S) / APPLICANT(S):

(Signature)

(Date)

CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Commissioner Mark Stone; Commissioner Steve Blank

Mailing Address: 45 Fremont Street, Suite 2000

City: San Francisco, CA

Zip Code: 94105

Phone: (415) 904-5260

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Half Moon Bay

2. Brief description of development being appealed:

City File No. PDP-056-07

Construction of a new, two-story single-family residence with road extension and associated infrastructure.

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

306 Ralston Avenue, Half Moon Bay, APN 056-055-130

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

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

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JAN 08 2010

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-2-HMB-09-189

DATE FILED: January 8, 2010

DISTRICT: North Central Coast District

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

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

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

6. Date of local government's decision: 12/7/2009

7. Local government's file number (if any): PDP-056-07

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Marcos and Esther Hernandez, 419 Grand Boulevard, Half Moon Bay, CA 94019

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

(1)

(2)

(3)

(4)

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

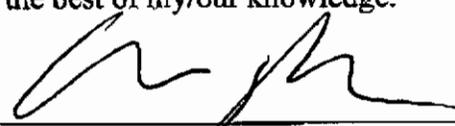
See Attachment 1: Appeal Text

See Attachment 2: Applicable LCP Policies

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

SECTION V. Certification

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



Signature of Appellant(s) or Authorized Agent

Date: 8 Jan 2010

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

Section VI. Agent Authorization

I/We hereby
authorize

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

Signature of Appellant(s)

Date: _____

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COASTAL COMMISSION
CENTRAL COAST AREA

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

SECTION V. Certification

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

Malw Sta
Signature of Appellant(s) or Authorized Agent

Date: 1/8/2010

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date: _____

RECEIVED

JAN 08 2010

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Appeal of Hernandez (A-2-HMB-09-189)
Attachment 1

On December 7, 2009, the City of Half Moon Bay approved a coastal development permit to authorize the construction of a new, two-story single-family residence with road extension and associated infrastructure located within an R-1-B-2 district. The development site consists of one assessor's parcel number that is made up of five, 25' wide lots. The City's approval includes a condition requiring three of the five lots to be merged.

The approved development is inconsistent with the policies of the City's certified Local Coastal Program, including, but not limited to, policies related to coastal development permit requirements, public access, visual resources, development, and infrastructure.

The five 25' lots are shown on a map of the Ocean Shore Tract dated 1907. However, appearance on a map prior to 1929 is not sufficient evidence to determine that the lots were legally divided. Further, because there appears to be some evidence that the subject property was historically transferred as a single parcel and because it is currently in single ownership, the development potential of the parcel and the five underlying lots is unclear. Further analysis is necessary to determine both the legality and the development potential of the parcel(s) proposed for development before any development may be authorized on the parcel consistent with all applicable provisions of the certified LCP.

The R-1-B-2 development standards require at least a 7,500 square foot site area and a 75-foot site width. The City's requirement to merge three of the five parcels would create one standard-sized, 7,500 square foot, 75-foot wide parcel, and either one 50-foot wide substandard parcel, or two 25-foot wide severely substandard parcels. Therefore, the requirement to merge only three of the five lots may result in a division of land that does not conform to the current zoning requirements.

CDP Requirements

The division of land is considered development under section 18.20.020.C of the certified Implementation Plan (IP), and therefore requires a coastal development permit. Pursuant to IP section 18.20.070, a CDP may only be approved after the approving authority has made findings that the development conforms to the LCP, that it is consistent with the property development standards of the zoning ordinance, and that the proposed development would be provided with adequate services and infrastructure.

The City approval is inconsistent with LCP section 18.20.020 et seq. because it would result in a land division that has not been evaluated for consistency with the LCP, has not been authorized through a CDP, and would be inconsistent with the site area requirements of the zoning ordinance as discussed above. Further, the City did not make the findings required in IP section 18.20.070.

Public Access and Road Capacity

The LUP contains policies that require new development to be served by adequate road facilities that must also serve priority uses such as public access and recreation. These

LCP policies, including Policies 9-2, 9-4, 10-4, and 10-25, carry out the requirements of Coastal Act Sections 30250(a) and 30252, which the City has adopted as guiding policies to the LCP. Section 30250(a) requires new development to be located in areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. Section 30252 states that the amount and location of new development should maintain and enhance public access to the coast. LUP Policy 9-4 requires that development shall be served with adequate services and that lack of adequate services shall be grounds for denial of a development permit or reduction in the density otherwise allowed under the LUP. Policy 10-4 states that the City shall reserve public works capacity for priority land uses including public access and recreation from consumption by other non-priority uses such as residential development. LUP Policy 10-25 designates LOS C as the desired level of service on Highways 1 and 92 except during the weekday and weekend peak-hours when LOS E may be accepted.

Residential development in the Mid-Coast region is the primary cause of the severe traffic congestion on Mid-Coast Highways 1 and 92. Any increase in the potential level of buildout caused by new subdivisions will lead to even greater demands on infrastructure that cannot support buildout of the existing supply of legal lots in the region. Because there are no alternative access routes to and along the coastline in this area of the coast, the extreme traffic congestion on Highways 1 and 92 significantly interferes with the public's ability to access the area's substantial public beaches and other visitor serving coastal resources in conflict with these policies.

The City's approval is inconsistent with the LCP policies related to public access, infrastructure and road capacity, including, but not limited to, the above mentioned policies because it would result in an increase in the supply of existing legal lots in Half Moon Bay, causing adverse cumulative impacts to regional traffic congestion and the public's ability to access the coast.

Infrastructure

As discussed above, LUP Policies 9-2 and 9-4 require that development shall be served with adequate services and that lack of adequate services shall be grounds for denial of a development permit or reduction in the density otherwise allowed under the LUP. Further, LUP policy 9.4 and IP section 18.20.070.D require the approving authority to make findings that the proposed development would be served by adequate services.

The City's approval is inconsistent with the LCP policies that relate to infrastructure, including, but not limited, those mentioned above, because the City did not evaluate whether adequate services would be available for the newly created lot and the City did not make the required findings.

Visual Resources

The City has adopted various Coastal Act sections as guiding policies for the LCP, including Coastal Act section 30251, which requires permitted development to be

Appeal of Hernandez (A-2-HMB-09-189)
Attachment 1

visually compatible with the character of the surrounding areas. Visual resources policy 7-5 requires new development to be subject to design review and approval by the City Architectural Review Committee. Chapter 18.37 of the certified IP establishes visual resource protection standards that apply to all new development. Finally, as in section 30251 of the Coastal Act, IP Section 18.37.010.E states that the purpose and intent of the visual resource protection standards includes allowing development "only when it is visually compatible with the character of the surrounding areas."

The City did not evaluate the land division resulting from the required lot merger for consistency with the visual resources policies of the LCP, including, but not limited to, the policies discussed above. The land division could result in development of substandard or severely substandard residential lots, potentially leading to more numerous and taller homes that may not be in character with the surrounding neighborhood, inconsistent with Coastal Act section 30251 and IP section 18.37.010.E.

Appeal of Hernandez (A-2-HMB-09-189)
Attachment 2 – Relevant Policies

Coastal Act Section 30250(a)

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 or, where such areas are not 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. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Coastal Act Section 30251

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

Coastal Act Section 30252

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

LUP Policy 7-5

All new development, including additions and remodeling, shall be subject to design review and approval by the City Architectural Review Committee.

LUP Policy 9-2

The City shall monitor annually the rate of build-out in categories designated for development. If the rate of build-out exceeds the rate on which the estimates of

Appeal of Hernandez (A-2-HMB-09-189)
Attachment 2 – Relevant Policies

development potential for Phase I and Phase II in the Plan are based, further permits for development or land divisions shall not be issued outside existing subdivisions until a revised estimate of development potential has been made. At that time the City shall establish a maximum number of development permits to be granted each year in accordance with expected rates of build-out and service capacities. No permit for development shall be issued unless a finding is made that such development can be served with water, sewer, schools, and road facilities, including such improvements as are provided with the development. (See Table 9.3)

LUP 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 such 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 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 proposed 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 if 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. (See Table 10.3).

LUP Policy 10-4

The City shall reserve public works capacity for land uses given priority in the Plan, in order to assure that all available public works capacity is not consumed by other development and control the rate of new development permitted in the City to avoid overloading of public works and services.

LUP Policy 10-25

The City will support the use of Level of Service C as the desired level of service on Highways 1 and 92, except during the peak two-hour commuting period and the ten-day average peak recreational hour when Level of Service E will be acceptable.

IP Section 18.20.020

...

C. Development. "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land,

Appeal of Hernandez (A-2-HMB-09-189)
Attachment 2 – Relevant Policies

including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

...

IP Section 18.20.070

A Coastal Development Permit may be approved or conditionally approved only after the approving authority has made the following findings:

- A. Local Coastal Program. The development as proposed or as modified by conditions, conforms to the Local Coastal Program;
- B. Growth Management System. The development is consistent with the annual population limitation system established in the Land Use Plan and Zoning Ordinance;
- C. 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;
- D. 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; and
- E. California Coastal Act. Any development to be located between the sea and the first public road conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

IP Section 18.37.010

The specific purpose and intent of these Visual Resource Protection Standards are to:

- A. Protect the scenic and visual qualities of coastal areas as a resource of public importance.
- B. Ensure that new development is located so as to protect views to and along the ocean and scenic coastal areas.

Appeal of Hernandez (A-2-HMB-09-189)
Attachment 2 – Relevant Policies

C. Minimize the alteration of natural land forms.

D. Restore and enhance visual quality in visually degraded areas.

E. Allow development only when it is visually compatible with the character of the surrounding areas.

Coastal Act Section 30250(a)

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 or, where such areas are not 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. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Coastal Act Section 30251

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

Coastal Act Section 30252

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

LUP Policy 7-5

All new development, including additions and remodeling, shall be subject to design review and approval by the City Architectural Review Committee.

LUP Policy 9-2

The City shall monitor annually the rate of build-out in categories designated for development. If the rate of build-out exceeds the rate on which the estimates of development potential for Phase I and Phase II in the Plan are based, further permits for

development or land divisions shall not be issued outside existing subdivisions until a revised estimate of development potential has been made. At that time the City shall establish a maximum number of development permits to be granted each year in accordance with expected rates of build-out and service capacities. No permit for development shall be issued unless a finding is made that such development can be served with water, sewer, schools, and road facilities, including such improvements as are provided with the development. (See Table 9.3)

LUP 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 such 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 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 proposed 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 if 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. (See Table 10.3).

LUP Policy 10-4

The City shall reserve public works capacity for land uses given priority in the Plan, in order to assure that all available public works capacity is not consumed by other development and control the rate of new development permitted in the City to avoid overloading of public works and services.

LUP Policy 10-25

The City will support the use of Level of Service C as the desired level of service on Highways 1 and 92, except during the peak two-hour commuting period and the ten-day average peak recreational hour when Level of Service E will be acceptable.

IP Section 18.20.020

...

C. Development. "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of

land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

...

IP Section 18.20.070

A Coastal Development Permit may be approved or conditionally approved only after the approving authority has made the following findings:

- A. Local Coastal Program. The development as proposed or as modified by conditions, conforms to the Local Coastal Program;
- B. Growth Management System. The development is consistent with the annual population limitation system established in the Land Use Plan and Zoning Ordinance;
- C. 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;
- D. 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; and
- E. California Coastal Act. Any development to be located between the sea and the first public road conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

IP Section 18.37.010

The specific purpose and intent of these Visual Resource Protection Standards are to:

- A. Protect the scenic and visual qualities of coastal areas as a resource of public importance.
- B. Ensure that new development is located so as to protect views to and along the ocean and scenic coastal areas.
- C. Minimize the alteration of natural land forms.

D. Restore and enhance visual quality in visually degraded areas.

E. Allow development only when it is visually compatible with the character of the surrounding areas.