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Th14a

Prepared May 13, 2014 for May 15, 2014 Hearing

To: Commissioners and Interested Persons

From: Dan Carl, North Central Coast District Director
Nancy Cave, North Central Coast District Manager
Jeannine Manna, North Central Coast District Supervisor

Subject: STAFF REPORT ADDENDUM for Th14a
Appeal Number A-2-HMB-12-005 (Stoloski Subdivision)

In the time since the staff report was distributed, the Applicant's representative and a member of the public have raised several issues, including by letters dated May 8, 2014 (see letters by Stanley W. Lamport and Donald Torre in the North Central Coast District Deputy Director's Report for Item 14a on the Commission's May 15, 2014 agenda). In addition, staff has received other correspondence of support for the staff recommendation as well as Coastal Commissioner ex parte disclosures (see both also separately included in the Deputy Director's report). Staff provides this addendum to respond to various issues raised, and to clarify certain aspects of the staff recommendation. Staff continues to recommend that the Commission find substantial issue and take jurisdiction over the CDP application and deny the proposed project as modified. The additional findings below will be incorporated into the relevant portion of the staff report.

The major points addressed in the addendum below include:

1) The City of Half Moon Bay's certified LCP requires a specific plan to be developed for the entire Surf Beach/Dunes Beach district (comprised of the Applicant's parcel, the 1906 Surf Beach Tract subdivision north of Young Avenue, and the area south of Young Ave currently used for stabling and rental of horses and various agriculture operations) before development on any of the parcels within the district can be approved.

2) Application of the LCP sensitive habitat policies is not limited to the areas mapped on the Habitat Areas and Water Resources Overlap Map. LCP policies, zoning code provisions, and background text protect sensitive habitats even if they are not mapped; and the LCP, certified in 1985, specifically states that the maps are not definitive.

3) As defined by the City's LCP, sensitive habitats include habitats "containing *or* supporting" unique species or any rare and endangered species defined by the State Fish and Game Commission. Therefore, habitats *supporting* rare, endangered, and unique species, such as Pullman Ditch, are sensitive habitats as defined by the LCP whether or not the species has been identified in the Ditch.

4) The proposed project is a land division wherein the number and configuration of lots must be determined based on conformity with LCP policies.

ADDITIONAL FINDINGS TO BE ADDED TO THE STAFF REPORT

The Project is Inconsistent with the Planned Development LCP Policies

The Applicant's representative contends that the LCP does not require the Applicant or the City to adopt a specific plan for the Surf Beach/Dunes Beach district as this Planned Development zone was created to address only the development of the Surf Beach Tract paper subdivision. The Applicant's representative bases his conclusion on the LCP's description of paper subdivisions. While the majority of the existing paper subdivisions found in the City are included into Planned Development (PD) Districts, it is clear from the description, discussion of alternatives, and conditions associated with the specific Surf Beach/Dunes Beach PD District in the LCP that this particular PD district encompasses an area of land much larger than just the Surf Beach Tract. Therefore, the Applicant's representative incorrectly excludes the Applicant's property from the Surf Beach/Dunes Beach PD District.

Contrary to what the Applicant's representative suggests, the 50-acre Surf Beach/Dunes Beach district (zoned Planned Unit Development (PUD)) is comprised of the Applicant's parcel, the 1906 Surf Beach Tract subdivision located north of Young Avenue, and the area south of Young Ave currently used for stabling and rental of horses and various agriculture operations. LCP Policy 9.3.3 applies to the entire Surf Beach/Dunes Beach district and not just the Surf Beach Tract as the Applicant's representative suggests.[1] This policy clearly encompasses the entire planning area as it refers to planning objectives to be implemented north and south of Young Avenue in the City.

The Applicant's representative states, "The Staff Report also maintains that the subdivision should be taking access and extending utilities through the Surf Beach Tract and that the LCP requires the City to approve a specific plan to facilitate residential development of the Surf Beach Tract." However, the Commission findings do not maintain that the land division should be accessed via the Surf Beach Tract. On the contrary, the Commission findings discuss the possibility of alternative access options to the property from Highway 1 or from the south, as well as the potential for other forms of development on the property using these alternative access routes, land division or not, that are consistent with applicable LCP policies. In addition, the Commission findings do not state that the LCP requires the City to approve a specific plan for the purpose of "facilitating residential development of the Surf Beach Tract". The Commission findings discuss the need for a specific plan to plan for the *entire* Surf Beach/Dunes Beach District in a way that protects existing resource values, ensures maximum coastal access, eliminates poorly planned subdivisions, and clusters development to provide open space and

[1] This is clear in the way the district is described in the LCP and also through the conditions this area is subject to as outlined in Policy 9.3.3. Policy 9.3.3 includes addressing the amount of residential development but also requires a right-of-way of at least 25 feet in width to be dedicated to State Parks for construction of a pedestrian and bicycle trail from Highway 1 to the State Beach property, clustering of structures to maintain views to the ocean from Highway 1, reserving 20 acres for commercial recreation or visitor-serving development, maintaining existing land currently devoted to horse stabling/rentals, landscaping and fencing to limit pedestrian access to the State Beach from new residential development, and limiting vehicular access from residential developments to Young Avenue and no more than one opening to Highway 1 north and south of Young Avenue to access residential development.

public recreational opportunities consistent with the specific conditions outlined in LCP Policy 9.3.3.

While these alternatives may not be preferable for a 4-lot subdivision from the Applicant or the City's standpoint, the alternatives illustrate the potential availability for access to the site from the east or south, as opposed to the Applicant's proposal to provide access to the site by constructing two bridges over Pullman Ditch ending in two cul-de-sacs. Since alternatives exist, it would be inconsistent with the certified LCP PD policies to approve a development that does not preserve coastal resources throughout the entire PUD.[2]

The Applicant's representative defines piecemeal planning as follows, "Piecemealing occurs when parts of a large project are approved in a manner that forecloses the ability to address a larger issue in the project" and contends that this definition does not apply to the development of the Applicant's property. The Commission agrees with this definition of "piecemeal" and would argue that in fact this definition would apply in this case, as the Applicant's project would result in piecemeal development of a portion of the larger PUD that may not allow for addressing sensitive habitat issues, appropriate amounts of new residential development, public access needs and circulation within the scope of the larger PUD area.

This is not the first time the PUD issues have come up in this area of the City. In 2003, two hotels were proposed west of Highway 1 within this PUD area. The hotel developer held public meetings to gather feedback on the proposal prior to submitting an application to the City. During these meeting, members of the City Council and other members of the public questioned "why the developers are bringing forward a development proposal that addresses only the portion of the Surf Beach PD. The entire PUD includes 20 acres both north and south of Young Avenue."[3] In short, the project is inconsistent with the Planned Development LCP policies.

Applicable LCP Sensitive Habitat Policies

Sensitive Habitats

The Applicant's representative contends that none of the LCP policies and zoning ordinances cited in the staff report apply to Pullman Ditch because this area is not represented on the City's Habitat Areas and Water Resources Overlap Map (Overlay Map). The Applicant's representative maintains that the Overlay Map delineates the only areas in the City where these policies would apply. However, LCP Chapter 3.4 states:

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[2] The Applicant's representative states that all access alternatives suggested by the staff report produce "inferior results." The Applicant's representative goes on to describe a number of access design alternatives from Highway 1 assuming a 50-foot right of way. While the Commission agrees that the 50-foot right of way is consistent with the requirements of the City's General Plan Circulation Element, the City approved land division did not meet the Coastside Fire Protection District standards for street width or cul-de-sac diameter (standard: 26-foot wide with a 96-foot diameter vs approved: 24-foot wide and a 60-foot diameter) or this 50-foot right of way standard. The City has approved other developments with access roads to multiple units with a road width less than the required 50 feet. (CDP Application Number PDP-005-11). The lack of strict adherence to a 50-foot right of way by the City suggests that access from Highway 1 to the site or south of the site may be able to be a much narrower road width, making these options more feasible to be pursued by the Applicant.

[3] Rice, Eric, *Hilton hotels greeted by a skeptical public*, Half Moon Bay Review, May 14, 1998. Available at http://www.hmbreview.com/news/hilton-hotels-greeted-by-a-skeptical-publiceric-rice-half-moon/article_4d6233c4-b8b3-578d-bb1b-7a5e4c22d6e2.html.

> *Overlay designation **symbolically** represents the locations of habitat areas in HMB....*
>
> *While the designations reflected on the Habitat Areas and Water Resource Overlay Map represent the best available information, these designations are **not definitive and may need modification in the future.*** [Emphasis added]

Therefore, the City's own LCP specifically states that the designations on the Overlay Map are not definitive. In addition, the specific LCP policies that designate sensitive habitats, designate areas found on the Overlay Map and do not limit designation to only those mapped areas (LCP Policy 3-2):

> *Designate sensitive habitats as those, **including but not limited to**, shown on the Habitat Areas and Water Resources Overlay.* [Emphasis added]

With regards to riparian corridors, the LCP designates riparian corridors as those shown on the Overlay Map **and** any other riparian area as sensitive habitats requiring protection (LPC Policy 3-8):

> *…Designate those corridors shown on the Habitat Areas and Water Resources Overlay **and any other riparian area** as sensitive habitats requiring protection…*[Emphasis added]

Thus, sensitive habitats and specifically riparian areas do not have to be depicted on the Overlay Map to be considered sensitive habitats requiring protection under the LCP. In support of this conclusion, the LCP Implementation Plan (IP) Section 18.38.020(A) states:

> *A. Sensitive Habitat Areas. Areas in which plant or animal life or their habitats are either rare or especially valuable, **and/or** as designated on the habitat areas and water resources overlay map. Areas considered to be sensitive habitats are listed below.*
>
> *Sensitive Habitat*
>
> *1. Sand dunes.*
>
> *2. Marine habitats.*
>
> *3. Sea cliffs.*
>
> ***4. Riparian areas.***
>
> *5. Wetlands, coastal tidelands and marshes, lakes and ponds and adjacent shore habitats.*
>
> *6. Coastal and off-shore areas containing breeding and/or nesting sites or used by migratory and resident water-associated birds for resting and feeding.*
>
> *7. Areas used for scientific study and research concerning fish and wildlife, and existing game or wildlife refuges and reserves.*

> ***8. Habitats containing or supporting unique species or any rare and endangered species defined by the State Fish and Game Commission.***[4]
>
> *9. Rocky intertidal zones.*
>
> *10. Coastal scrub community associated with coastal bluffs and gullies.* [Emphasis Added]

As emphasized above, sensitive habitat areas are those habitats either rare or especially valuable **and/or** as designated on the Overlay Map. This section of the City LCP IP also specifically lists sensitive habitats as including **riparian areas** and habitats **containing or supporting** unique species or any rare and endangered species defined by the State Fish and Game Commission. As described in the staff report, Pullman Ditch supports rare, endangered and unique species habitat and is a riparian area, and thus, constitutes a sensitive habitat subject to the certified LCP sensitive habitat policies even though it is not shown on the Overlay Map, since this map is not determinative.

Rare and Endangered Species Habitats

In regards to the rare and endangered species policies, the Applicant's representative similarly contends that the LCP standards only apply where endangered species actually have been found to exist in an area, and where these areas have been mapped on the Overlay Map. The Applicant's representative mistakes the Overlay Map for the species territory, and ignores the fluid status of both species and their geography. The LCP requires that the Overlay Map be revised when any habitat of a rare and endangered species is found to exist within the City and that Policies 3-22 through 3-31 of the City's LCP apply to these areas (LCP Policy 3-21):

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

While LCP Policy 3-21 directs that the map be revised by the City when a habitat for a rare and endangered species is found, it does not state that the LCP policies cannot be applied prior to the maps being amended. If the Applicant's representative's interpretation of this policy were correct, then any area containing rare and endangered species habitat found in the City could be developed as long as that area is not designated on the Overlay Map.[5]

However, the LCP itself recognizes that determining the precise locations of rare and endangered species is not always possible due to species movement and for the purpose of protecting the rare species as follows:

> ***Precise locations are not always possible because of the dynamic fluctuations of populations.*** *No attempt is made to locate with absolute precision the exact extent of any*

[4] The Applicant's citation to the LCP that the CRLF is a "unique" species is obsolete. The CRLF is currently listed as a federally-threatened species and has been listed since 1996.

[5] Even if the specific Policies of 3-22 through 3-31 did not apply to Pullman Ditch, the sensitive habitat policies still apply to this project since it is located within an area supporting rare, endangered and unique species as defined by LCP Policy 3-1.

> *rare species. This is done to protect the species as well as to indicate that any boundary placed on such a distribution may not be the case from year to year or season to season. Any boundary for an organism on a map would tend to place permanently that organism on that site without taking into account the possibility of its moving, increase or decrease on or from any given site.* [Emphasis Added]

For example, in discussing the SFGS, the Existing Conditions section of the Land Use Plan (LUP) says "not all of the habitats have been mapped..." "little is known about the snake," it "moves around reasonably easily in search of new prime habitats," "recently the snake has been caught in open grassy areas some distance from riparian or marshy habitats." The LUP cites a Department of Fish and Game map from 1978 that is "not very site specific" which was "an intentional action to prevent illegal taking" of the attractive, collector's item snake. In other words, the map cited in the LUP was deliberately vague. The LUP also explains that the SFGS "migrates from one habitat to another" and cautioned that it is "important that migration corridors are maintained" and likely that if routes are cut off, "isolated populations could not continue to exist."

Furthermore, the general policies of the City's LCP adopt the policies of the Coastal Act cited within including Sections 30240 and 30231 which protect environmentally sensitive habitat areas and the biological productivity and quality of coastal streams (LCP Policy 1-1). Where the policies within the LCP overlap or conflict internally, the general policies of the LCP require that the policy which is most protective of coastal resources shall take precedence (LCP Policy 1-2):

> *Where policies within the Land Use Plan overlap or conflict, on balance, the policy which is the most protective of coastal resources shall take precedence.*

Finally, the general policies of the LCP assert that the text of the LCP shall be considered a part of the LCP as it serves as the findings justifying the policies and maps (LCP Policy 1-5):

> *The textual discussion is intended as elaboration of and justification for the Plan policies and map designations. Therefore, the text shall be considered a part of the Land Use Plan, serving as the findings justifying the specified policies and Land Use Maps…*

Therefore, the LCP policies that are most protective of coastal resources, such as the policies which direct the designation of sensitive habitats and require application of protective policies and buffers to such areas, even if not mapped, would take precedence.

Finally, the Applicant's reliance on *Security National Guaranty, Inc. v. California Coastal Commission* ("*SNG*") is misplaced and misleading. It is misplaced because the LCP in that case specifically declared that the land in question was *not* an environmentally sensitive habitat area (ESHA) ((2008) 159 Cal.App.4th 402, 411-412.) There was no ambiguity in the *SNG* LCP about the ESHA determination. By contrast, and as discussed above, the Half Moon Bay LUP has mapped some areas of habitat "symbolically" and left flexibility for future determinations of habitat. Case law clarifies where the determination of ESHA is not clear, the Commission may designate property as ESHA, as long as the determination is supported by substantial evidence. (*LT-WR, LLC v. California Coastal Com.* (2007) 152 Cal.App.4th 770, 793 [that subject property was not mapped as ESHA did not preclude it from being designated as ESHA].) The *LT-WR*

court concluded that Commission ecologist Dr. Dixon's report about that habitat combined with the results from the staff visit to the site formed substantial evidence supporting the determination. (*Id*. at p. 794.) We have the same bases for substantial evidence here. See Staff Report, pp. 14-22.)

Reliance on *SNG* also is misleading because the Commission is not amending the LCP, but interpreting its policies. (See *Pratt v. California Coastal Comm.* (2008) 162 Cal.App.4th 1068, 1077 [Commission did not contradict LCP as in *SNG*, but determined correctly that the LCP had designated much of applicant's land to be ESHA].) When reviewing an application for a coastal development permit, the Commission acts in an adjudicatory or semi-adjudicatory capacity. (*McAllister v. California Coastal Com.* (2009) 169 Cal.App.4th 912, 953.) Like a court, the Commission must interpret an LCP liberally to accomplish the purposes and objectives of the Coastal Act, giving the highest priority to environmental considerations. (*Id*. at p. 928.)

Therefore, the Commission finds that the LCP Overlay Map is not intended to represent all sensitive habitats found within the City and does not limit application of rare and endangered species policy protection to areas designated on the Overlay Map. Such an interpretation would fail to protect coastal resources consistent with the sensitive habitat policies of the LCP and the requirements of the Coastal Act that serve as the guiding policies of the LCP.

Riparian Areas

Pullman Ditch is a sensitive habitat subject to the sensitive habitat policies because it is a riparian area and intermittent stream as described on Page 11 of the staff report. On this point, the Applicant's representative contends that Pullman Ditch is not a defined riparian corridor as the edges of such a corridor are defined by the limit of riparian vegetation. This distinction ignores that riparian vegetation need not be present to meet the definition of a riparian area, such as for an intermittent stream. The Applicant's representation fails to recognize that, for the most part, Pullman Ditch is considered a riparian *area*, and only becomes a riparian *corridor* where riparian species are actually present, in this case in the western part of the project area. LCP IP Section 18.38.020(B) states:

> *B. Riparian Area and Corridor. Any area of land bordering a perennial or intermittent stream or their tributaries, or around a lake or other body of fresh water, including its banks and land at least up to the highest point of an obvious channel or enclosure of a body of water. Riparian corridors are the areas between the limits of riparian vegetation, where limits are determined by vegetative coverage, at least fifty percent of which is comprised of a combination of the following plant species: red alder, jaumea, pickleweed,big leaf maple, narrow-leaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder.* ***These areas and corridors are sensitive habitats requiring protection.*** [Emphasis Added]

As emphasized above, both riparian areas and corridors are sensitive habitats protected under the LCP. The LCP clearly anticipates that there may be cases where riparian vegetation (and a corridor) is present, and cases where such vegetation is not present (and a riparian area is). This is articulated in Policy 3-11of the City's LCP which defines boundaries for riparian buffer zones and states:

> ***Where no riparian vegetation exists*** *along both sides of riparian corridors, extend buffer zones 50 feet from the bank edge for perennial streams and 30 feet from the midpoint of intermittent streams…* [Emphasis Added]

Section 18.38.075 (D) of the LCP Implementation Plan also supports the Commission's interpretation of the LCP as it states:

> *D. Riparian Buffer Zone. The* ***riparian buffer zone is defined as****:*
>
> *1.* ***Land on both sides of riparian corridors which extends from the "limit of riparian vegetation****" fifty feet outward for perennial streams and thirty feet outward for intermittent streams; or*
>
> *2.* ***Land along both sides of riparian corridors which extends fifty feet from the bank edge*** *for perennial streams and thirty feet from the midpoint of intermittent streams, where no riparian vegetation exists.* [Emphasis Added]

If the LCP were to be interpreted as the Applicant's representative suggests, development would be allowed adjacent to streams without any buffer when no riparian vegetation exists. This would not protect sensitive habitats, specifically riparian areas, consistent with the LCP or the requirements of the Coastal Act that serve as the guiding policies of the certified LCP. Therefore, the Commission finds that Pullman Ditch is a sensitive habitat as it is a riparian area and intermittent stream in which the riparian buffer zones apply 30 feet outward from the edge of riparian vegetation at the west end of the ditch and 30 feet from the midpoint of the intermittent stream where no riparian vegetation exists.

Pullman Ditch Supports Rare, Endangered and Unique Species

The Applicant's representative contends that Pullman Ditch does not support endangered or unique species as the existence of the species in the ditch has been disproven by recent field surveys performed by the Applicant's consultants based on United State Fish and Wildlife Service (USFWS) protocols. However, the USFWS *Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog,* August 2005 (Guidance) states:

> *For sites with no suitable aquatic breeding habitat, but where suitable upland dispersal habitat exists, it is difficult to support a negative finding with the results of any survey guidance. Therefore, this Guidance focuses on site assessments and surveys conducted in and around aquatic and riparian habitat.*

As the Guidance asserts, in the case of Pullman Ditch, where all parties agree that suitable aquatic breeding habitat is not present, but where USFWS, California Department of Fish and Wildlife (CDFW), and the Commission's senior ecologist, Dr. John Dixon, all agree suitable upland dispersal habitat exists, results of protocol surveys would not typically be used to support a negative finding for California Red Legged Frog (CRLF). Thus, the results of the Applicant's surveys are not determinative on this point. It remains Commission's position that while Pullman Ditch is degraded habitat that is not appropriate breeding habitat for CRLF and the San Francisco

garter snake (SFGS) and may not be regularly inhabited, Pullman Ditch does provide upland dispersal and foraging habitat that may be periodically used by both species.

In addition, even if the Guidance were to allow for the Applicant's surveys to be used to determine a lack of habitat, the Applicant's surveys were not completed wholly in accordance with the Guidance. The Guidance recommends up to 8 surveys: two day surveys and four night surveys during the breeding season (January 1 and June 30), and one day and one night survey during the non-breeding season (July 1 through September 30), with each survey taking place 7 days apart, over a minimum of 6 weeks. The Guidance also recommends that the surveyors visit the project site and the surrounding habitat within 1 mile of the project site, describe the upland and aquatic habitats within these areas, and map and characterize the habitats within these area. In this case, the Applicant's surveys were only conducted within the Pullman Ditch and only extended within 50 feet from the top of the north and south banks. In addition, the surveyors did not visit the surrounding habitat within 1 mile of the project site, which would have included Roosevelt Drainage north of the site and Frenchman's Creek south and east of the site, both of which are highlighted on the Habitat Areas and Water Resources Overlay Map. Finally, no surveys were conducted during the non-breeding season. Thus, even if the surveys could be used consistent with the Guidance to determine a lack of habitat, which they can't, based on the Guidance itself as it applies to suitable upland dispersal habitat, the survey results submitted by the Applicant do not allow for a conclusion of a negative determination consistent with the USFWS Guidance for CRLF.

The Applicant's representative also refers to the Caltrans biological assessment, cited in the staff report, as the Caltrans biological assessment from **2005**. However, the staff report clearly references the Caltrans report from **December 5, 2007**. Contrary to what the Applicant's representative claims, this assessment did include field surveys and examined whether Pullman Ditch is connected to other drainages and the means of dispersal. As such, the 2007 Caltrans biological assessment concluded, "Pullman Ditch is unsuitable breeding habitat for CRLF, however, frogs may use the ditch for estivation or dispersal."

Therefore, the Commission finds that since Pullman Ditch provides upland dispersal and foraging habitat that may be periodically used by CRLF and SFGS (see staff report pages 19-21), Pullman Ditch therefore supports rare and endangered species. In addition, since the LCP's definition of sensitive habitat includes "Habitats **containing or supporting** unique species or any rare and endangered species defined by the State Fish and Game Commission" [Emphasis added], the Commission finds Pullman Ditch to be a sensitive habitat under the LCP as it **supports** rare, endangered and unique species.

The City's Determination of Pullman Ditch

The Applicant's representative contends that the City never determined Pullman Ditch to be a sensitive habitat. To this point, staff report Footnote 5 on page 15 is deleted because ultimately, the City's action on Oliva is not determinative here.

Review of the Modified Project

The Applicant's representative contends that flooding hazards evaluated in the substantial issue determination portion of the staff recommendation are "now moot" since the project has been revised by the Applicant removing the culvert from the project design. In fact, the Commission recognizes the revision of the proposed project by the Applicant and evaluated the revised project as described in the De Novo portion of the coastal development permit determination found on page 14 of the staff report. However, the Commission must evaluate whether or not to determine substantial issue based upon the project *as approved by the City*, which includes the underground storm drain system (culvert) as illustrated on the approved tentative parcel map and project site plan in Exhibit 4 of the staff report. Therefore, for purposes of substantial issue determination, evaluation of storm drain system as approved by the City and the potential flooding impacts is required and necessary.

Development Approved by the Commission Adjacent to Pullman Ditch

Donald Torre contends that the two homes adjacent to the north side of Pullman Ditch "were approved under the current Half Moon Bay Local Coastal Plan." This is not a correct statement. The City assumed coastal development permit-issuing authority on April 24, 1996 after both the homes referenced in Mr. Torre's letter were approved and built. Prior to that date, development in the City was under the permitting jurisdiction of San Mateo County since the certification of their LCP on April 1, 1981 and the Coastal Commission prior to that. Therefore, the LCP policies that apply to this current project were not in place during the approval of development of the two homes cited by Mr. Torre.

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Filed:	2/09/2012
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Staff:	J.Manna- SF
Staff Report:	5/2/2014
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APPEAL STAFF REPORT: SUBSTANTIAL ISSUE DETERMINATION & DE NOVO HEARING

Appeal Number:	**A-2-HMB-12-005**
Applicant:	**Mark Stoloski**
Appellants:	Jane Gorman and Marc Gradstein
Local Government:	City of Half Moon Bay
Project Location:	2700 block of North Cabrillo Highway on the west side of Highway 1, south of Washington Boulevard in the City of Half Moon Bay, San Mateo County (APN 048-133-010).
Project Description:	Division of one parcel, totaling 2.1 acres, into 4 residential lots, with associated infrastructure improvements, including utilities, two road extensions with cul-de-sacs, and the construction of a new on-site underground drainage system.
Staff Recommendation:	Substantial Issue Exists; Denial

SUMMARY OF STAFF RECOMMENDATION

The City of Half Moon Bay approved a coastal development permit (CDP) for the division of a 2.1 acre lot into 4 residential lots with associated improvements including utilities, construction of two road extensions, bridges and cul-de-sacs, and a new on-site underground drainage system. The Appellants contend that the City-approved project raises Local Coastal Program (LCP) conformance issues related to biological resources, land use, and hazards. Specifically, the Appellants contend that the City-approved residential land division: 1) would impact environmentally sensitive habitat areas associated with Pullman Ditch, and does not provide adequate setbacks; 2) allows development in an area of the City without the Specific Plan required by the City's LCP for the PUD-zoned district; and 3) creates a flooding hazard to the nearby coastal trail and residences in an area located on a flood plain.

Staff believes the appeal raises a substantial issue related to the approved development's consistency with the City's certified biological resources, land use and flooding policies. Staff recommends the Commission find **substantial issue** and take jurisdiction over the CDP application.

With respect to the approved land division and associated infrastructure and its consistency with the biological resource policies of the certified LCP, Pullman Ditch, located adjacent to the northern property boundary, contains sensitive habitat as defined by the LCP, including an intermittent stream, riparian corridor, and habitat for rare, endangered, and unique species. Permissible use limitations and LCP-required buffers apply to development within these habitat and buffer areas. Although the Applicant has proposed to revise the project to remove the underground drainage system, the proposed residential land division and associated infrastructure remain inconsistent with the City's LCP because the proposed number and configuration of residential lots and accompanying bridges, road extensions, utilities, and cul-de-sacs, would result in impermissible development within sensitive habitats and their required buffers.

Pullman Ditch has also been identified as an important habitat resource by the California Department of Fish and Wildlife (CDFW) and the United States Fish and Wildlife Service (USFWS). USFWS and CDFW consider Pullman Ditch suitable upland dispersal and foraging habitat for the California red legged frog (CRLF)[1] and the San Francisco garter snake (SFGS)[2]; therefore Pullman Ditch is a habitat supporting rare, endangered, and unique species as defined by LCP Policy 3.1.

In contrast to USFWS and CDFW, the Applicant's biological report states that "no sensitive habitat areas were observed in the Project Area or within the surrounding 200-foot-wide Study Area" and that "no habitat for rare, endangered or unique species is present in the Project Area." In addition, the most recent biological opinion provided by the Applicant from Rana Resources concludes that Pullman Ditch "is not suitable for (or inhabited by)" CRLF and SFGS due to the lack of sustained water/lagoon features, proximity and extent of surrounding urban areas with known predators, the distance to other suitable habitat areas, and the nature and size of the dispersal corridor with known predators.

Coastal Commission Senior Ecologist, Dr. John Dixon, has reviewed the Applicant's reports and relevant information from USFWS and CDFW and concludes that while Pullman Ditch is degraded habitat that is not appropriate breeding habitat for these sensitive species and may not be regularly inhabited, Dr. Dixon agrees with CDFW and USFWS that Pullman Ditch does provide dispersal and foraging habitat that may be periodically used by both species. According to Dr. Dixon, since Pullman Ditch *supports* rare and endangered species *and* is an intermittent stream, Pullman Ditch meets the definition of a sensitive habitat under Section 3-1 of the City's Land Use Plan and an incidental take permit may be required by the USFWS and the CDFW (See **Exhibit 7** for Dr. Dixon's full memo).

[1] California Species of Special Concern, threatened under the Endangered Species Act. Considered a unique species under the LCP.
[2] Endangered under the California Endangered Species Act and Endangered Species Act and fully protected under Section 5050 of the Fish and Game Code. Considered a rare and endangered species under the LCP.

Accordingly, Pullman Ditch and its habitats are protected in several different sections of the certified City LCP, including as both a riparian corridor and rare and endangered species habitat, to which 30-foot (riparian corridor) and 50-foot (rare and endangered species) buffers are required under the LCP (see graphic depiction in **Exhibit 9**). Moreover, the LCP specifies that no new parcels should be created whose building sites are within the riparian buffer unless the development is consistent with LCP Sensitive Habitat Policies 3.3-3.5, and the building sites are setback 20 feet from the limit of riparian vegetation or from the midpoint of an intermittent stream where no riparian vegetation exists (LCP Policy 3.12). In conflict with these requirements, the approved project would include development (construction of roads, bridges, utilities, and cul-de-sacs; and a 4-lot land division) within known sensitive habitat areas and their buffers. Because the proposed development comprises a land division and the number and configuration of lots can be reconfigured, there are alternatives available to redesign the project to avoid LCP inconsistencies.

Regarding the inconsistency of the proposed land division with the LCP's land use policies, the proposed land division is located in an area designated by the City's certified LCP Land Use Plan (LUP) for Planned Development (PD). The City's certified LCP requires a planned unit development plan (PUDP) to be developed for the entire PD district (in this case, the Surf Beach/Dunes Beach district) before development on any of the parcels within the PD district can be approved. There is currently no PUDP for this PD district, and therefore division and subsequent residential development of the Applicant's parcel is not allowed under the LCP, and would constrain and impact the required LCP planning of the remaining PD district, especially in terms of the appropriate number and location of residential uses and circulation north and south of the property.

Even if the approval of a PUDP for the individual parcel was allowable, a PUDP developed for the Applicant's property would also be inconsistent with the LCP's Surf Beach/Dunes Beach district policies. First, Policy 9.9 of the City LCP requires that PD areas use flexible design concepts to create comprehensive development plans with the goal of protecting coastal resources and provision of public open space. The project as designed would impact sensitive habitats in and around Pullman Ditch as described above. In looking at the Surf Beach/Dunes Beach PD as a whole, it is bordered on the north by Pullman Ditch and on the south by Frenchman's Creek. Pullman Ditch is the only intermittent stream with riparian habitat providing a dispersal and foraging corridor for sensitive species extending east to west, west of Highway 1, between Frenchman's Creek and Naples Creek (see Figure 1 in **Exhibit 7**). There are other potential development alternatives for the property with site access provided from Highway 1 or future street connections south of the property site that would avoid impacts to these sensitive habitats. For example, development with access from Highway 1, either on the site or south of the site, would allow for the 50-foot required buffer for rare and endangered species habitat to be achieved consistent with the LCP.

Second, approval of a new 4-lot subdivision within the Surf Beach/Dunes Beach PD impacts the required LCP planning for the entire PD district. Approval of one property within the PD without considering first the entire PD as a whole constitutes piecemeal planning within the PD and not the approved type of comprehensive planning required for the entire PD by the City's LCP. This type of piecemeal planning, including that which does not preserve sensitive resources, is neither consistent with the LCP, nor the intended purpose of the PD districts. Allowing this type of piecemeal planning in this case could also set a precedent for this to be allowed in other

significant PD areas in the City. For example, while the proposed PUDP for the project site is designed consistent with Policy 9.5 which requires no more than 2 units per acre, the entire Surf Beach/Dunes Beach PD district only allows for a maximum of 150 residential units. Knowing that the PD district already contains at least 91 previously subdivided parcels, allowing the development of an additional 4 new residential parcels on the site without determining the location and nature of the remaining appropriate residential parcels to be utilized within the PD may preclude other property owners within the PD from developing residential parcels within their property holdings.

The City is currently conducting an update to their LCP that will comprehensively plan for this area and has also indicated that any attempt by the Commission to reconfigure the subdivision project to require access from Highway 1 would have to be remanded to the City Council for further proceedings and would require an amendment to the tentative subdivision map. Further, the range of possible changes to the proposed lot number and configuration that provide consistency with the LCP, including the use of the property in its current configuration, is significant and renders a final determination on any conditional approval infeasible. The Applicant can continue to use his existing parcel economically. For example, The Applicant currently uses the property for agriculture, storage of construction vehicles and related equipment, and temporary seasonal sale of trees and pumpkins. Therefore, staff recommends that the Commission find that the proposed residential land division and associated infrastructure are inconsistent with the LCP's sensitive habitat and land use policies and deny the proposed development. The motions and resolutions to act on this recommendation are provided on page 6.

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I. MOTIONS AND RESOLUTIONS

A. SUBSTANTIAL ISSUE DETERMINATION

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

Motion: *I move that the Commission determine that Appeal Number A-2-HMB-12-005 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.*

Resolution to Find Substantial Issue: *The Commission hereby finds that Appeal Number A-2-HMB-12-005 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 with the certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.*

B. CDP DETERMINATION

Staff recommends a **NO** vote on the following motion. Failure of this motion, as is recommended by staff, will result in denial of the CDP and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Motion: *I move that the Commission approve Coastal Development Permit Number A-2-HMB-12-005 for the development proposed by the applicant.*

Resolution to Deny a CDP: *The Commission hereby denies Coastal Development Permit Number A-2-HMB-12-005 and adopts the findings set forth below on grounds that the development does not conform with the policies of the City of Half Moon Bay certified Local Coastal Program and/or with the public access policies of Chapter 3 of the Coastal Act.*

II. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION

The proposed project is located on a 2.1 acre triangular parcel in the 2700 block of North Cabrillo Highway (Highway 1) (APN 048-133-010) in the City of Half Moon Bay, San Mateo County. The eastern boundary of the parcel is adjacent to Highway 1 and the western boundary, approximately 600-feet landward of the ocean, is adjacent to the City's Coastal Trail and Naples State Beach. The Naples residential subdivision is located north of the project site, and the entire project site is located between the first public road and the sea. Current access to the property is directly from Highway 1 (see **Exhibit 1**).

The subject parcel is located within the Surf Beach/Dunes Beach Planned Development (PD) district as designated by the City's certified LCP LUP, and is located within the LCP's Planned Unit Development (PUD) zoning district. The Surf Beach/Dunes Beach PD district encompasses approximately 50 acres and includes approximately 200 parcels with 30 different owners (**Exhibit 2**). The existing development on the subject property includes several shed structures and the property is currently used for agriculture (like many other parcels within the Surf Beach/Dunes Beach PD), storage of construction vehicles and related equipment, and temporary seasonal sale of trees and pumpkins. The parcel is mostly composed of non-native ruderal herbaceous grassland with patches of Monterey pine and arroyo willow, and the northern boundary is adjacent with and parallel to Pullman Ditch (**Exhibit 3**). Pullman Ditch is also the northern border of the Surf Beach/Dunes Beach PD district. Pullman Ditch is a man-made drainage course that conveys intermittent water flows to the west from Highway 1, coastal hills, agricultural greenhouses, and agricultural growing fields. The areas adjacent to the banks of Pullman Ditch are heavily vegetated mostly with ruderal vegetation, ornamental vegetation, or planted Monterey cypress and Monterey Pine. However, there are also small stands of willows and blackberry thickets at the western end of the ditch.

B. PROJECT DESCRIPTION

The City of Half Moon Bay conditionally approved a CDP to subdivide the 2.1 acre lot into four residential lots with associated project-related improvements including installation of utilities, extension of two public streets located within the Naples Beach residential subdivision from one side of Pullman Ditch to the other side of Pullman Ditch via two free-span bridges ending into two cul-de-sacs, and construction of a new on-site underground storm drain system. The approved lots range in size from approximately 15,000 square-feet to approximately 19,000 square-feet. 11,886 square feet of the western most lot and the northern 15 feet of all 4 lots have been designated as open space (see **Exhibit 4**). The City's approval did not extend to approval of actual dwelling units, which would be subject to a separate CDP process. The project was approved by the City with a Tentative Parcel Map and Planned Unit Development Plan which specifies permitted uses, utility and service information, development standards, open space requirements, and lot configurations as listed and depicted on the Tentative Parcel Map (**Exhibit 4**).

The new storm drain system would include a 4-foot wide, 930-foot long drainage pipe placed underground along the northern boundary of the property, located parallel to and south of the

existing Pullman Ditch. The new pipe would connect to two existing 24-inch Caltrans culverts located near Highway 1, transferring runoff to the west that would otherwise have gone into Pullman Ditch, to an outlet at the westerly end of Pullman Ditch. The system is designed to accommodate runoff from the drainage basin east of Highway 1 and post project flows.

The existing site access from Highway 1 would be closed, and two new access roads would be constructed across Pullman Ditch from the Naples Beach residential subdivision via two free-span bridges. Existing Pullman Avenue would be extended 60 feet, crossing the Pullman Ditch, to end in a cul-de-sac on the project site. Similarly, a new road would be constructed (Champs Elysee Boulevard), extending south from Washington Boulevard on the other side of Pullman Ditch across the Pullman Ditch to end in a second cul-de-sac on the project site. Additional City-authorized improvements include: water main extensions to the southern ends of the new access roads; construction of a new on-site sanitary sewer connection from Naples Avenue (located on the northern side of Pullman Ditch); sidewalks and gutters; onsite utilities placed underground; and earthwork for street and infrastructure improvements with less than 200 cubic yards of soil to be balanced on-site. In addition, the City-approved Tentative Parcel Map identifies the removal of four trees, specifically two Monterey Pine and two Monterey Cypress trees to accommodate development of the new cul-de-sac proposed to be located at the end of Pullman Avenue. See **Exhibit 4** for the tentative parcel map and site plan.

C. CITY OF HALF MOON BAY APPROVAL

On February 16, 2010, the Applicant applied to the City for a CDP for the proposed project. On December 13, 2011, the Planning Commission adopted Resolution No. P-24-11 and recommended City Council approval of CDP PDP-009-10 for the proposed project. On January 17, 2012, the City Council adopted a Mitigated Negative Declaration and Mitigation Monitoring Reporting Program, and approved a CDP, Planned Unit Development Plan, Use Permit and Tentative Parcel Map for the project (Resolution No. C-04-12). Notice of the City Council's final action on the CDP was received in the Coastal Commission's North Central Coast District Office on January 26, 2012 (see **Exhibit 5**). The Coastal Commission's ten-working day appeal period for this action began on January 27, 2012 and concluded at 5 p.m. on February 9, 2012. The subject appeal was timely received during the appeal period (see below and **Exhibit 6)**.

D. PROCEDURAL HISTORY

The Applicant waived time requirements for a hearing within 49 days on February 13, 2012. On March 5, 2012 and May 11, 2012 the Commission received the City of Half Moon Bay's submittal of documents related to the City approved project. In addition, on July 2, 2012 the Commission received a letter from the Applicant's representative clarifying that the proposed project description had been modified to eliminate the City-approved underground storm drainage system and addressing the appeal contentions. Commission staff reviewed all these materials in light of the appeal and had a number of email and telephone communications with the Applicant and the Applicant's representatives over the course of the next year to answer remaining questions regarding riparian vegetation, sensitive habitats, drainage, the subdivision, open space requirements, zoning requirements, permit history and the revised project.

In August of 2013, Commission staff published a staff report but later postponed the item for further analysis. In light of the staff recommendation that was published, the Applicant and Commission staff continued conversations about a potentially approvable alternative project. On

December 5, 2013, the North Central Deputy Director, the new District Manager, and new District Supervisor (and newly assigned staff for the project) met with the Applicant and the Applicant's representatives in an in-person meeting. At that meeting, all meeting participants agreed that a follow-up meeting would occur including the Commission and Applicant's biologists. On January 10, 2014, the Commission staff held a second in-person follow-up meeting to further discuss biological issues which was attended by the North Central Coast District staff, Coastal Commission Senior Ecologist John Dixon, the Applicant, the Applicant's legal representative, and Applicant's biological consultants. The biological and site access issues were further discussed at this meeting and the Applicant decided that he wanted to prepare and submit an additional written biological evaluation and site access alternatives to the property. The Applicant submitted this information on February 10, 2014. Commission staff discussed their recommendation with the Applicant's representatives at the end of February, 2014. Commission staff also communicated to the Applicant's representatives that they planned to schedule the appealed project on the April 2014 Coastal Commission hearing. The Applicant asked that the project not be heard in April, but instead in May and, thus, at the request of the Applicant, this matter was scheduled for the May 2014 Coastal Commission meeting.

E. APPEAL PROCEDURES

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. This project is appealable because it involves development that is located between the sea and the first public road paralleling the sea and is in a sensitive coastal resource area.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that the appeal raises no substantial issue of conformity of the approved project with the certified LCP. The Coastal Act presumes that an appeal raises a substantial issue of conformity of the approved project with the certified LCP, unless the Commission decides to take public testimony and vote on the question of substantial issue. Since the staff is recommending substantial issue, unless three Commissioners object, it is presumed that the appeal raises a substantial issue and the Commission may proceed to its *de novo* review at the same or subsequent meeting. The Commission will not take public testimony during this phase of the appeal hearing unless three Commissioners request it.

IMPORTANT NOTE:
THE COMMISSION WILL NOT TAKE PUBLIC TESTIMONY DURING THE SUBSTANTIAL ISSUE PHASE OF THE APPEAL HEARING UNLESS AT LEAST THREE (3) COMMISSIONERS REQUEST IT.

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

Unless it is determined that there is no substantial issue, the Commission will proceed to the *de novo* portion of the appeal hearing and review the merits of the proposed project. Any person may testify during the de novo CDP determination stage of an appeal. Under Section 30604(b), if the Commission conducts a de novo hearing and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. This project includes components that are located between the nearest public road and the sea and thus this additional finding would need to be made if the Commission were to approve the project following a de novo hearing.

F. SUMMARY OF APPEAL CONTENTIONS

The Appellants contend that the City-approved project raises LCP conformance issues related to biological resources, land use, and hazards. Specifically, the Appellants contend that the City-approved development: 1) would impact environmentally sensitive habitat areas associated with Pullman Ditch, and does not provide adequate setbacks; 2) allows development without the Specific Plan required by the City's LCP for the PUD-zoned district; and 3) creates a flooding hazard to the nearby coastal trail and residences in an area located on a flood plain. See **Exhibit 6** for the complete appeal documents.

G. SUBSTANTIAL ISSUE DETERMINATION

Substantial Issue Background

The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (California Code of Regulations, Title 14, Section 13115(b)). In previous decisions on appeals, the Commission has been guided by the following factors in making such determinations: (1) the degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act; (2) the extent and scope of the development as approved or denied by the local government; (3) the significance of the

coastal resources affected by the decision; (4) the precedential value of the local government's decision for future interpretation of its LCP; and (5) whether the appeal raises only local issues, or those of regional or statewide significance. Even where the Commission chooses not to hear an appeal, Appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing a petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

In this case, for the reasons discussed further below, the Commission determines that the City's approval of the project presents a substantial issue.

Substantial Issue Analysis

Sensitive Habitats

The Appellants contend that the approved project would impermissibly impact environmentally sensitive habitat areas associated with Pullman Ditch, including riparian areas and habitat for rare, endangered and unique species, and does not provide adequate setbacks to these sensitive habitats, inconsistent with the LCP sensitive habitat policies. See **Exhibit 6** for the full text of the Appellants' contentions. For the specific policy language referenced below, please see the "Sensitive Habitat" Section in the De Novo portion of this appeal report.

The LCP's definition of sensitive habitats includes riparian areas and habitats supporting rare, endangered, and unique species (LCP Policy 3.1). Pullman Ditch is a man-made drainage course that runs adjacent to the northern edge of the Applicant's property and conveys intermittent water flows. The LCP's definition of riparian area includes, "…all bodies of water, intermittent or perennial, man-made or natural…" and thereby includes the Pullman Ditch watercourse as a defined riparian area. As further defined by the LCP, the riparian area associated with Pullman Ditch includes the area out to the edge of the riparian vegetation adjacent to the stream banks or to the edge of the stream banks where no riparian vegetation exists. Pullman Ditch has also been identified as an important habitat resource by the California Department of Fish and Wildlife (CDFW) and the United States Fish and Wildlife Service (USFWS). USFWS and CDFW consider Pullman Ditch suitable upland dispersal and foraging habitat for the California red legged frog (CRLF)[3] and San Francisco garter snake (SFGS)[4]; and thus Pullman Ditch is also a habitat area supporting rare, endangered, and unique species as defined by LCP Policy 3.1.

The City's LCP protects such sensitive habitats by limiting the types of uses permitted in sensitive habitats to resource dependent uses that would not have an adverse impact on the habitats and would also comply with USFWS and CDFW regulations, requiring new development to avoid sensitive habitats, and requiring development to be set back an adequate distance from such areas to minimize impacts on biological resources (LCP Policies 3-3, 3-4, 3-9, 3-11, 3-12, 3-22, 3-25, and 3-33 and Zoning Ordinance Section 18.38.085(D)). Under the LCP, riparian areas along intermittent streams require a 30-foot buffer and habitats supporting rare and endangered species require a 50-foot buffer (LCP Policy 3-11 and Zoning Ordinance Section 18.38.085(D)). In conflict with these requirements, the approved project would include development (construction of roads, bridges, utilities, and cul-de-sacs; excavation of a 5-foot wide, 6-foot deep trench to accommodate installation of a 4-foot wide storm drain pipe; and a 4-

[3] California Species of Special Concern, threatened under the Endangered Species Act. Considered a unique species under the LCP.

[4] Endangered under the California Endangered Species Act and Endangered Species Act and fully protected under Section 5050 of the Fish and Game Code. Considered a rare and endangered species under the LCP.

lot subdivision) within known sensitive habitat areas and their buffers. The approved project would relegate the water which would normally flow through these sensitive habitats into an underground storm drain pipe system impacting the hydrology associated with these habitats inconsistent with the LCP (specifically LCP Policies 3-3, 3-4, 3-9, 3-12, 3-22, and 3-33 and Zoning Ordinance Section 18.38.085(D)).

The local government action does not adequately determine the location of such sensitive resources, including the degree to which they constitute sensitive habitats and the required buffer areas, and did not evaluate the potential impacts to these habitats which may occur from excavation of a trench to install a storm drainage pipe and diversion of water normally flowing through Pullman Ditch's sensitive habitats. In addition, the local approval deferred the LCP requirement for seasonally-appropriate protocol-level plant surveys and raptor surveys for species considered rare, endangered and unique under the LCP, and the determination of the location of these sensitive habitats and related buffer areas until after approval of the 4-lot subdivision through conditions of approval, and therefore, the City's approval of the subdivision was not supported by sufficient resource information to determine the project's consistency with LCP sensitive species policies. Finally, the City approval also conditioned the project to obtain approvals from USFWS and CDFW, and obtain a Biological Opinion if required, and therefore, this subdivision development has not been shown to comply with USFWS and CDFW regulations, inconsistent with LCP Policy 3-4(b).

Thus, the appeal of the proposed residential land division raises a substantial issue of conformance of the approved project with the environmentally sensitive habitat area policies of the LCP.

Land Use

The Appellants contend that the approved project allows development without the Specific Plan required by the City's LCP for the PUD-zoned district. See **Exhibit 6** for the full text of the Appellants' contentions. For the specific policy language referenced below, please see the "Land Use" Section in the De Novo portion of the appeal staff report.

The subject parcel is located within an area designated by the LCP for Planned Development (PD). As described in the LCP, the PD designation is applied to large undeveloped areas so they are planned in a way that protects resource values, ensures coastal access, eliminates poorly planned subdivisions, and clusters development to provide open space and recreation. Policy 9.8 states that preparation of specific plans may be required for one or more parcels under separate ownership and clarifies that the entire site (which in this case is the Surf Beach/Dunes Beach district) shall be planned as a unit. PD LCP Policy 9.14 allows the City to approve development for a single parcel within a district when parcels are under separate ownership, as long as the City has an approved a specific plan for the entire district as required. Specifically, the project site is located within the Surf Beach/Dunes Beach PD district. LCP Policy 9.3.3 requires a Specific Plan be first prepared for this district consistent with the conditions outlined in 9.3.3. Currently, there is no approved plan for the Surf Beach/Dunes Beach PD district, so approval of development on this parcel without a specific plan in place for the entire district is inconsistent with LCP Policy 9.14.

In contrast to what is specified in LCP Policies 9.14 and 9.8, the Applicant has proposed a Planned Unit Development Plan (PUDP) (synonymous with a Specific Plan) for this parcel only. Moreover, even if the City's approval of a PUDP for the individual parcel was allowable, the

PUDP developed for the Applicant's property is inconsistent with the PD policies and the Surf Beach/Dunes Beach district policies and the conditions required to be addressed by the required Specific Plan.

There are many other areas designated PD within the City limits, and allowing development of a single parcel without a plan for the entire Surf Beach/Dune Beach PD district which results in impacts to sensitive coastal resources and does not meet the standards of the specific district policies is inconsistent with the LCP planned development policies and would prejudice the careful planning required for the Surf Beach/Dune Beach PD district as well as the other PD districts within the City.

Thus, the appeal of the approved land division raises a substantial LCP conformance issue with the land use policies of the LCP.

Flooding Hazards
The Appellants contend that the approved project creates a flooding hazard to the nearby coastal trail and residences in an area located on a flood plain, inconsistent with the LCP hazard policies. See **Exhibit 6** for the full text of the Appellants' contentions.

LCP Policy 4-8 requires that no new permitted development shall cause or contribute to flood hazards. The Applicant submitted a Preliminary Hydrology Report for the project in February of 2010 which analyzed alternatives for construction of a new storm drainage system for the project site for 10- and 100-year storm water flows which concluded that storm water runoff from a 10-year flood would be 139 cubic feet per second (cfs) and runoff from a 100-year flood to be 217 cfs. The analysis also discusses how these flows would be limited by the two 24 inch Caltrans culverts located under Highway 1 to 66 cfs. As such, the project was designed to accommodate storm flows from the two 24 inch Caltrans culverts with the 66 cfs flow estimate. However, the report doesn't provide enough detail (inlet geometry, slope, culvert roughness, etc.) about the two 24 inch Caltrans culverts or the proposed 48 inch storm pipe to support their estimated carrying capacity of 66 cfs.

In addition, the report does not evaluate if the proposed project would handle "full release" of flow from the 10- or 100-year storm flows nor does it clarify where the excess flow currently goes (either against and along the highway embankment until it can run across the road or through a different culvert). Finally, there is no analysis of the downstream end of the proposed drainage system to show that the system would not contribute to flooding of the area. Therefore, there is an inadequate evaluation of the upstream inflows and downstream outflows and no indication of the capacity of the new system. The project site and the area in which the storm drain pipe would discharge into are not within the FEMA floodway but the discharge area is located within a Zone D boundary. According to FEMA, Zone D areas are unstudied areas where flood hazards are undetermined but flooding is possible. Therefore, the City approved project did not adequately evaluate the proposed project consistent with the flood hazard policies of the LCP.

Thus, the project raises a substantial LCP conformance issue with respect to hazards policies of the LCP.

Conclusion: Substantial Issue

In conclusion, the City-approved project raises substantial issues regarding sensitive habitats, land use and flooding hazards. Therefore, the Commission finds that the appeal raises a **substantial issue** of conformity of the approved project with the sensitive habitat, hazards, and land use policies of the certified Half Moon Bay LCP, and takes jurisdiction over the CDP application for the proposed project.

H. COASTAL DEVELOPMENT PERMIT DETERMINATION

The standards for review of this application are the Half Moon Bay certified LCP and the public access and recreation policies of the Coastal Act. All Substantial Issue Determination findings above are incorporated herein by reference. It is important to point out that the Applicant has modified the proposed project in the time since the City's approval was appealed to the Commission to eliminate the previously proposed new underground storm drain pipe to redirect and accommodate Pullman Ditch water flows. Thus, the project evaluated herein is the project as so revised.

Sensitive Habitats

Applicable Policies

The City's LCP includes strong protections for biological resources, including the preservation and protection of sensitive habitats. The LCP defines sensitive habitats, requires the protection of sensitive habitats, and limits the uses permitted within sensitive habitats as follows:

> *3-1 Definition of Sensitive Habitats*
> *(a) Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and as those areas which meet one of the following criteria: (1) habitats containing or supporting "rare and endangered" species; (2) all perennial and intermittent streams and their tributaries,..*[Emphasis added.]
>
> *Such areas include riparian areas, wetlands, sand dunes, marine habitats, sea cliffs, and habitats supporting rare, endangered, and unique species.*
>
> *3-3 Protection of Sensitive Habitats*
> *(a) Prohibit any land use and/or development which would have significant adverse impacts on sensitive habitat areas.*
> *(b) Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the environmentally sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of such areas.*
>
> *3-4 Permitted Uses*
> *(a) Permit only resource-dependent or other uses which will not have a significant adverse impact in sensitive habitats.*
> *(b) In all sensitive habitats, require that all permitted uses comply with U.S. Fish and Wildlife Service and State Department of Fish and Game regulations.* [Emphasis added.]

To support the protection of sensitive habitats when development would occur within or adjacent to a sensitive habitat area, the City LCP outlines coastal development permit requirements to

ensure proper biological reports are prepared identifying potential impacts to sensitive habitats, feasible mitigation measures, and restoration, if necessary, as follows:

> *3-5 Permit Conditions*
> *(a) Require all applicants to prepare a biologic report by a qualified professional selected jointly by the applicant and the City to be submitted prior to development review. The report will determine if significant impacts on the sensitive habitats may occur, and recommend the most feasible mitigation measures if impacts may occur.*
>
> *The report shall consider both any identified sensitive habitats and areas adjacent. Recommended uses and intensities within the sensitive habitat area shall be dependent on such resources, and shall be sited and designed to prevent impacts which would significantly degrade areas adjacent to the habitats. The City and the applicant shall jointly develop an appropriate program to evaluate the adequacy of any mitigation measures imposed.*
>
> *(b) When applicable, require as a condition of permit approval the restoration of damaged habitat(s) when, in the judgment of the Planning Director, restoration is partially or wholly feasible.*

As stated in LCP Policy 3.1 above, the LCP considers riparian areas as sensitive habitats. The LCP defines riparian areas, riparian corridors, and riparian buffers and includes specific policies outlining uses permitted in these areas and performance standards for development occurring within these areas as follows:

> *RIPARIAN AREA*
>
> *The Local Coastal Plan defines riparian area as any area of land bordering a stream, including its banks. It includes land at least up to the highest point (in cross-section) of an obvious channel or enclosure of a body of water. Such areas extend to the outer edge of appropriate indicator plant species (see Riparian Vegetation).*
>
> *Although water rights law considers riparian rights only on natural watercourses, the definition included here extends riparian area to all bodies of water, intermittent or perennial, man-made or natural.*….[Emphasis added.]
>
> *RIPARIAN VEGETATION*
>
> *Riparian vegetation requires or tolerates soil moisture levels in excess of that available in adjacent terrestrial areas, and is typically associated with the banks, edges or terrestrial limits of freshwater bodies, watercourses and surface emergent aquifers. Riparian vegetation can be distinguished from adjacent upland vegetation as it forms a visually distinct and structurally separate linear plant assemblage along the shoreline of waterways. Vegetation shall be considered to be riparian if at least 50% of the cover in an area is made up of riparian species.*
>
> *3-7 Definition of Riparian Corridors*
> *(a) Define riparian corridors by the "limit of riparian vegetation" (i.e. a line determined by the association of plant and animal species normally found near streams, lakes, and*

other bodies of fresh water: red alder, jaumea, pickleweed, big leaf maple, marrowleaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder). Such a corridor must contain at least a 50% cover of some combination of the plants listed.

3-9 Permitted Uses in Riparian Corridors
(a) Within corridors, permit only the following uses: (1) education and research, (2) consumptive uses as provided for in the Fish and Game Code and Title 14 of the California Administrative Code, (3) fish and wildlife management activities, (4) trails and scenic overlooks on public land(s), and (5) necessary water supply projects.
(b) When no feasible or practicable alternative exists, permit the following uses: (1) stream-dependent aquaculture provided that non-stream-dependent facilities locate outside of corridor, (2) flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development, (3) bridges when supports are not in significant conflict with corridor resources, (4) pipelines and storm water runoff facilities, (5) improvement, repair or maintenance of roadways or road crossings, (6) agricultural uses, provided no existing riparian vegetation is removed, and no soil is allowed to enter stream channels. [Emphasis added.]

3-10 Performance Standard in Riparian Corridors
(a) Require development permitted in corridors to: (1) minimize removal of vegetation, (2) minimize land exposure during construction and use temporary vegetation or mulching to protect critical areas, (3) minimize erosion, sedimentation, and runoff by appropriately grading and replanting modified areas, (4) use only adapted native or non-invasive exotic plant species when replanting, (5) provide sufficient passage for native and anadromous fish as specified by the State Department of Fish and Game, (6) minimize adverse effects of waste water discharges and entrainment, (7) prevent depletion of groundwater supplies and substantial interference with surface and subsurface water flows, (8) encourage waste water reclamation, (9) maintain natural vegetation buffer areas that protect riparian habitats, and (10) minimize alteration of natural streams.

3-11 Establishment of Buffer Zones
(a) On both sides of riparian corridors, from the "limit of riparian vegetation," extend buffer zones 50 feet outward for perennial streams and 30 feet outward for intermittent streams.
(b) Where no riparian vegetation exists along both sides of riparian corridors, extend buffer zones 50 feet from the bank edge for perennial streams and 30 feet from the midpoint of intermittent streams…

3-12 Permitted Uses in Buffer Zones
(a) Within buffer zones, permit only the following uses: (1)uses permitted in riparian corridors, (2) structures on existing legal building sites, set back 20 feet from the limit of riparian vegetation only if no feasible alternative exists, and only if no other building site on the parcel exists, (3) crop growing and grazing consistent with Policy 3.9…(5) no new parcels shall be created whose only building site is in the buffer area except for parcels created in compliance with Policies 3.3, 3.4, and 3.5 if consistent with existing

development in the area and if building sites are set back 20 feet from the limit of riparian vegetation or if no vegetation 20 feet from the back edge of a perennial and 20 feet from the midpoint of an intermittent stream.

3-13 Performance Standards in Buffer Zones
(a)Require uses permitted in buffer zones to: (1) minimize removal of vegetation, (2) conform to natural topography to minimize erosion potential, (3) make provisions to (i.e. catch basins) to keep runoff and sedimentation from exceeding pre-development levels, (4) replant where appropriate with native and non-invasive exotics, (5) prevent discharge of toxic substances, such as fertilizers and pesticides into the riparian corridor…

In addition, the LCP considers habitats for rare and endangered species as sensitive habitats and includes specific policies for the protection of these habitats. The LCP requires the designation of habitats for rare and endangered species, specifies the uses allowed within these habitat areas, outlines permit conditions for development occurring within or near these habitats, and requires the preservation of critical habitats as follows:

3-21 Designation of Habitats of Rare and Endangered Species
In the event the habitat of a rare and endangered species is found to exist within the City, revise the Habitat Areas and Water Resources Overlay to show the location of such habitat. Any habitat so designated shall be subject to Policies 3-22 through 3-31.

3-22 Permitted Uses
(a) Permit only the following uses: (1) education and research; (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to restore damaged habitat and to protect and encourage the survival of rare and endangered species.
(b) If the critical habitat has been identified by the Federal Office of Endangered Species, permit only those uses deemed compatible by the US Fish and Wildlife Service in accordance with the provisions of the Endangered Species Act of 1973, as amended.

3-23 Permit Conditions
Require, prior to permit issuance, that a qualified biologist prepare a report which defines the requirements of rare and endangered organisms. At minimum, require the report to discuss: (1) animal food, water, nesting or denning sites and reproduction, predation and migration requirements… (3) a map depicting the locations of plants or animals and their habitats, (4) any development must not impact the functional capacity of the habitat, and (5) recommend mitigation if development is permitted within or adjacent to identified habitats.

3-24 Preservation of Critical Habitats
Require preservation of all habitats of rare and endangered species using the policies of this Plan and other implementing ordinances in the City.

The LCP Zoning Ordinance also lists rare and endangered species within the City of Half Moon Bay and requires a minimum buffer of 50 feet to protect the rare and endangered species habitats as follows:

18.38.085 Habitats for Rare and Endangered Species.

A. Rare and Endangered Species. The potential exists for any of the following Rare and Endangered Species to be found within the San Mateo County Coastal Area and therefore within the City of Half Moon Bay:

1. Animals: the San Francisco Garter Snake, California Least Tern, California Black Rail, California Brown Pelican, San Bruno Elfin Butterfly, San Francisco Tree Lupine Moth, Guadalupe Fur Seal, Sea Otter, California Brackish Water Snail, Globose Dune Beetle…

D. Buffer Zones. The minimum buffer surrounding a habitat of a rare or endangered species shall be 50 feet. [Emphasis added.]

There are also species-specific policies in the LCP which specify protections for rare and endangered species, including the San Francisco garter snake as follows:

3-25 San Francisco Garter Snake
(a) Prevent any development where there is known to be a riparian location for the San Francisco garter snake…

(b) Require developers to make sufficiently detailed analyses of any construction which could impair the potential or existing migration routes of the San Francisco garter snake. Such analyses will determine appropriate mitigation measures to be taken to provide for appropriate mitigation corridors. [Emphasis added.]

Lastly, the LCP considers habitats for unique species as sensitive habitats and includes specific policies for the protection of these habitats. The LCP requires the designation of habitats for unique species, specifies the uses allowed within these habitat areas, outlines permit conditions for development occurring within or near these habitats, and requires the preservation of critical habitats as follows:

3-32 Designation of Habitats of Unique Species
(a) In the event the habitat of a unique species is found to exist within the City, revise the Habitat Areas Resources Overlay to show the location of such habitat. Any habitat so designated shall be subject to Policies 3-33 through 3-36.

3-33 Permitted Uses
(a) Permit only the following uses: (1) education and research; (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to the degree specified by existing governmental regulations.

3-34 Permit Conditions
Require, as a condition of permit approval, that a qualified biologist prepare a report which defines the requirements of a unique organism. At minimum, require the report to discuss: (1) animal food, water, nesting or denning sites and reproduction, predation and

migration requirements, and (2) plant's life histories and soils, climate, and geographic requirements.

3-35 Preservation of Habitats
(a) Require preservation of all rare and endangered species habitats using the policies of this Plan and implementing ordinances of the City

Analysis
The City's LCP includes strong protections for biological resources and requires the preservation and protection of environmentally sensitive habitats such as intermittent streams, riparian areas, and habitats for rare, endangered, and unique species. The LCP limits allowable uses within these sensitive habitats, requires the identification and buffering of sensitive habitats, and provides standards for development within and adjacent to these areas.

Riparian areas as defined by the LCP include stream banks up to the highest point of the stream channel and any areas covered by at least 50% of riparian vegetation bordering the stream. Pullman Ditch is a watercourse that conveys intermittent water flows from lands located east of Highway 1 out to the ocean. The lands adjacent to the banks of Pullman Ditch are heavily vegetated with ruderal vegetation, ornamental vegetation, planted Monterey cypress and Monterey Pine, willows and blackberry thickets. There is no LCP definition of streams or intermittent streams; however, the LCP definition of riparian areas includes, "…all bodies of water, intermittent or perennial, man-made or natural…" indicating that Pullman Ditch is considered to be a stream with riparian areas under the LCP. In addition, in past projects[5] proposed to occur adjacent to Pullman Ditch, the City of Half Moon Bay has found Pullman Ditch to be an intermittent stream per their certified LCP. Coastal Commission Senior Ecologist Dr. John Dixon also determined Pullman Ditch to be an intermittent stream since "it is declivity[6] that periodically conveys water in a unidirectional manner. It also has a clear bed and bank. It is intermittent because it conveys water for some time after rainfall but not necessarily all year long." Per the LCP definition, the riparian areas located within the vicinity of the proposed project include the Pullman Ditch stream channel and the area of arroyo willow riparian vegetation located at the west end of the subject parcel (see **Exhibit 3**). Riparian areas and intermittent streams are sensitive habitats as defined by the LCP and therefore, the sensitive habitat policies discussed apply to these areas (LCP Sensitive Habitat Policies 3.2-3.5).

There are differing opinions in the record regarding the habitat associated with Pullman Ditch and use of this habitat by rare and endangered species. United States Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) consider Pullman Ditch a suitable upland dispersal and foraging habitat for the California red legged frog (CRLF)[7] and San Francisco garter snake (SFGS)[8]. This area has been consistently identified by USFWS as habitat for CRLF and SFGS[9] and as a migration corridor between breeding populations and feeding

[5] PDP 004-006 (Francisco Oliva, Single Family Residence). When acting on the project, the City found Pullman Ditch to qualify as a riparian area, intermittent stream, and rare and endangered habitat.
[6] A downward slope.
[7] California Species of Special Concern, threatened under the Endangered Species Act.
[8] Endangered under the California Endangered Species Act and Endangered Species Act and fully protected under Section 5050 of the Fish and Game Code.
[9] USFWS indicate that habitat for CRLF and SFGS exists in Pullman Ditch in response to the City of Half Moon Bay's approval for construction of a single-family residence along Pullman Ditch, stated in email correspondence from Lucy Triffleman, dated March 27, 2007.

areas for CRLF since 2006.[10] USFWS still finds it reasonable to consider that Pullman Ditch is occupied by CRLF and SFGS as it contains suitable upland habitat (ephemeral drainages, grasslands, dense riparian vegetation, rodent burrows) used by these species for dispersal and foraging within 2 miles of breeding sites and is located within dispersal distance of documented occurrences of both species.[11] Based on this consideration, USFWS finds that projects occurring in and around Pullman Ditch and other similar drainages throughout the City, have the potential to result in take of these species, as defined by Section 9 of the Endangered Species Act and 50 CFR § 222.[12] CDFW considers Pullman Ditch to be a migratory and foraging corridor for these species as it is within reasonable dispersal distances of known locations, including a CRLF sighting which occurred 0.8 miles south of the project site.[13] As such, CDFW recommends, " …the project proponent assume presence of CRLF and SFGS in the project area and appropriately follow ESA/CESA/DFG[14] Code regulations or be liable for potential enforcement action." [15] See **Exhibit 8** for communications from USFWS and CDFW.

In contrast to USFWS and CDFW, the Applicant's biological report states that "no sensitive habitat areas were observed in the Project Area or within the surrounding 200-foot-wide Study Area" and that "no habitat for rare, endangered or unique species is present in the Project Area." In addition, the most recent biological opinion provided by the Applicant from Rana Resources concludes that Pullman Ditch "is not suitable for (or inhabited by)" CRLF and SFGS due to the lack of sustained water/lagoon features, proximity and extent of surrounding urban areas with known predators, the distance to other suitable habitat areas, and the nature and size of the dispersal corridor with known predators.[16]

However, the Applicant's position is contravened by a previous biological assessment conducted in and around the project site by Caltrans in 2007. The Caltrans biological assessment[17] concluded that while Pullman Ditch does not contain suitable breeding habitat for CRLF or SFGS, both species may disperse or estivate within Pullman Ditch as there are known occurrences of the species within the known dispersal distance for the species, including the observance of a juvenile CRLF 0.8 miles from the Ditch at Frenchman's Creek during the habitat assessment and a known occurrence of SFGS 1.3 miles from the Ditch at Pilarcitos Creek. As such, the Caltrans project included mitigation measures to avoid take of these two sensitive species.

Further, Coastal Commission Senior Ecologist, Dr. John Dixon, has reviewed the Applicant's reports and relevant information from USFWS and CDFW and concludes that while Pullman Ditch is degraded habitat that is not appropriate breeding habitat for these sensitive species and may not be regularly inhabited, Pullman Ditch does provide dispersal and foraging habitat that

[10] USFWS comments provided to the City and Commission staff in response to the Pullman Ditch Biological Resources Assessment dated November 3, 2005, stated in email correspondence to Commission staff from Lucy Triffleman, dated March 14, 2006.
[11] Letter from Eric Tattersal, Deputy Assistant Field Supervisor, USFWS to Jeannine Manna, January 7, 2014
[12] Ibid
[13] Email Communication from Suzanne Deleon, Environmental Scientist, CDFW to Jeannine Manna on November 4, 2013
[14] Endangered Species Act/California Endangered Species Act/Department of Fish and Game
[15] Email Communication from Suzanne Deleon, Environmental Scientist, CDFW to Jeannine Manna on January 10, 2014.
[16] *Letter from* Mark Jennings, Rana Resources, to Jeannine Manna on February 09, 2014.
[17] *Pullman Ditch Drainage Improvement Project Biological Assessment*, Caltrans, December 5, 2007

may be periodically used by both species. Dr. Dixon goes on to state that since Pullman Ditch supports rare species and is an intermittent stream, Pullman Ditch meets the definition of a sensitive habitat under Section 3-1 of the City's Land Use Plan and an incidental take permit may be required by the USFWS and the CDFW (see **Exhibit 7** for Dr. Dixon's full memo). Therefore, the Commission finds that Pullman Ditch is habitat that supports rare, endangered, and unique species, and is thus subject to the policies of the LCP that protect sensitive habitats, and more specifically, habitats for rare, endangered, and unique species (LCP Policies 3.21-3.25 and 3.32-3.35).

The LCP's definition of sensitive habitats includes riparian areas, habitats for rare, endangered, and unique species, and intermittent streams (LCP Policy 3.1). As described above, Pullman Ditch contains all of these sensitive habitat types and therefore, the general LCP Sensitive Habitat Policies 3.2-3.5 apply to the proposed project. LCP Policy 3.4 limits uses permitted within sensitive habitats to resource dependent uses that would not have an adverse impact on the habitat and that comply with USFWS and CDFW regulations. The proposed project would create 3 new lots for a total of 4 residential lots and would be configured so as to locate roads, utilities, and bridges within sensitive habitat areas, and these uses do not qualify as resource dependent uses. The Applicant has also not demonstrated that the proposed uses comply with USFWS and CDFW regulations and the current correspondence from both agencies suggest that the project as designed would not comply with the two agencies respective regulations. Therefore, the project proposes residential development within sensitive habitats that are neither resource dependent nor demonstrated to comply with USFWS and CDFW regulations, inconsistent with the LCP Sensitive Habitat Policies 3.3-3.4.

The LCP also includes more specific policies related to riparian areas and rare, endangered, and unique species habitats. The LCP defines riparian corridors by the "limit of riparian vegetation." By this definition and when taken within the context of LCP Policy 3.11, the riparian corridor on the parcel includes the entire Pullman Ditch stream channel and the area of arroyo willow located at the west end of the property. The LCP establishes riparian buffer zones for intermittent streams which extend 30 feet from the limit of riparian vegetation or 30 feet from the midpoint of the stream where no riparian vegetation exists. Uses permitted within riparian corridors and riparian buffers are limited to those defined in LCP Policies 3.9 and 3.12. Moreover, the LCP specifies that no new parcels should be created whose building sites are within the riparian buffer unless the development is consistent with LCP Sensitive Habitat Policies 3.3-3.5, and the building sites are setback 20 feet from the limit of riparian vegetation or from the midpoint of an intermittent stream where no riparian vegetation exists (LCP Policy 3.12). As discussed above, the development is inconsistent with LCP Sensitive Habitat Policies 3.3-3.4 and therefore, new parcels within the riparian buffer are not allowed.

The Applicant believes that the LCP allows bridges within riparian corridors and riparian buffers if no feasible alternative exists and if they are consistent with other applicable sensitive habitat and riparian corridor policies and performance standards for riparian buffers. To the extent the cited LCP provision can be read to apply outside a takings approval context, the asserted provisions are wholly inapplicable to the proposed division of land because several feasible alternatives to the Applicant-requested development exist. First, the proposed development comprises a land division. The number and configuration of lots created can be limited to a number and configuration that would support development consistent with the habitat limitations of the certified LCP. Further, in this case, there is an existing access ingress/egress to the

property from Highway 1. That ingress/egress is currently used by the Applicant and the existing ingress/egress does not impact the riparian corridor or sensitive habitat area. This existing ingress/egress is thus both feasible and practicable to be used by the Applicant for access to his property. Lastly, the project as discussed above is inconsistent with other sensitive habitat and riparian corridor policies. Therefore, the proposed development is not permitted within riparian corridors and riparian buffers, would be inconsistent with the LCP sensitive habitat policies specific to riparian areas and there are alternatives available to redesign the project to avoid this LCP inconsistency.

In summary, Pullman Ditch is habitat that supports rare, endangered, and unique species, and is thus subject to the policies of the LCP that protect sensitive habitats, and more specifically, habitats for rare, endangered, and unique species (LCP Policies 3.21-3.25 and 3.32-3.35). Pullman Ditch and its habitats are therefore protected in several different sections of the certified City LCP, including as both a riparian corridor and rare and endangered species habitat, to which 30-foot (riparian corridor) and 50-foot (rare and endangered species) buffers are required under the LCP (see graphic depiction in **Exhibit 9**). As indicated above, the LCP limits development proposed to occur within riparian corridors, rare and endangered species habitats, unique species habitats, and their respective buffers. In addition, as noted in the LCP Zoning Ordinance Section 18.38.085 (D), a 50-foot development buffer from rare and endangered species habitat is required for all development. The land division itself would result in the placement of roads, utilities, and bridges within the rare, endangered, and unique species habitat, and the placement of roads, cul-de-sacs, and subdivisions within the rare and endangered species habitat buffers. The bridges, roads, and utilities would increase shading somewhat, and would increase noise, lights, and other activities audible and visible from within Pullman Ditch. The future residential development facilitated by the 4-lot subdivision and proposed residential development envelopes on the 4 lots would introduce residential noise, lights, and activities (including pets, etc.) within and adjacent to these buffers. The development of roads and future driveways would put these species at risk of being crushed as they move from Pullman Ditch to the upland buffer areas, especially SFGS since hot roadways are attractive locations for basking.

Therefore, the proposed development is not permitted within rare, endangered, and unique species habitats or their buffers, and would be inconsistent with the LCP rare, endangered, and unique species sensitive habitat policies. For all the above reasons, the project as designed is inconsistent with the sensitive habitat policies of the LCP and must be denied.

Land Use

Applicable Policies

The City's LCP designates the project site as Planned Development (PD) and it is also located within the LCP's Planned Unit Development (PUD) Zoning District. The LCP includes general policies for new development and for development proposed within PD districts which apply to the subject parcel as follows:

> *Policy 9-5:*
> *The base permitted residential density for any parcel located within an area designated Planned Development (PD) District shall be no more than 2 units per acre, except as provided with respect to such District under Subsections 9.3.3 through 9.3.16. This "base*

density" policy may be revised upward as compliance with other conditions which limit the area developed. However, the total amount of development permitted by the LUP shall not exceed the amount programmed in the Phasing Section of this Plan (see Table 9.3 and related text).

9.3.2 Specific Planned Development Policies
The purpose of the Planned Development designation is to ensure well-planned development of large, undeveloped areas planned for residential use in accordance with concentration of development policies. It is the intent of this designation to allow for flexibility and innovative design of residential development, to preserve important resource values of particular sites, to ensure achievement of coastal access objectives, to eliminate poorly platted and unimproved subdivisions whose development would adversely affect coastal resources, and to encourage provision for low and moderate income housing needs when feasible. It is also the intent of the Planned Development designation to require clustering of structures to provide open space and recreation, both for residents and the public. In some cases, commercial development such as convenience stores or visitor-serving facilities may be incorporated into the design of a Planned Development in order to reduce local traffic on coastal access roads or to meet visitor needs.

All areas designated in the Land Use Plan for Planned Development shall be subject to the following policies:

Policy 9-8
The entire site shall be planned as a unit. Preparation of specific plans (Government Code Section 65450) may be required for one or more separate ownerships, individually or collectively, when parcels comprising a site designated Planned Development (PD) are in separate ownerships.

Policy 9-9
Use of flexible design concepts, including clustering of units, mixture of dwelling types, etc., shall be required to accomplish all of the following goals:
(a) Protection of the scenic qualities of the site;
(b) Protection of coastal resources, i.e. habitat areas, archaeological sites, prime agricultural lands, etc., as required by the Coastal Act;
(c) Avoidance of siting of structures in hazardous area; and
(d) Provision of public open space, recreation, and/or beach access.

Policy 9-10
Permitted uses shall include:
(a) Any uses permitted and set forth in the zoning ordinance of the City of Half Moon Bay and consistent with the Local Coastal Plan.
(b) Recreational facilities, including but not limited to tennis courts, golf courses, swimming pools, playgrounds, and parks for the private use of the prospective residents, or general public use.
(c) Open space…

Policy 9-11:

The City shall specify the maximum density of development permitted for each parcel under the Planned Development designation at the time development approval is given for a particular parcel (s), unless already specified in the Land Use Plan. Determination of an appropriate density shall take into account all of the factors listed in Policy 9-12 and shall be compatible with the density and character of surrounding land uses.

Policy 9-12

The amount of public, private, and common open space in a Planned Development shall be specified in the Development Plan. The required amount of common and public open space shall be at least 20% of the gross area. The City shall determine the amount of public open space required for coastal access and recreation and protection of public views, if not specified elsewhere in this Plan.

Open space shall be defined as follows:

(a) Public open space shall include but not be limited to public parks and parking lots, beaches, access corridors such as bike paths, hiking or equestrian trails, usable natural areas, and vista points which are accessible to members of the general public. Public open space shall not include areas which are unusable for recreational purposes, i.e. private or public streets, private parking lots, or hazardous areas, such as steep slopes and bluff faces. Environmentally sensitive habitat areas and archaeological sites may be included in public open space only if such areas are usable by the public for light recreation, i.e. walking;

(b) Common open space shall include but not be limited to recreational areas and facilities for the use of prospective residents of the project, such as tennis courts, golf courses, swimming pools, playgrounds, community gardens, and other agricultural use, landscaped areas for common use, or other open areas of the site needed for the protection of the habitat, archaeological, scenic, or other resources. Common open space shall not include driveways, parking lots, private patios and yards, or other developed areas; and

(c) Private open space shall include but not be limited to patios, decks, and yards for the private use of the residents of individual units, and shall include land permanently dedicated to agricultural use.

Additional conditions for parcels designated as PD-Planned Development are found in the following sections on specific areas.

Policy 9-13:

The City will seek the assistance of the State Coastal Conservancy where required or useful in the consolidation of older, unimproved subdivisions, and in carrying out the purposes of the Planned Development Districts, and shall encourage the Conservancy to assist generally in consolidation and re-subdivision where buildout according to existing plans is not proposed.

Policy 9-14

In the case of any Planned Development District hereafter described where portions of the District are in separate ownership, approval may be given for development of a parcel or group of parcels in the same or different ownerships, provided that the City has approved a specific plan for the District as required by the provisions of this section. [Emphasis added.]

The City LCP also includes specific policies for each PD district. The project site is located within the 50-acre Surf Beach/Dunes Beach district, which is comprised of the subject parcel, the 1901 Surf Beach/Dunes Beach subdivision north of Young Avenue, and the area south of Young Ave currently used for stabling and rental of horses and various agriculture operations. LCP Policy 9.3.3 provides specific guidance for the Surf Beach/Dunes Beach district as follows:

9.3.3 Surf Beach/Dunes Beach
…In addition to conditions described in 9.3.2 (Policies 9-8 to 9-14: see below), development of the Surf Beach/Dunes Beach areas shall be subject to the following conditions:

(a) A specific plan shall be prepared for the entire area which incorporates all of the conditions listed below and conforms to all other policies of the Land Use Plan. The specific plan shall show the locations of roads and structures, and indicate the amount and location of open spaces, public recreation, and commercial recreation. The specific plan shall be subject to environmental review under City CEQA guidelines.

The specific plan and accompanying environmental documents shall be submitted to the Planning Commission, who may recommend additional conditions for development of the site. The Planning Commission may reduce the allowable density if it is determined that Highway 1 and access routes to the beach are inadequate to accommodate the amount of proposed residential development in addition to the public and commercial recreation. In adopting the specific plan, the Planning Commission shall specify the number and type of housing units and open space requirements for each of the parcels which are under separate ownership or for each group of parcels which is to be developed as a unit.

(b) A maximum of 150 residential units may be developed on the site.

(c) As a condition of approval, a right-of way of at least 25 feet in width in addition to the existing Young Avenue right-of-way shall be dedicated to the State Department of Parks and Recreation. A pedestrian and bicycle trail shall be constructed along such right-of-way from Highway 1 to the State Beach property line, in accordance with standards to be established by the City and State.

(d) As a condition of approval, structures shall be clustered, maintained low in height, or constructed at low elevations to the maximum extent feasible and specific view corridors shall be established (including the Young Avenue right-of-way) and protected by easements so as to maintain views of the ocean from Highway 1.

(e) At least 20 acres of the site, preferably south of Young Avenue, shall be reserved for future commercial recreation or visitor-serving development, with potential access from Young Avenue or Highway 1 or both, but such development shall not occur until the City has determined that there is a need for such use.

(f) At least the same amount of land now devoted to horse stabling, rentals, training, and riding shall be maintained in such use or for other recreational purpose.

(g) Suitable landscaping, fencing, and other means shall be used to ensure that direct pedestrian access to the State Beach property is controlled and limited from the new residential development and that an adequate buffer is provided between the Young Avenue right-of-way and residential use.

(h) Vehicular access from residential development to Young Avenue shall be limited to protect beach access and no more than one opening onto Highway 1 north and south of Young Avenue shall be permitted to provide access to residential development; a frontage road may be required along Highway 1 to assure that residential traffic does not congest Highway 1. [Emphasis added.]

LCP Zoning Ordinance Section 18.15 describes the required components for a Planned Unit Development Plan as follows:

18.15.035 Content of a Planned Unit Development Plan. Applications for Planned Unit Development Plans shall be submitted in a format approved by the Planning Director. In addition to any other information required by this chapter and any information and materials required for a zoning amendment under this title, any application for adoption of or an amendment to a previously approved Planned Unit Development Plan shall, at a minimum, include the following information and materials:

A. A detailed description of the proposed uses and their densities and intensities;
B. A map showing the district boundaries and the relationship of the uses and densities and intensities proposed with any existing uses within a three hundred-foot radius of the site;
C. A map or maps showing all of the following on the site and within a three hundred foot radius from the boundaries of the proposed planned unit development:
1. Topographic data at contour intervals of not less than ten feet,
2. The type, location, and condition of any trees, riparian habitats and vegetation, wetlands, and environmentally sensitive habitat areas,
3. The nature and extent of any coastal resources such as dunes, or bluffs,
4. The nature and extent of any known or potential areas of cultural, archaeological, or paleontological significance;
D. The proposed pattern of land use with the acreage and densities or intensities of each use proposed;
E. A detailed description of the proposed development standards, including but not limited to proposed minimum site requirements, setbacks, parking requirements, building heights, and any other criteria related to the physical development of the site;
F. The proposed street and lot pattern;
G. All on-site and off-site roadway improvements necessary to support the proposed development or to mitigate impacts to the local circulation system;
H. Typical building elevations;
I. The location and total acreage of all open space areas to ensure that the minimum of twenty percent of the gross site area is provided in public and/or private open space, and the nature and extent of any developer funded improvements to these areas;

J. A preliminary landscape plan;
K. Preliminary grading plans;
L. An initial study prepared consistent with the California Environmental Quality Act, the state CEQA Guidelines, and city policy;
M. Any improvements necessary to achieve enhanced public access to coastal resources;
N. A schedule of anticipated development, including the anticipated commencement of construction and occupancy and the timing of any subsequent phases;
O. A completed subdivision application that meets the requirements of Title 17 where the proposed planned unit development plan includes the subdivision of land;
P. A description of any proposed management organization, such as a homeowners association, that will be responsible for the perpetual maintenance of any common areas;
Q. Any other plans or information determined to be necessary by the planning director.

The LCP Transportation Policy limits the establishment of new access routes from Highway 1 as follows:

Policy 10-34

The City will limit access to new development from designated beach access routes, Highways 1 and 92, except where no alternative access is possible, consistent with public safety and enhanced circulation of visitors and residents.

Analysis

As mentioned above, the subject property is located in an area designated by the LUP for Planned Development (PD); therefore the new development policies and the general PD policies listed above apply to this area (LCP Policies 9-5, 9.3.2 and 9.8 through 9.14). As described in the LCP, the intent of the PD designation is to assure that large, undeveloped areas planned for residential use are planned in a comprehensive way that protects resource values, ensures coastal access, eliminates poorly planned subdivisions, and clusters development to provide open space and recreation. Specifically, the general PD policies require PD districts to be planned as a unit to protect scenic qualities, coastal resources, and provide public open space (LCP Policies 9.8 and 9.9). The LCP also requires the City to specify the maximum density of each parcel within a PD district when development is approved for a parcel, consistent with the character of the surrounding land uses and the amount of public open space required (LCP Policy 9.11 and 9.12). In addition, LCP Policy 9.5 limits the permitted residential density for any parcel located within a PD area to no more than 2 units per acre, except as provided in the other subsections including the specified subsection for this district, 9.3.3. Finally, PD LCP Policy 9.14 allows the City to approve development for a single parcel within a PD district when parcels are under separate ownership, as long as the City has an approved a specific plan for the entire district as required.

The project site is located within the Surf Beach/Dunes Beach PD district and as such has its own specific development requirements as outlined in LCP Policy 9.3.3. LCP Policy 9.3.3 requires a specific plan be prepared for the entire Surf Beach/Dunes Beach district area and that the plan include the location of roads and structures, open space, public recreation, and commercial recreation. It also requires that in adoption of the specific plan, the Planning Commission specify the number and type of housing units and open space requirements for each parcel under separate ownership. The specific plan must also incorporate the following conditions: a maximum of 150 residential units may be developed within the PD district, a right-

of-way at least 25 feet in width shall be dedicated to State Parks for construction of a pedestrian and bicycle trail from Highway 1 to the State Beach property, structures shall be clustered to maintain views to the ocean from Highway 1, 20 acres shall be reserved for commercial recreation or visitor-serving development, land currently devoted to horse stabling/rentals shall be maintained, landscaping and fencing shall limit pedestrian access to the State Beach from new residential development, and vehicular access from residential developments to Young Avenue be restricted and no more than one opening to Highway 1 north and south of Young Avenue be permitted to access residential development (LCP Policy 9.3.3).

There is no approved specific plan for the Surf Beach/Dunes Beach district, so the City's approval of development on this parcel without a specific plan for the entire district as specified in LCP Policy 9.3.3 is inconsistent with LCP Policy 9.14. Even though LCP Policy 9.8 states that preparation of specific plans may be allowed for one or more parcels under separate ownership, this policy also clarifies that the entire site shall be planned as a unit. The "site" as used in Policy 9.8 in the case of the Surf Beach/Dunes Beach district is the area encompassing the entire district, which is clear from the language in LCP Policy 9.3.3 (a) which states, "A specific plan shall be prepared for the entire area." In contrast to what is specified in LCP Policies 9.14 and 9.8, the Applicant has proposed a Planned Unit Development Plan (PUDP) for this parcel only. The LCP Zoning Ordinance includes definitions for PUDPs and Specific Plans and these definitions imply that a PUDP and a Specific Plan are synonymous (Zoning Ordinance definitions Section 18.02.040). However, the PUDP proposed for the subject parcel has not been developed under a comprehensive development plan for the entire district and is therefore inconsistent with the Specific Plan requirements for the Surf Beach/Dunes Beach district. Therefore, the PUDP proposed for this parcel and proposed development on the site is inconsistent with the land use policies of the LCP.

Even if the approval of a PUDP for the portion of the District containing the individual parcel was allowable, the PUDP developed for the Applicant's property is also inconsistent with the PD policies and the Surf Beach/Dunes Beach district policies. First, Policy 9.9 requires that PD areas use flexible design concepts to create comprehensive development plans with the goal of protecting coastal resources and provision of public open space. The project as designed would impact sensitive habitats in and around Pullman Ditch as described in the sensitive habitat section above. In looking at the Surf Beach/Dunes Beach PD as a whole, it is bordered on the north by Pullman Ditch and on the south by Frenchman's Creek. Pullman Ditch is the only intermittent stream with riparian habitat providing a dispersal and foraging corridor for sensitive species extending east to west, west of Highway 1, between Frenchman's Creek and Naples Creek (see Figure 1 in **Exhibit 7**). There are other potential development alternatives for the property with site access provided from Highway 1 or future street connections south of the site that would avoid impacts to these sensitive habitats. Since alternatives exist, it is inconsistent with the certified LCP PD policies to approve a development which does not preserve coastal resources throughout the entire PUD District.

As mentioned above, LCP Policy 9.3.3 allows one additional access road allowing access to and from Highway 1 north of Young Ave in this PD area. However, not all of the relevant stakeholders can agree where in the PD area this access road should be located and the location is affected by how the remaining PD district is planned. Caltrans, the Applicant and the City all have differing opinions, further emphasizing the need for a Specific Plan for the entire PD area so that access can be planned comprehensively for the entire PD area, not just the portion of the

PD comprising the Applicant's property. As indicated by City staff, however, any decision by the Commission to reconfigure the project with access from Highway 1 would have to be remanded to the City Council for further proceedings and an amendment to the tentative subdivision map which was adopted for the project under Title 17.[18]

The City's approval of the parcel's PUPD also did not include all the information as required by LCP Policy 9.3.3 and Zoning Ordinance Section 18.15.035, as it does not indicate the type, location, and condition of riparian habitats and environmentally sensitive habitat areas, does not provide for a minimum 20% public and common open space as defined by the LCP, does not specify any improvements necessary to enhance public access, or describe any proposed management organization responsible for maintenance of the common open space areas. Further, while the proposed PUDP is designed consistent with Policy 9.5 which requires no more than 2 units per acre, the entire Surf Beach/Dunes Beach PD district only allows for a maximum of 150 residential units. Knowing that the PD district already contains at least 91 previously subdivided parcels, allowing the development of an additional 4 new residential parcels on the site without first determining the location and nature of the remaining appropriate residential parcels to be utilized within the PD may preclude and definitely impacts other property owners within the PD from developing residential parcels within their property holdings.

Approval of a new 4-lot subdivision within the Surf Beach/Dunes Beach PD would also impact the required LCP planning for the entire PD district. Approval of one property within the PD without considering first the entire PD as a whole constitutes piecemeal planning within the PD and not the approved type of comprehensive planning required for the entire PD by the City's LCP. This type of piecemeal planning which does not preserve sensitive resources or open space is exactly the type of planning the City's LCP, as certified to require comprehensive planning in identified PD districts within the City, tries to avoid. Allowing this type of piecemeal planning in this case could also set an adverse precedent for this to be allowed in other significant PD areas in the City (see **Exhibit 10**). The Commission recognizes that there are multiple property owners within the Surf Beach/Dunes Beach district, over 15 alone in the Surf Beach/Dunes Beach subdivision, and that the creation of a specific plan for the district would require significant coordination of these parties and a willingness to cooperate. However, the City is currently undergoing a comprehensive update of their LCP, supported in part by a grant of $75,000 in funds provided by the Coastal Commission LCP Planning Grant Program which was awarded in 2014, to be completed in December of 2015. This process provides the City with the opportunity to comprehensively plan for this and other PD areas within the City as was intended when the PD designation contained in the City's LCP was certified. When the City completes its planning for the Surf Beach/Dunes Beach PD, the Applicant would have better guidance regarding how to appropriately plan and develop his property.

CDP Determination Conclusion

As discussed in the above findings, the proposed project is inconsistent with LCP policies related to sensitive resources and land use and the required CDP findings overall related to these issues. The proposed project is located in an area designated by the certified LUP for Planned Development (PD). The intent of the use of the PD designation is to comprehensively plan large undeveloped areas in a way that protects existing resource values, ensures maximum coastal

[18] Email from Toni Condotti, ATCHISON, BARISONE, CONDOTTI & KOVACEVICH, HMB to Jeannine Manna on November 21, 2013.

access, eliminates poorly planned subdivisions, and clusters development to provide open space and public recreational opportunities. As designed, the project would place development within sensitive habitats and sensitive habitat buffers. There is currently no specific plan for the entire PD district in which the project is located and therefore, development of the Applicant's individual parcel is not allowed under the LCP and would impact planning of the remaining district especially in terms of the number and location of residential units and circulation north and south of the site. Therefore, the proposed land division and associated cannot be approved as proposed.

When the Commission reviews a proposed project that is inconsistent with the Coastal Act and the LCP, there are several options available. In many cases, the Commission will approve the project but impose reasonable terms and conditions to bring the project into conformance with the LCP and Coastal Act. In other cases, the range of possible changes is so significant as to make conditioned approval infeasible. In these situations, the Commission will deny the project and provide guidance to the applicant on the type of development changes that must be made for Coastal Act and LCP conformance. These denials are without prejudice inasmuch as the applicant is given direction on what is needed in order for the applicant to propose an alternative project that can meet the applicable policies.

In this case, as discussed in the land use section above, any attempt by the Commission to reconfigure the subdivision project from Highway 1 would have to be remanded to the City Council for further proceedings and would require an amendment to the tentative subdivision map. Further, the range of possible changes to the project is significant because the potential exists for other forms of development on the property, land division or not, that are more in line with the LCP and Coastal Act policies. Development using the existing access from Highway 1, or south of the site, would allow for the 50-foot required buffer for rare and endangered species habitat. As mentioned above, the City is currently conducting an update to their LCP which will comprehensively plan for this area allowing the Applicant to develop the property consistent with the land use designation and related standards in the future. Finally, the Applicant has an existing use on the property and other potential development options that provide better consistency with the LCP. For example, the Applicant currently uses the property for agriculture, storage of construction vehicles and related equipment, and temporary seasonal sale of trees and pumpkins. Therefore, denial of the current proposed project does not constitute a takings.

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Public Resources Code (CEQA) Section 21080(b)(5) and Sections 15270(a) and 15042 (CEQA Guidelines) of Title 14 of the California Code of Regulations (14 CCR) state in applicable parts:

> ***CEQA Guidelines (14 CCR) Section 15042. Authority to Disapprove Projects.*** *[Relevant Portion.] A public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed.*
>
> ***Public Resources Code (CEQA) Section 21080(b)(5). Division Application and Nonapplication.*** *…(b) This division does not apply to any of the following activities: …(5) Projects which a public agency rejects or disapproves.*

> ***Public Resources Code (CEQA) Section 21080.5(d)(2)(A).*** *Require that an activity will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.*
>
> ***CEQA Guidelines (14 CCR) Section 15270(a). Projects Which are Disapproved.*** *(a) CEQA does not apply to projects which a public agency rejects or disapproves.*

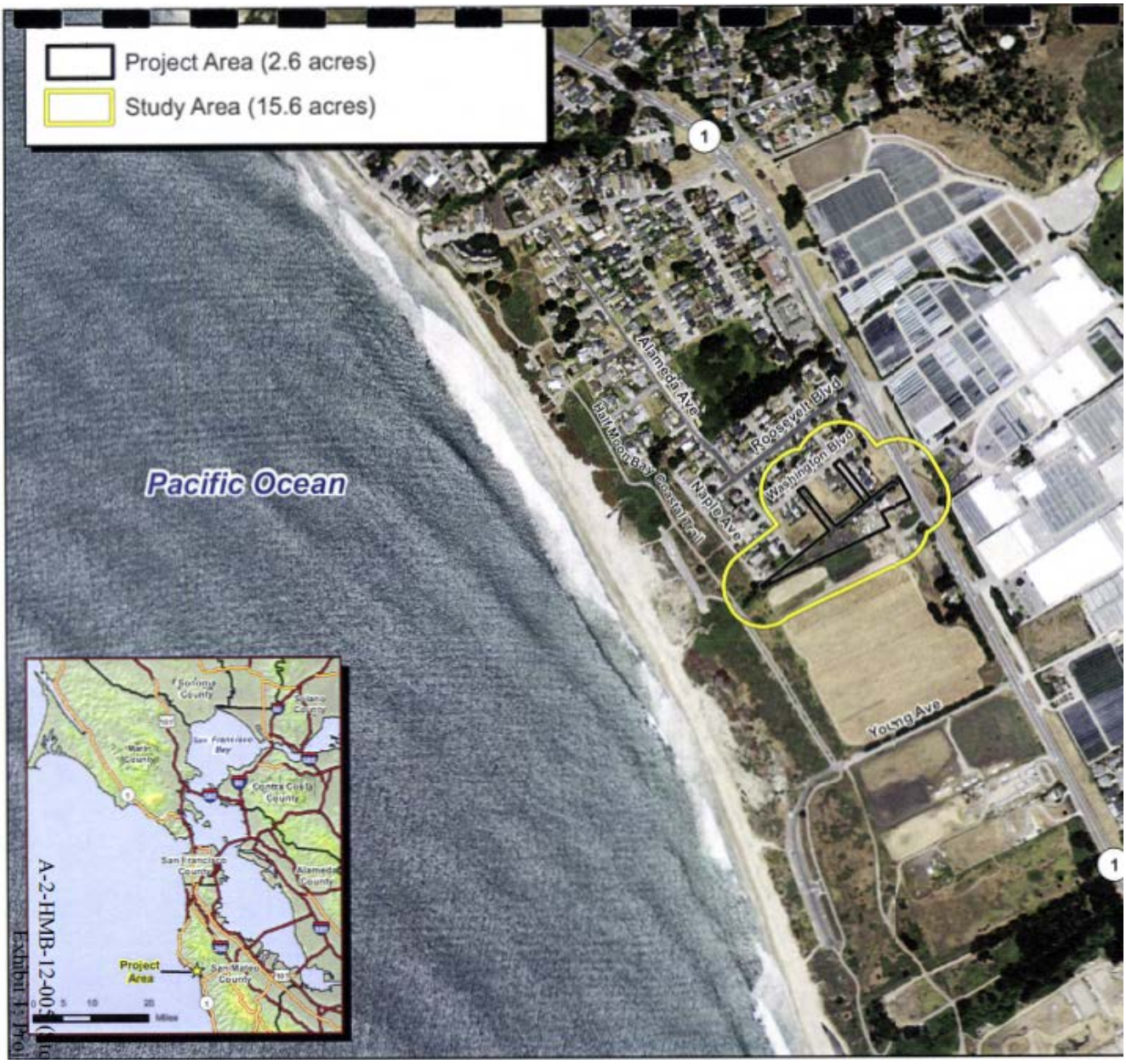
Section 13096 (14 CCR) requires that a specific finding be made in conjunction with CDP applications about the consistency of the application with any applicable requirements of CEQA. This staff report has discussed the relevant coastal resource issues with the proposal. All above LCP conformity findings are incorporated herein in their entirety by reference. As detailed in the findings above, the proposed project would have significant adverse effects on the environment as that term is understood in a CEQA context.

Pursuant to CEQA Guidelines (14 CCR) Section 15042 "a public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed." Section 21080(b)(5) of the CEQA, as implemented by section 15270 of the CEQA Guidelines, provides that CEQA does not apply to projects which a public agency rejects or disapproves. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

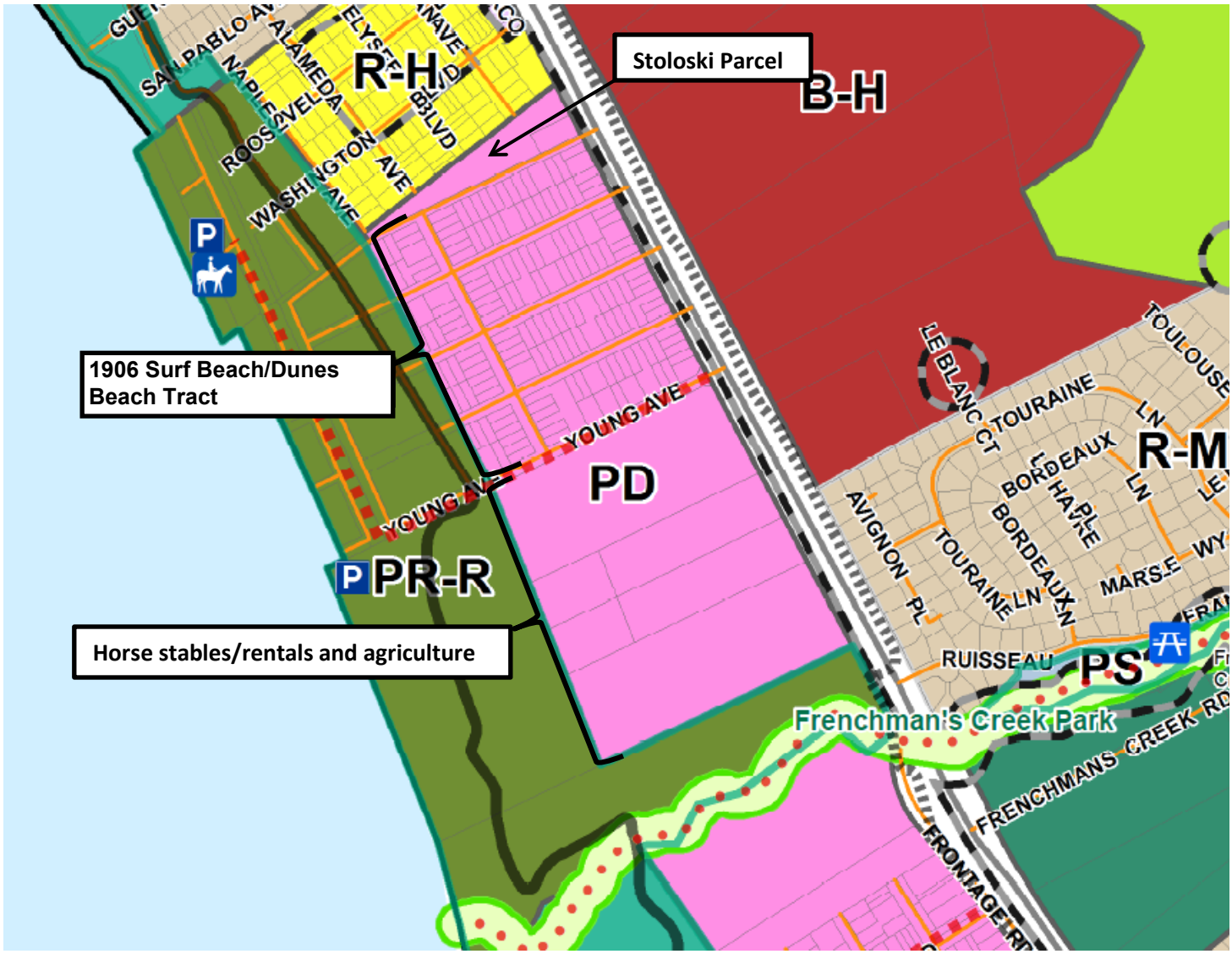
The Commission finds that denial of the project, for the reasons stated in these findings, is necessary to avoid the significant effects on coastal resources that would occur if the project were approved as proposed and is necessary because there are feasible alternatives and mitigation measures available which would substantially lessen any significant adverse effect the project may have on the environment. Accordingly, the Commission's denial of this project represents an action to which CEQA, and all requirements contained therein that might otherwise apply to regulatory actions by the Commission, does not apply.

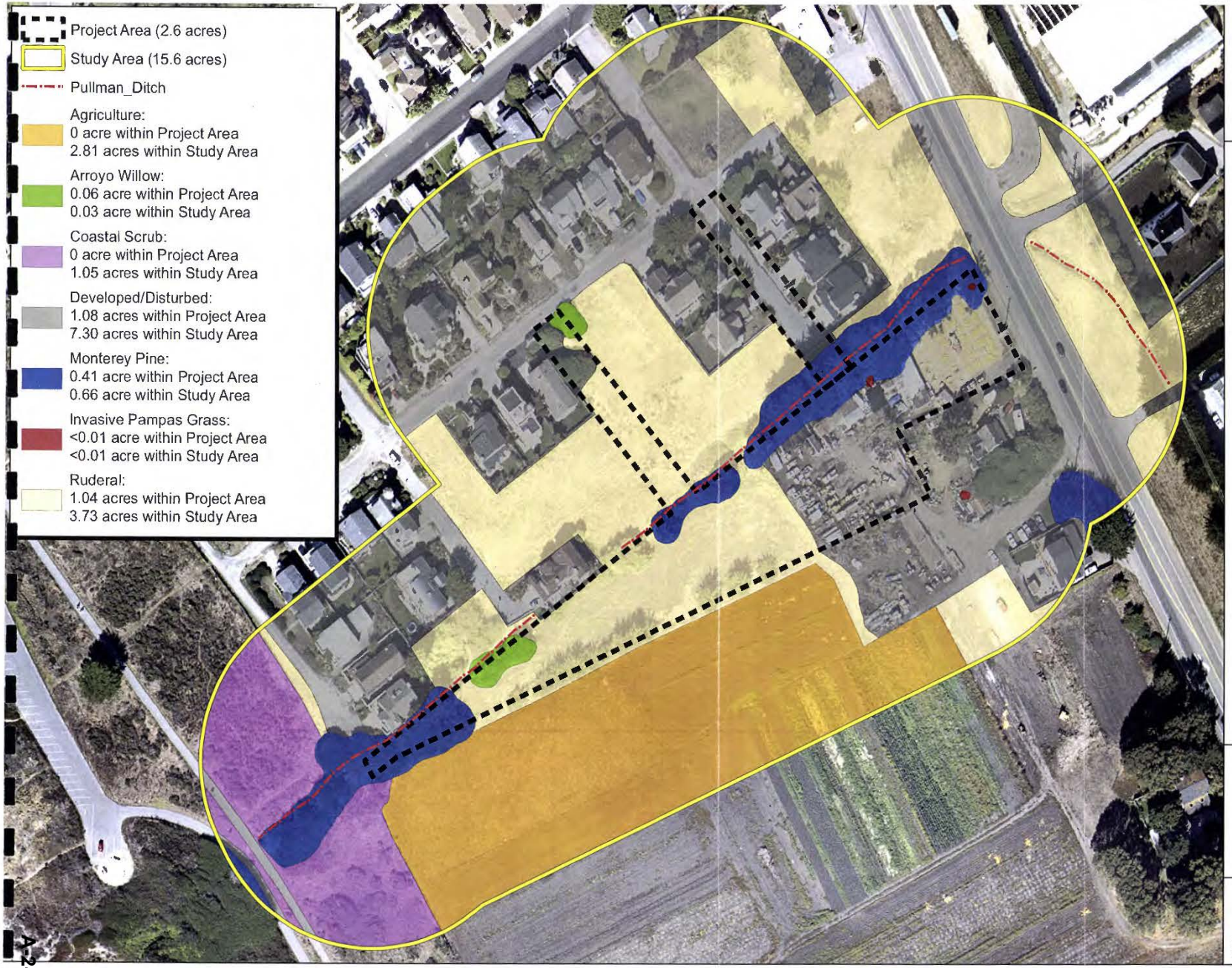
Appendix A - Substantive File Documents

1. Ashley, Michael, *Preliminary Hydrology Report*, February 2010.
2. Caltrans, *Pullman Ditch Drainage Improvement Project Biological Assessment*, December 5, 2007
3. DKS Associates, *City of Half Moon Bay Highway 1 Traffic Safety Study*, December 6, 2011.
4. ENGEO Inc., *Modified Phase I Environmental Site Assessment*, August 3, 2011.
5. Letter from Mark Jennings, Rana Resources to Jeannine Manna, Coastal Commission, February 9, 2014.
6. Sigma Prime Geosciences, Inc, *Geology/Soils Study Cabrillo Highway Property, APN 064-311-050*, May 26, 2010.
7. WRA Environmental Consultants, *North Cabrillo Highway Subdivision Biological Resource Assessment*, January 2010.
8. WRA Environmental Consultants, *North Cabrillo Highway Subdivision Project Recirculated Initial Study*, October 2011.


Project Area (2.6 acres)
Study Area (15.6 acres)
Pacific Ocean
Alameda Ave
Roosevelt Blvd
Washington Blvd
Naple Ave
Young Ave
1
Project Area
A-2-HMB-12-005

Surf Beach/Dunes Beach Planned Development District





wra
ENVIRONMENTAL CONSULTANTS
2169-G East Francisco Blvd.
San Rafael, CA 94901
(415) 454-8868 Phone
(415) 454-0129 Fax

North Cabrillo Highway Subdivision

Half Moon Bay, California

Figure 2.

Vegetation Communities

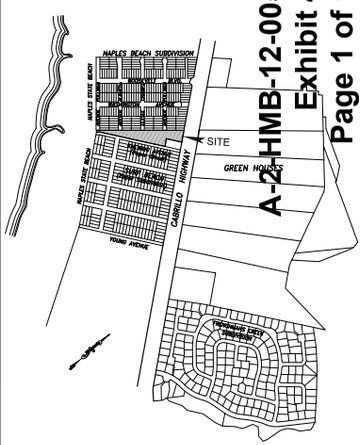
N
W E
S

0 50 100 200

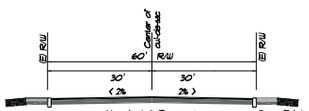
Feet

Map Date: December 2010
Map By: Michael Rochelle

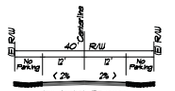
A-2-HMB-12-005
Exhibit 3
Page 1 of 1



VICINITY MAP
Scale: 1" = 600'



SECTION AT CUL-DE-SAC
TYPICAL SECTION



CHAMPS ALYSEE BOULEVARD & PULLMAN AVENUE
TYPICAL SECTION

GRAPHIC SCALE
0 40 80 120 200
SCALE: 1" = 40'

LEGEND:

———	BOUNDARY
———	NEW LOT LINE
- - - - - - - - -	EASEMENT
——— - ———	CENTERLINE
(E)	Existing
Elev.	Elevation
APN	Assessor's Parcel Number
PUE	Public Utility Easement
BSL	Building Setback Line
PM	Parcel Map
RSM	Record Subdivision Map
Inv.	Invert of Pipe
SSMH	Sanitary Sewer Manhole
SS Lat.	Sanitary Sewer Lateral
S.S.E.	Sanitary Sewer Easement (Proposed)
SD	Storm Drain
SDMH	Storm Drain Manhole
S.D.E.	Storm Drain Easement (Proposed)

SURVEY CREDIT:

THE AERIAL SURVEY SHOWN HEREON WAS PREPARED BY:
VERTICAL MAPPING RESOURCES, INC.
Photo Date: October 22, 2009
193 Blue Ravine Road, Suite 150
Folsom, CA 95630
(916) 817-1486

BOUNDARY AND ADDITIONAL SURVEYING WAS PROVIDED BY:
COASTSIDE LAND SURVEYING
799 Main Street
Half Moon Bay, CA 94019
(650) 726-7178

BENCH MARK:

A USGS bench mark disc set in top of concrete monument, labeled E 1242 1972 at the intersection of Highway 1 and Frenchmans Creek Road
Elevation = 58.65'

PROJECT STATEMENTS:

A. EXISTING ZONING: PUD.
B. PROPOSED LAND USE IS 4 SINGLE FAMILY LOTS.
C. THE PROJECT IS A MINOR LAND DIVISION. A DESCRIPTION OF THE PROJECT IS DESCRIBED UNDER "PROJECT DESCRIPTION".
D. CUL-DE-SACS WILL BE CONSTRUCTED AND THE SOUTHERLY EXTENSION OF PULLMAN AVENUE AND CHAMPS ELYSEE BLVD. THE CUL-DE-SACS WILL BE OFFERED FOR DEDICATION.
E. WATER WILL BE PROVIDED BY COASTSIDE COUNTY WATER DISTRICT. WATER MAIN EXTENSIONS WILL BE REQUIRED AT THE SOUTHERN EXTENSION OF PULLMAN AVENUE AND CHAMPS ELYSEE BLVD. ALL WATER FACILITIES WILL BE IN PUBLIC RIGHT OF WAY; WATER METERS WILL BE WITHIN A PUE.
F. ALL LOTS WILL BE SERVED BY SANITARY SEWERS THE SANITARY SEWER SYSTEM WILL BE DEDICATED TO GRANADA SANITARY DISTRICT FOR MAINTENANCE.
G. FIRE PROTECTION WILL BE BY THE COASTSIDE FIRE PROTECTION DISTRICT.
H. GAS, ELECTRIC, TELEPHONE AND CATV WILL BE PROVIDED TO EACH LOT. ALL ONSITE UTILITIES WILL BE PLACED UNDERGROUND IN ACCORDANCE WITH CITY AND UTILITY CODES.
I. EASEMENTS FOR WATER, SANITARY SEWER, STORM SEWERS AND UTILITIES WILL BE DEDICATED ON THE FINAL MAP OR BY SEPARATE INSTRUMENT.
J. ALL STREETS WILL BE OFFERED FOR DEDICATION TO THE CITY OF HALF MOON BAY.
K. BUILDING SETBACKS PER SITE PLAN SHOWN HEREON:
TO NAPLES SUBDIVISION = 30' (INCLUDES ALL EASEMENTS)
TO HIGHWAY ONE = 20'
TO CUL-DE-SAC = 20' (15'-5' PUE)
INTERIOR AND KNEWING AVENUE = 10'
L. EACH PARCEL (A, B, C, & D) SHALL INCLUDE A MINIMUM OF FOUR PARKING SPACES. A MINIMUM OF TWO (2) SHALL BE COVERED.
M. EACH PARCEL SHALL HAVE A MAXIMUM LOT COVERAGE OF 35% FOR MULTI-STORY OR 50% FOR SINGLE STORY PER 18.06.030.
N. THE WESTERN PORTION OF PARCEL "D" AND THE NORTHERLY 15 FEET OF PARCELS "A", "B", "C", & "D" ARE LABELED "COMMON OPEN SPACE" AND SHALL BE DESIGNATED AS "OPEN SPACE" AS DEFINED IN 18.02.040 OF TITLE 18 OF THE CITY OF HALF MOON BAY ZONING CODE.
O. THE MAXIMUM BUILDING HEIGHT IS 28 FEET.
P. ALL APPLICABLE SINGLE FAMILY RESIDENTIAL STANDARDS OF CHAPTER 18.06 WILL APPLY TO THESE FOUR LOTS WITH THE EXCEPTION OF MINIMUM SITE AREA AND MINIMUM SETBACK STANDARDS CONTAINED IN TABLE 18R-1 OF CHAPTER 18.06.030.

PROJECT STATEMENTS (cont'd):

Q. COPIES OF THE TITLE REPORT ACCOMPANY THIS MAP.
R. SWIMMING POOLS ARE EXEMPT FROM LOT COVERAGE REQUIREMENT AND MAY BE LOCATED IN PRIVATE OPEN SPACE AREAS.
S. NO ACCESSORY BUILDING SHALL BE CONSTRUCTED IN ANY SETBACKS.

PROJECT DESCRIPTION:

THE APPLICANT IS PROPOSING A FOUR LOT MINOR SUBDIVISION ON THE PROJECT SITE. ACCESS WILL BE FROM PULLMAN AVENUE AND CHAMPS ELYSEE BLVD. PULLMAN AVENUE WILL BE EXTENDED 60 FEET WITH A CUL-DE-SAC AS SHOWN. CHAMPS ELYSEE BLVD. WILL BE CONSTRUCTED IN THE EXISTING RIGHT OF WAY FROM WASHINGTON BOULEVARD TO THE SITE WITH A CUL-DE-SAC AS SHOWN.

A STORM DRAIN CULVERT WILL BE CONSTRUCTED FROM CABRILLO HIGHWAY WESTERLY TO NAPLES AVENUE AS A REPLACEMENT FACILITY FOR THE EXISTING PULLMAN DITCH.

SEWER WILL BE CONSTRUCT FROM NAPLES AVENUE EASTERLY TO CHAMPS ELYSEE BLVD. AND PULLMAN AVENUE. A CONFLICT WITH EXISTING SEWER GRADES WITH THE PROPOSED STORM DRAIN CULVERT PRECLUDES THEIR SOUTHERLY EXTENSION TO THE SITE.

THE EXISTING WATER MAINS IN CHAMPS ELYSEE BLVD. AND PULLMAN AVENUE WILL BE EXTENDED TO THE PROJECT SITE AS SHOWN.

ALL UTILITIES WILL BE UNDERGROUND.

UTILITY AND SERVICE INFORMATION

WATER	WASTEWATER	CABLE TELEVISION
COASTSIDE COUNTY WATER DISTRICT 766 Main Street Half Moon Bay, CA 94019 (650) 726-4404	GRANADA SANITARY DISTRICT P.O. Box 335 El Granada, Ca 94018 (650) 726-7093	COMCAST (800) 945-2288
GAS AND ELECTRIC	**FIRE PROTECTION**	**TELEPHONE**
PACIFIC GAS & ELECTRIC 1370 Industrial Way Belmont, CA 94002 (650) 871-0880	COASTSIDE FIRE PROTECTION DISTRICT 191 Main Street Half Moon Bay, Ca 94019 (650) 726-5213	AT&T 3475 North First, Room 200 San Jose, CA 95134 (800) 288-2020

ZONING:
Existing Zoning: PUD Proposed Zoning: PUD

PROJECT LAND USE: 4 Residential Lots

Proposed Parcels	Area	Common Open Space
Parcel "A"	19,376± S.F.	2,787± S.F.
Parcel "B"	18,290± S.F.	1,421± S.F.
Parcel "C"	15,266± S.F.	1,568± S.F.
Parcel "D"	19,815± S.F.	2,999± S.F.
Common Open Space Parcel "D"	11,886± S.F.	11,886± S.F.
Street	6,327± S.F.	
Total	90,960± S.F.	Total = 20,669± S.F. Required Open Space = 18,192 S.F.

GRADING NOTE:

THERE IS NO LOT GRADING PROPOSED AS PART OF THIS APPLICATION. ALL LAND WITHIN THE FOUR PARCELS WILL RETAIN THE EXISTING CONTOURS. ANY FINE GRADING OF THE INDIVIDUAL LOTS WILL BE PART OF A FUTURE BUILDING PERMIT.

THE EDGE OF PAVEMENT OF THE TWO CUL-DE-SACS WILL BE CONSTRUCTED AT APPROXIMATELY ONE-HALF FOOT ABOVE EXISTING GRADE. TOTAL EARTHWORK FOR THE TWO CUL-DE-SACS WILL BE LESS THAN 200 CUBIC YARDS.

A SOILS REPORT FOR THE PROJECT HAS BEEN PREPARED BY SIGMA PRIME GEOSCIENCES, INC. DATED MAY 26, 2010.

Prepared under the supervision of
Michael D. Ashley
R.C.E. No. 19504 (Expires 9/30/2011)
Date: September 30, 2010

REGISTERED PROFESSIONAL ENGINEER MICHAEL D. ASHLEY C 19504 Exp. 9/30/11 CIVIL STATE OF CALIFORNIA

OWNER:
Stoloski & Gonzalez, Inc.
725 Main Street
Half Moon Bay, CA 94019
(650) 726-7119

APPLICANT:
Mark Stoloski
725 Main Street
Half Moon Bay, CA 94019
(650) 726-7119

CIVIL ENGINEER:
Michael Ashley
R.C.E. 19504
San Mateo, CA 94402
(650) 341-3669

TENTATIVE PARCEL MAP

Prepared for: Stoloski & Gonzalez, Inc.

APN 048-133-010
Cabrillo Highway (State Rte. 1)

Land described in Doc. # 92122041

HALF MOON BAY SAN MATEO COUNTY

michael d. ashley
CIVIL ENGINEER
(650) 341-2669

JUNE 2010 revised SEPTEMBER 23, 2011 SHEET 1 OF 1

A-2-HMB-12-005 Exhibit 4 Page 1 of 1

Note: Original drawing size was 42" x 30" with a scale of 1" = 40'. The drawing above is shown at 1" = 130'.

2-HMB-11-010

RECEIVED
JAN 26 2012
CALIFORNIA COASTAL COMMISSION

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: January 24, 2012

File: PDP-009-10

Applicant:

Kerry Burke
Burke Land Use
34 Amesport Landing
Half Moon Bay, CA 94019

Owner:

Mark Stoloski
727 Main Street
Half Moon Bay, CA 94019

Planner: Steve Flint, Planning Director

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 as determined by the local agency.

The City Council approved the Coastal Development Permit, Planned Unit Development Permit Plan, Use Permit and Tentative Parcel Map on January 17, 2012, based on the Findings and Evidence and subject to the Conditions of Approval contained in the attached City Council Resolution for Approval, C-04-12.

Project Description: Coastal Development Permit, Planned Unit Development Plan, Use Permit, and Tentative Parcel Map to divided approximately 2.1 acres into four lots, including extension of utilities and public streets, and construction of a new on-site storm drain system to replace an existing open channel (Pullman Ditch), located on adjoining properties along the northern boundary of the Project Area.

Project Location: Located in the 2700 block on the west side of North Cabrillo Highway (Highway 1), south of Washington Boulevard, 600 feet landward of the Pacific Ocean and 2.0 miles north of the intersection of Highways 1 and 92.

APN: 048-133-010

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

Resolution No. C- 04 -12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY ADOPTING A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVING A COASTAL DEVELOPMENT PERMIT, PLANNED UNIT DEVELOPMENT PLAN, USE PERMIT AND TENTATIVE PARCEL MAP TO CREATE FOUR RESIDENTIAL PARCELS ON 2.1 ACRES LOCATED IN THE 2700 BLOCK OF NORTH CABRILLO HIGHWAY (APN 048-133-010) WITHIN THE PLANNED UNIT DEVELOPMENT ZONING DISTRICT

WHEREAS, Kerry Burke on behalf of Mark Stoloski, Stoloski and Gonzalez Inc. submitted an application requesting approval of a Coastal Development Permit, Planned Unit Development Plan, Use Permit and Tentative Parcel Map to create four residential parcels on 2.1 acres located in the 2700 block of North Cabrillo Highway (APN 048-133-010) within the Planned Unit Development zoning district; and

WHEREAS, the City processed the application in accordance with the Permit Streamlining Act and with the requirements of the California Environmental Quality Act (CEQA) as set forth in California State Public Resources Code Section 21000; and

WHEREAS, the project was determined to be subject to CEQA, and an Initial Study/Mitigated Negative Declaration (IS/MND) State Clearinghouse No. 2011052007 was prepared for the project by the City of Half Moon Bay; and

WHEREAS, the MND was circulated for a public review from October 31, 2011 through November 30, 2011 in accordance with Section 21091 of the Public Resources Code and all those desiring to comment were given the opportunity; and

WHEREAS, the City received written comments on the MND during the public review period which have been addressed in the final MND and presented to the Planning Commission; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on the matter on December 13, 2011, at which time all those desiring to be heard on the matter were given an opportunity to be heard; and

WHEREAS, following the close of the public hearing, the Planning Commission adopted a resolution recommending that the City Council approve the Coastal Development Permit, Planned Unit Development Plan, Use Permit and Tentative Parcel Map on 2.1 acres located in the Planned Unit Development (PUD) Zoning District (APN 048-133-010); and

WHEREAS, the Coastal Development Permit has been reviewed in accordance with Chapter 18.20 of the Municipal Code, which defines development, in part, as a change in the density and intensity of use of land, including, but not limited to subdivision pursuant to the Subdivision Map Act (commencing with 66410 of the Government Code); and

WHEREAS, the City Council has determined that the Mitigated Negative Declaration is complete, correct and adequate, and prepared in accordance with the California Environmental Quality Act (CEQA) and applicable Guidelines; and

WHEREAS, the City Council has determined that, on the basis of the whole record, including the Initial Study and comments hereto, there is no evidence that the project, subject to the mitigation measures contained in the Mitigated Negative Declaration, will have a significant effect on the environment; and

WHEREAS, the Mitigated Negative Declaration reflects the independent judgment of the City of Half Moon Bay; and

WHEREAS, the City Council has determined that the mitigation measures identified in the Mitigated Negative Declaration, agreed to by the applicant, placed as conditions on the project, and identified as part of this public hearing, have been incorporated into the Mitigation Monitoring and Reporting Program in conformance with California Public Resources Code Section 21081.6; and

WHEREAS, documents and other material constituting the record of the proceedings upon which the City's decision and its findings are based are located at the City of Half Moon Bay Planning Department, located at 501 Main Street, in Half Moon Bay.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Half Moon Bay hereby adopts the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, and approves PDP-009-10, an application for a Coastal Development Permit, Planned Unit Development Plan, Use Permit and Tentative Parcel Map to create four residential parcels with associated improvements and utilities, on 2.1 acres located in the Planned Unit Development (PUD) Zoning District (APN 048-133-010), based on the Findings and Evidence (Exhibit A), and subject to the Conditions of Approval (Exhibit B) attached to this Resolution.

****

I, the undersigned, hereby certify that the forgoing Resolution was duly passed and adopted on the 17th day of January, 2012 by the City Council of Half Moon Bay by the following vote:

AYES, Councilmembers: Fraser, Kowalczyk, Muller, Patridge & Mayor Alifano

NOES, Councilmembers:

ABSENT, Councilmembers:

ABSTAIN, Councilmembers:

ATTEST:

Siobhan Smith, City Clerk

APPROVED:

Allan Alifano, Mayor

EXHIBIT A
FINDINGS AND EVIDENCE
PDP-009-10

Coastal Development Permit, Planned Unit Development Plan, Use Permit and Tentative Parcel Map to Create Four Residential Parcels on 2.1 Acres Located in the 2700 block of North Cabrillo Highway (APN 048-133-010) Within the Planned Unit Development Zoning District

Coastal Development Permit – Findings for Approval

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. **California Coastal Act – Finding:** Any development to be located between the sea and the first public road parallel to the sea shall conform to the public access and public recreation policies of Chapter 3 of the California Coastal Act.

   Evidence: The proposed project will not restrict or otherwise adversely affect public coastal access or public coastal recreational opportunities because the project will not alter points of access or access ways, or opportunities for recreational opportunities. The project will not interfere with the public's access to the coastal trail, beach or sea. The project has been reviewed for conformance with all policies of the LCP Land Use Plan and has been determined to be consistent.

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

   Evidence: The City's Local Coastal Program (LCP) Land Use Plan designates the project area as Planned Development (PD). The project area is located in a Planned Unit Development zoning district, which is consistent with the LCP. The LCP designation allows for a maximum of two dwelling units per acre. The project proposes the creation of four residential parcels on 2.1 acres, which is consistent with the LCP and Zoning Code.

   Policy 3-3:

   (a) Prohibit any land use and/or development which would have significant adverse impacts on sensitive habitat areas.

   (b) Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the environmentally sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of such areas.

Compliance: The project is not located adjacent to or within a suitable habitat for special status species such as the California Red Legged Frog or the San Francisco Garter Snake. All construction activities are designed and conditioned to avoid any potential impacts the project could have on potential nearby habitats or species.

Policy 4-9: *All development shall be designed and constructed to prevent increases in runoff that would erode natural drainage courses. Flows from graded areas shall be kept to an absolute minimum, not exceeding the normal rate of erosion and runoff from that of the undeveloped land. Storm water outfalls, gutters, and conduit discharge shall be dissipated.*

Compliance: The net increase in impervious area resulting from the project is approximately 0.31 acres (WRA, 2011). The proposed project includes the construction of a storm drain parallel to and south of Pullman Ditch as well as a storm drain outlet that would flow into the western end of the ditch. The new storm drain would be connected to two existing 24-inch Caltrans culverts which currently discharge runoff into Pullman Ditch near Highway 1. The new storm drain has been sized to accommodate post project flows as well as runoff from the drainage basin east of Cabrillo Highway.

Policy 6-3: *In that portion of any development of 1 acre or more, as indicated on the Land Use Plan Map, which is also within an area designated on the Map of Potential Archaeological Resources, an archaeological survey shall be undertaken as a part of the preparation of a specific plan for development. The survey shall include findings on actual and potential resources on the site, impacts of the development proposed, and recommended mitigation measures. All feasible mitigation measures shall be incorporated in the specific plan or development plan prior to the issuance of a permit for development.*

Compliance: The project area is not designated as containing potential archaeological resources, but is surrounded by such areas. However, the Half Moon Bay region has not undergone an exhaustive archaeological survey, and it is possible there are other sites occur within the City. Therefore, the proposed project could result in potentially significant impacts to unknown cultural resources. Mitigation measures are recommended that would lessen potentially significant impacts to a less-than-significant level. Staff is recommending a condition to require that the construction of the project cease if any artifacts are found during construction, and that a study be performed on such artifacts.

Policy 9-2: *No permit for development shall be issued unless a finding is made that such development will be served upon completion with water, sewer, schools, and road facilities, including such improvements as are provided with the development.*

Finding: Upon completion of the development, water, sewer, schools, and road facilities, including such improvements as are provided with the development will be available to serve the project.

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.*

Adequate Services – Finding: 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.

Compliance: The project site currently has 10 sewer connections purchased through Granada Sanitary District and Coastside County Water District has sufficient water connections available to accommodate future development on four residential lots. Access shall be provided by the extension of existing city rights-of-way, the improvement of which will be required of the applicant.

Policy 9-5: *The base permitted residential density for any parcel located within an area designated Planned Development (PD) District shall be no more than 2 units per acre, except as provided with respect to such District under Subsections 9.3.3 through 9.3.16.*

This "base density" policy may be revised upward as a result of compliance with other conditions which limit the area which may be developed. However, the total amount of development permitted by the LUP shall not exceed the amount programmed in the Phasing Section of this Plan (see Table 9.3 and related text).

Compliance: The project proposes four residential parcels on 2.1 acres, which is less than two units per acre. Subsection 9.3.3 addresses the Surf Beach/Dunes Beach area where the theoretical development potential in the tract north of Young Avenue is 91 residential units, based on a zoning designation that allows 6,000 square foot lots. The Parcel Map proposes four parcels that average 20,000 square feet per parcel.

Policy 9-8: *The entire site located in the Planned Unit Development district shall be planned as a unit. Preparation of specific plans (Government Code section 65450)*

may be required for one or more separate ownerships, individually or collectively, when parcels comprising a site designated PD are in separate ownerships.
Compliance: The subject parcel is not a part of an existing subdivision, but exists as a separate 2.1 acre parcel under single ownership located between the Surf Beach Tract and City of Naples subdivisions and is planned as a unit.

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: The proposed project does not propose any new residential units; therefore, it is not subject to the City's growth management system.

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.

   Evidence: Chapter 18.15 of the Zoning Ordinance requires a minimum site area for a Planned Unit Development Plan of one acre. The project site is 2.1 acres in area. The Planned Unit Development Plan includes a detailed description of the proposed development standards, including but not limited to proposed minimum site requirements, setbacks, parking requirements, building heights, and any other criteria related to the physical development of the site as required by Section 18.15.035. This Planned Unit Development Plan is established to accommodate detached, single-family residential development and land uses based on the standards of the R-1 zoning district with certain modifications.

4. **Planned Unit Development Plan – Findings:**

   A. The Planned Unit Development Plan is consistent with the adopted General Plan, this chapter, and all other applicable policies and ordinances of the City;

   B. The Planned Unit Development Plan is compatible with surrounding land uses;

   C. The adoption and implementation of the Planned Unit Development Plan will result in superior design and development of the site;

   D. The Planned Unit Development Plan meets the requirements of any annual dwelling unit allocation system adopted by the city;

   E. Adoption and implementation of the Planned Unit Development Plan will not exceed the capacity of existing or planned infrastructure systems, including but not limited to sewer, water, natural gas, electricity, police and fire protection;

   F. If adequate utilities, infrastructure, and public services are not available to serve all of the proposed development possible under the Planned Unit Development Plan, the plan contains phasing controls or requirements for utility improvements that ensure that demands from proposed development does not exceed utility capacity;

G. The applicant, or Planning Commission and City Council, have incorporated all appropriate measures and conditions in the Planned Unit Development Plan necessary to mitigate any potential adverse impacts identified during the public review process.

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

   Evidence: Single family residential uses are compatible with the surrounding residential uses and the development of residential properties development is in conformance with the provisions of the adopted plan.

6. **Tentative Parcel Map – Finding:** The tentative parcel map is in conformity with the general plan and its elements, the local coastal plan, the zoning ordinance, the provisions of the Subdivision Map Act, and this title as to design, drainage, utilities, road improvements and offers of dedication or deed.

   Evidence: The tentative parcel map is designed in accordance with the provisions of Chapter 18.15 that regulate a Planned Unit Development Plan in the PUD zoning district.

7. **CEQA – Finding:** On the basis of the whole record, including both initial study and any public comments received, the project is consistent with CEQA guidelines and will not have a significant effect on the environment.

   Evidence: The mitigation measures contained in the Mitigated Negative Declaration (MND) serve to mitigate any and all potentially significant environmental impacts that have been established either by threshold of significance in the MND, incorporated through comments received on the MND by responsible agencies, or by direction of the Planning Commission. All mitigation measures have been incorporated into the conditions of approval that accompany the attached resolution.

EXHIBIT B
CONDITIONS OF APPROVAL
PDP-009-10

Coastal Development Permit, Planned Unit Development Plan, Use Permit and Tentative Parcel Map to Create Four Residential Parcels on 2.1 Acres Located in the 2700 Block of North Cabrillo Highway (APN 048-133-010) Within the Planned Unit Development (PUD) Zoning District

Authorization: Approval of this permit authorizes a Coastal Development Permit, Planned Unit Development Plan, Use Permit and Tentative Parcel Map to create four residential parcels on 2.1 acres located in the 2700 Block of North Cabrillo Highway (APN 048-133-010) within the Planned Unit Development (PUD) Zoning District as shown on plans City date stamped September 27, 2011, except as modified by the conditions of approval set forth herein. Improvement work shall not be commenced until after the Final Map is approved and recorded and not until after all improvement plans and profiles for such work have been submitted to and approved by the City Engineer.

A. The following Conditions shall be met prior to recording a Final Map:

1. CONFORMANCE WITH APPROVED PLANS. Development shall be in substantial conformance with the approved plans, City date stamped **September 27, 2011**, except for any changes that may be required by these conditions of approval. The Planning Director shall review and approve any deviation from the approved plans. In the event that the Planning Director determines that any proposed changes warrant further Planning Commission or City Council review and approval, the Applicant shall submit the revised plans for consideration at a public hearing. _____ (Planning)

2. CONSTRUCTION PLANS. All plans, specifications, engineering calculations, diagrams, reports, and other data for construction of 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. 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.

4. CONSTRUCTION STAGING AREAS. Bid documents shall include standards for construction staging areas, including equipment and materials storage. These standards shall require the contractor to obtain all necessary permits and approvals that are required by various state, regional, and local agencies. Environmental Performance Standards shall also be included which address dust and other types of air pollution: erosion, sedimentation and other water quality issues; protection of biotic

resources and habitat areas; and other environmental resources as appropriate. The contract documents shall include these performance standards and shall specify remediation requirements and penalties for any violations. All staging areas shall be outside of any buffer for protected coastal resources. _____ (Public Works)

5. U.S. ARMY CORPS OF ENGINEERS. The Applicant shall obtain any necessary approvals that may be required from the U.S. Army Corps of Engineers. It is the Applicant's responsibility to make sure the project is in compliance with all of the Corps' requirements. _____ (Planning)

6. U.S. FISH AND WILDLIFE SERVICE. The Applicant shall obtain any necessary approvals that may be required from the U.S. Fish and Wildlife Service. It is the Applicant's responsibility to make sure the project is in compliance with all of the Service's requirements. _____ (Planning)

7. CA FISH AND GAME. The Applicant shall obtain any necessary approvals that may be required from the California Department of Fish and Game. It is the Applicant's responsibility to make sure the project is in compliance with all of Fish and Game's requirements. _____ (Planning)

8. CA PARKS AND RECREATION. The applicant shall work with the Supervisor of the San Mateo County Coast sector of the California Department of Parks and Recreation in the preparation of the Storm Drainage Improvement Plan to ensure adequate capacity is provided on the section of the drainage system that is located on state park land. _____ (Planning)

B. The following Conditions shall be met prior to any development activity or site disturbance:

1. BIOLOGICAL ASSESSMENT (BIO-1). Seasonally-appropriate protocol-level plant surveys in the study area are recommended to account for the 19 species. These surveys should cover the blooming periods of all species listed in Section 4.2.1 of the Biological Resource Assessment (WRA, 2011). If any special status plant species are identified in the study area or project area, development activities shall avoid these areas and appropriate buffer areas established around such species. A qualified biologist shall determine the size and location of any buffer. Fencing or other barriers shall be installed to prevent disturbance of the special status species ESHA and buffer area until project construction is complete. If a suitable protective ESHA buffer cannot be preserved, mitigation shall include restoration and improvement of habitat within the remaining buffer area or other suitable areas on the project site. Restoration shall include removal of invasive species that threaten the continuance of the special status species and its habitat. _____ (Planning)

2. IMPACTS TO RAPTORS AND TREE-NESTING RAPTOR NESTS (BIO–2A). A qualified biologist shall conduct a pre-construction survey for tree-nesting raptors (e.g., hawks, falcons, owls, etc.) in all trees occurring within 250-feet of project building envelopes within 30 days of the onset of ground disturbance, if such disturbance will occur during the breeding season (1 February through 31 August). If nesting raptors are detected on the site during the survey, a construction buffer of 250 feet shall be established around each active nest for the duration of the breeding season or until it has been confirmed that all young have fledged and are independent. A biological monitor would monitor the site to ensure nesting raptors are not adversely affected by construction activities and to determine when young are independent. Pre-construction surveys during the non-breeding season are not necessary for tree-nesting raptors, as they are expected to abandon their roosts if disturbed by construction. _____ (Planning)

3. IMPACTS TO OTHER NESTING BIRDS (BIO–2b). To avoid impacting nesting birds (including CDFG Species of Special Concern), **one** of the following shall be implemented:

   Conduct grading and construction activities, including the removal of Monterey pine trees from September 1st through January 31st, when birds are not likely to be nesting on the site;
   OR -
   Conduct pre-construction surveys for nesting birds if construction is to take place during the nesting season (February 1 through August 31). A qualified wildlife biologist shall conduct a pre-construction nest survey no more than 5 days prior to initiation of grading to provide confirmation of the presence or absence of active nests on or immediately adjacent to the study area. If active nests are encountered, species-specific measures shall be prepared by a qualified biologist and implemented to prevent abandonment of the active nest. At a minimum, grading in the vicinity of the nest shall be deferred until the young birds have fledged. A minimum exclusion buffer of 50 feet shall be maintained during construction, depending on the species and location. The perimeter of the nest-setback zone shall be fenced or adequately demarcated with staked flagging at 20-foot intervals, and construction personnel and activities restricted from the area. A survey report prepared by the qualified biologist shall verify that (1) no active nests are present, or (2) that the young have fledged, shall be submitted to the City prior to initiation of grading in the nest-setback zone. The qualified biologist shall serve as a construction monitor during those periods when construction activities occur near active nest areas to ensure that no inadvertent impacts on these nests occur. _____ (Planning)

4. IMPACTS TO BATS (BIO–3). If construction occurs during the roosting season then pre-construction surveys for bats shall take place. Additionally, unused buildings may provide winter roost habitat and shall be surveyed for roosts if removed between November and March. If special status bat species are detected during surveys, appropriate, species and roost specific mitigation measures shall be developed.

Such measures may include postponing removal of trees, snags or structures until the end of the maternity roosting season or construction of species appropriate roosting habitat within, or adjacent to the study area. Consultation with CDFG may be warranted to determine appropriate mitigation measures if roosts are disturbed or destroyed. _____ (Planning)

5. IMPACTS TO SAN FRANCISCO DUSKY-FOOTED WOODRAT (BIO–4). Conduct pre-construction surveys. If stick houses are found and if avoidance is not feasible, the houses shall be dismantled by hand under the supervision of a biologist. If young are encountered during the dismantling process, the material shall be placed back on the house, a buffer of 25 feet using orange construction fencing shall be erected, and the house shall remain unmolested for two to three weeks in order to give the young enough time to mature and leave the house. After two to three weeks, the nest dismantling process may begin again. Nest material shall be moved to suitable adjacent areas that will not be impacted. _____ (Planning)

6. IMPACTS TO MONARCH BUTTERFLY (BIO–5). If construction activities or vegetation removal is scheduled during the winter from October through February, then a monarch winter roost survey shall be conducted. Detection of a roost may require consultation with CDFG. _____ (Planning)

7. HYDROLOGY (HYD–1). The applicant shall prepare a SWPPP subject to the review and approval by the City Engineer (See Condition C.4). _____ (City Engineer)

8. DRAINAGE PLANS (HYD-2). Upon submittal of improvement plans, the applicant shall submit a Drainage Plan to include all existing and proposed drainage improvements on and off the project site. The Drainage Plan shall demonstrate that all stormwater is retained on-site with no off-site release (100 percent containment). Drainage improvements shall be carried out to the satisfaction of the Director of Public Works or City Engineer. The Drainage Plan shall include a drainage system maintenance program. The applicant shall prepare and submit an Operations and Maintenance for the drainage facilities to the City for review and approval. The Drainage Plan shall be prepared by a licensed professional engineer. Any portion of the drainage system that is located on state park land shall be approved by the state Department of Parks and Recreation prior to any construction, on- and off-site. The final Drainage Plan will be presented to the Planning Commission for review prior to construction._____ (City Engineer)

9. EROSION CONTROL. An Erosion Control Plan shall be provided by the Applicant for review by the City to ensure that erosion is reduced to the maximum extent practicable. The plan shall be designed to minimize the potential sources of sediment, control the amount of runoff and its ability to carry sediment by diverting incoming flows and impeding internally generated flows, and retain sediment that is picked up on the project site through the use of sediment-capturing devices. The plan shall also

limit application, generation, and migration of toxic substances, ensure the proper storage and disposal of toxic materials, apply nutrients at rates necessary to establish and maintain vegetation without causing significant nutrient runoff to surface waters and retain sediment on-site during and after construction. The Erosion Control Plan shall incorporate the Best Management Practices (BMPs) subject to the approval of the City Engineer. _____ (City Engineer)

10. U.S. ARMY CORPS OF ENGINEERS (BIO-6). Prior to the issuance of a grading permit, a permit shall be obtained from the Army Corps of Engineers for the discharge of any dredged or fill material into Waters of the United States, as required by Section 404 of the Clean Water Act of 1972. _____ (City Engineer)

C. The following Conditions shall be met during the construction of on-site and off-site improvements:

1. AIR QUALITY (AQ–1). The Applicant shall assure that the following practices are followed during all phases of site preparation and construction activities at the site:
   - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered at least two times per day.
   - All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
   - All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
   - All vehicle speeds on unpaved roads shall be limited to 15 mph.
   - All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
   - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
   - All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
   - Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations. _____ (Public Works)

2. CULTURAL RESOURCES (CULT–1). If potentially significant cultural resources are encountered during project excavation or construction, all activity in the vicinity of the suspected resources shall be immediately suspended and the City and a qualified archaeologist shall be contacted to evaluate the situation. Project personnel shall not alter any of the uncovered materials or their context. The project developer, in consultation with a qualified archaeologist, shall complete a resource inventory, declaration, and mitigation plan and submit it to the City's Planning Department for review and approval prior to the continuation of any on-site grading or construction activity. Any previously undiscovered resources found during construction shall be recorded on appropriate significant cultural resources consist of, but are not limited to, stone, bone, wood, and shell artifacts; fossils; and features including hearths, structural remains, and historic dumpsites. _____ (Planning)

3. HAZARDOUS MATERIALS (HAZ–1). The project applicant shall remove the affected soil to an anticipated depth of 6 inches across this area (6,500 ft^2; ±120 cubic yards). A minimum of four confirmation samples shall be collected from the base of the excavation and analyzed for TPH as motor oil following excavation. The excavated material could be either analyzed and off hauled to an appropriate disposal facility or encapsulated beneath a pavement section within the planned development. _____ (Public Works)

4. HYDROLOGY (HYD–1). The applicant shall prepare a SWPPP subject to the review and approval by the City Engineer. The SWPPP shall be implemented during construction and the following San Mateo County Storm Water Pollution Best Management Practices (BMPs) shall be included in the SWPPP to ensure that water quality of surface runoff is maintained and no siltation of downstream waterways would occur:

    - All project grading would take place in the dry season between April 1 and October 31 to minimize immediate erosion/siltation effects.
    - Construction materials and waste shall be handled and disposed of properly in compliance with applicable law to prevent their contact with stormwater.
    - Discharge of all potential pollutants, including pavement cutting wastes, paints, concrete, petroleum products, chemicals, wash water or sediments, and non-stormwater discharges to storm drains and watercourses shall be controlled and prevented.
    - Sediment controls such as straw mulch, silt fences, sediment basins or traps and/or other measures shall be employed during construction.
    - Tracking dirt or other materials off-site shall be avoided and off-site paved areas and sidewalks shall be cleaned regularly using dry sweeping methods.
    - The contractor shall train and provide instruction to all employees and subcontractors regarding construction BMPs. _____ (Public Works)

5. NOISE (NOISE–1). In addition to compliance with existing local, State and federal regulations, the following measures shall be required for new construction associated with the project:

    - Construction activity shall be limited to the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday; 8:00 a.m. to 6:00 p.m. Saturdays; and 10:00 a.m. to 6:00 p.m. Sundays and holidays. (City of Half Moon Bay Ord. 8-89 §1(part), 1989). However, the director of public works/city engineer may, upon written application, modify the hours of construction whenever, in his/her reasonable judgment, there is good cause for such modification due to emergency or impracticality. (Ord. 8-89 §1(part), 1989).
    - All construction vehicle and equipment shall be fitted with working mufflers.
    - All stationary noise generating equipment, such as compressors, should be located as far as possible from existing houses.
    - Machinery, including motors, shall be turned off when not in use.
    - Mobile equipment shall not run idle near existing residences.
    - A "disturbance coordinator" shall be designated who will be responsible for responding to any local complaints regarding construction noise. The coordinator (who may be a member of City staff or employee of the general contractor) will determine the cause of the complaint and will require that reasonable measures warranted to correct the problem be implemented. A telephone number of the noise disturbance coordinator shall be conspicuously posted at the construction site fence and on the notification sent to neighbors adjacent to the site. _____ (Public Works)

6. DISRUPTION OF UTILITIES. During construction, underground utility alert services (USA) shall be used to identify the location of all underground services and to avoid the unplanned disruption of pipes or services lines during excavation and other activities. _____ (Public Works)

7. RECYCLING OF WASTE MATERIALS. Concrete, asphalt, soil, and wood waste materials shall be reused in the project or shall be recycled. _____ (Public Works)

8. TEMPORARY SIGNAGE. Whenever feasible, temporary signage shall be installed to notify the public of closures or detours and the expected duration of closures or detours. _____ (Public Works)

9. STORMWATER POLLUTION PREVENTION. Discharge of storm water runoff from the project shall comply with the San Mateo County NPDES Storm Water Management Plan. _____ (Public Works)

10. RESTORATION OF DAMAGED HABITAT. In the unlikely occurrence that any habitat area will be damaged during the course of the project, the Planning Director shall make a judgment if restoration is partially or wholly feasible pursuant to Policy 3-5(b) of the Local Coastal Program. _____ (Planning)

11. HOURS OF CONSTRUCTION. The hours of construction shall be limited to a work schedule that is approved by the Public Works Director. _____ (Public Works)

12. 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 inhabitance of the construction trailer is permitted.

    d. No construction trailers are permitted on site prior to building permit issuance.

    e. The construction trailer shall be removed from the site within 10 days of issuance of a Certificate of Occupancy or final inspection, whichever occurs first.

    _____ (Public Works)

13. 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 Department of Health.

14. ADDITIONAL ENVIRONMENTAL PROTECTION MEASURES.

    a. Project activities shall be conducted when Pullman ditch is dry, but no earlier than July 1 and no later than October 15.

    b. A pre-construction survey for the California Red Legged Frog (CRLF) and the San Francisco Garter Snake (SFGS) shall be conducted within 24 hours prior the beginning of construction activities.

    c. The Applicant shall obtain a Biological Opinion (BO) for the project, if required.

    d. A qualified and U.S. Fish and Wildlife Service (USFWS) approved biologist will conduct a worker training for all personnel involved in construction activities. This training will include CRLF and SFGS identification, basic natural history and instructions on what to do if a CRLF is observed during construction activities.

    e. Environmental Sensitive Area (ESA) trenched-in silt fencing shall be placed along the perimeter of the project area to minimize the potential for the CRLF or SFGS to enter work areas. The biological monitor shall visually inspect the perimeter fencing at the start of each work day to ensure that no CRLF or SFGS are present prior to the onset of construction activities.

f. Only adapted native or non-invasive exotic plant species are used for replanting. _____ (Planning)

15. TREE REMOVAL AND REPLACEMENT. Any Heritage Tree (as defined in Chapter 7.40 of the Municipal Code) that is removed as a result of this project shall be replaced on a one-for-one basis with a tree of a species and in a location approved by the public works director, and with minimum size of a twenty-four-inch-box specimen, or an alternative size as directed by the Public Works Director. _____ (Public Works Director)

16. UTILITIES. All underground utilities, sanitary sewers and storm drains installed in streets, service roads, alleys or highways shall be constructed prior to the surfacing of such streets, service roads, alleys, or highways. Service connections for all underground utilities and sanitary sewers shall be placed to such length as will obviate the necessity for disturbing the street or alley improvements when service connections are made thereto. _____ (City Engineer)

17. PARCEL MAP. All underground utilities, sanitary sewers and storm drains installed in streets, service roads, alleys or highways shall be constructed prior to the surfacing of such streets, service roads, alleys, or highways. Service connections for all underground utilities and sanitary sewers shall be placed to such length as will obviate the necessity for disturbing the street or alley improvements when service connections are made thereto.

18. MAXIMUM BUILDING AREA. The maximum amount of lot coverage shall not exceed 30% or provide no more than a total of 6,000 square feet of building area, whichever is greater.

19. NO ACCESS EASEMENT. A one-foot no access easement shall be granted to the City along the east property line on Parcel "A" to prevent vehicular access to and from Highway 1.

20. FINAL MAP. The subdivision improvement work shall not be commenced until after the final map is approved and recorded and not until after all improvement plans and profiles for such work have been submitted to and approved by the city engineer.

21. SUBSEQUENT SUBDIVISIONS. The four parcels created by this Tentative Parcel Map and recorded on the Final Map shall not be split or otherwise modified by lot line adjustment, lot merger or subdivision. A note to this effect shall be placed on the Final Map prior to recording.

22. SITE IMPROVEMENTS. Requirements for the construction of off-site and on-site improvements shall be noted on the Final Map prior to recording.

23. EFFECTIVE DATE. The Coastal Development Permit shall take effect 10 working days after receipt of the Notice of Final Action by the Coastal Commission, unless an appeal is filed.

24. EXPIRATION. The Coastal Development Permit shall expire on the latest expiration date applicable to any other discretionary or ministerial permit or approval required for the development, including any extension granted for other permits or approvals. Should the development not require City permits or approvals other than a Coastal Development Permit, the Coastal Development Permit shall expire one year from its date of approval if the development has not begun during that time.

25. 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, representatives, employees and agents, from and against any 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 21000 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, representatives, employees and agents. The Applicant's duty to defend the City shall not apply in those instances when the Applicant has asserted one or more Claims against another party or other parties, although the Applicant shall still have a duty to indemnify, protect and hold harmless the City.

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.

APPLICANT(S):

_____ _____

(Signature) (Date)

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Marc Gradstein and Jane Gorman

Mailing Address: 2805 Naples Avenue

City: Half Moon Bay Zip Code: 94019 Phone: 650 703-2644

SECTION II. Decision Being Appealed

1. Name of local/port government:

Half Moon Bay (City Council and Planning Commission)

2. Brief description of development being appealed:

PDP-009-10 Mitigated Negative Declaration, and Mitigation Monitoring Program; Coastal Development Permit, Planned Unit Development Plan, Use Permit and Tentative Parcel Map to Create Four Residential Parcels on 2.1 acres, located in the 2700 Block of North Cabrillo Highway (APN 048-113-010).

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

2700 Block of North Cabrillo Highway, West (APN 048-133-010)

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

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-2-HMB-12-005

DATE FILED: 2/9/2012

DISTRICT: North Central

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: January 17, 2012

7. Local government's file number (if any): Resolution No.: C-04-12

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:

Mark Stoloski
727 Main Street
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) A list of names and addresses of interested parties at the Planning Commission is attached as Exhibit L.

(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.

Exhibit A Two page appeal
Exhibit B E-mail from U.S. Fish & Wildlife Service to City Planning Director, 3/27/07
Exhibit C E-mail from U.S. Fish & Wildlife Service to City Planning Director, 3/14/06
Exhibit D Letter from California Coastal Commission to City Planning Director, 3/22/07
Exhibit E Appellants' letter to City Council, 1/12/12
Exhibit F City Council Resolution No. C-04-12 approving project
Exhibit G Notice of Final Action, Coastal Development Permit, 1/24/12
Exhibit H Tentative Parcel Map
Exhibit I Aerial View of Affected Area, Google Maps, 2/4/12
Exhibit J Biotic Assessment
Exhibit K Declaration of Marc Gradstein
Exhibit L Speakers at the 12/13/11 meeting of the Planning Commission, some of whom also spoke at at the City Council Meeting of 1/17/12

This subdivision in a riparian corridor approves a water diversion plan, which would allow for the digging of a six foot wide, six foot deep, trench between and/or under two rows of heritage trees, one Monterey Pine and Willow, the other Cypress, to accommodate a 48 inch water drainage pipe and a smaller sewer pipe. The 48 inch pipe would then dump the water into the western end of the Pullman Ditch, on Naples Avenue, immediately in front of appellants' home. The water would then flow west in the Pullman Ditch into California State Park land and under the Coastal Trail. The State Park maintenance workers already are required to constantly remove sand, plants, branches, and other debris from this section of the Ditch in an effort to try to prevent the water that flows there from backing up. The pipe presently emptying water into that area is only 28 inches wide, and the two pipes under the Coastal Trail are 18 and 24 inches wide. This area of the Pullman Ditch has in past years of heavy rainfall, backed up east of the Coastal Trail and flooded.

The Army Corps of Engineers ("ACOE") has not approved this project, and appeals are pending with the ACOE regarding whether it has jurisdiction over the Pullman Ditch. The Pullman Ditch carries runoff water from the land to the east of the Cabrillo Highway, westerly through a recently installed pipe under the Cabrillo Highway--which was approved by the ACOE--and ultimately into the Pacific Ocean.

The area may be home to endangered species (Exhibit J), and is definitely habitat to owls, hawks and other raptors. The effect on the heritage trees and the wildlife habitat is minimized in the City Counsel Resolution and is not accurately shown on the Tentative Parcel Map; in fact, the map shows the pipe going under land with no trees, when it would actually go under many if not all of them, causing them to be either cut down or to die after their root systems are destroyed.

Naples Avenue is on a flood plain which drains to the north, so that excess water would impact all residents of Naples Avenue, in addition to appellants.

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: 2-6-2012

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: _____

Exhibit A

January 27, 2012

2700 block of North Cabrillo Highway West
Pullman Ditch
Half Moon Bay, CA 94019

APN# 048-133-101 – Approved by HMBCC January 17, 2012

CDP 009-10

This project is a four single-family subdivision located west of Cabrillo Highway, south of Washington Blvd and Naples subdivision in the City of Half Moon Bay and north of the Surf Beach Tract. The development would occur on either sides of the Pullman Watercourse, previously identified by USFWS as potential habitat for California Red Legged Frog (CRLF), and the San Francisco Garter Snake, (SFGS). (Initial Study Biological Resources Assessment dated November 3, 2005) Habitat does exist in the area along and adjacent to the Pullman Ditch.

This project is development and is located in the appeal zone. The proposed subdivision is adjacent to an ESHA (riparian) and West of the western-most through highway. The staff discussion and actual project include the placement of a conduit, removal of material from the bank of the ditch and the discharge of fill materials into the ditch.

The area of the Pullman Ditch is an ESHA habitat as defined in Policy 3-1 of the City's certified Local Coastal Program because it is both a riparian area and a habitat supporting or containing listed species.

The LCP policy 3-3 prohibits any land use and or development which would have significant adverse impact on sensitive habit areas. Two separate previous communications from USFWS attesting to habitat are attached, dated March 14, 2006 (Enclosure 1) and March 27, 2007 (Enclosure 2). The California Coastal Commission staff wrote a letter to the Planning Director of HMB saying that is appears there is strong evidence to suggest that the California red-legged frog or the San Francisco garter snake are present in the Pullman Ditch (Enclosure 3) Even though there are letters from this agency and the CCC, there aren't any permits, biological opinions or incidental take permits from USFWS, or CDFG. In fact, in the IS/MND, there is a complete contradiction to the assessments from USFWS, saying that the project would not have an adverse effect on endangered species (see Recirculated IS Report, pages 17 & 18 and Enclosure 3). These habitat issues were brought up at the Half Moon Bay City Council meeting, January 17, 2012

This project violates Chapter 4 of the City's LCP, Coastal Act section 30253 which addresses flooding and erosion hazards and is adopted in the LCP. In addition, Policy 4.8 says that no new permitted development shall cause or contribute to flood hazard. The neighbors have testified to flooding problems in the Naples neighborhood during winter months even with the two existing 24" Caltrans culverts already in existence. The project manager has discussed with neighbors the addition of a 48" conduit, which, although not part of the written project, creates its own arena of environmental violations. There has also been public discussion of filling in the ditch once the diversion of water occurs. This project takes water out of an ESHA and there is no comment in the Initial Study on how much water would remain to nourish the ESHA, and how that impact aspect of the project will be monitored to prevent adverse impacts.

The diversion of water associated with this project from this ditch will have significant impact on a natural drainage course and contribute once more to the already present flood hazard and sensitive riparian corridor. "Riparian area" definition (pg. 42 of the LCP) specifically spells out that the origin of a riparian area (man-made or natural) does not exempt the area from protection unless it is a "vernal pool or vernally wet area", and even those are protected when riparian vegetation is also present (willow is such riparian vegetation).

Local appeals have been exhausted. The flooding concerns and the sensitive habitat issues were addressed to the Planning Commission on December 13, 2011 and to the Half Moon Bay City Council on January 17, 2012.

The Coastal Commission and other regulatory agencies have expressed concern over the impact this subdivision will have on the biological resources at the project site. We see no evidence of these concerns addressed in the IS/MND.

The City of Half Moon Bay is improperly approving this development when there is no Specific Plan for that area, and the environmental documents are incomplete.

We request that this project be denied or modified to avoid violating these policies. We would like our appeal subject to revision with additional information.

Exhibit B

To
sflint@ci.half-moon-bay.ca.us
cc
"YinLan Zhang" <yzhang@coastal.ca.gov>, <SGLUSHKOFF@dfg.ca.gov>
Subject
Few: Pullman Ditch Biotic Assessment

Steve-

I'm sure your getting sick of emails from me by now but I have been informed recently that the City approved the construction of a single family residence adjacent to Pullman ditch. Below is an email I sent to Don a year ago stating the Service's belief that this area is habitat both for the California red-legged frog and the San Francisco garter snake. This sentiment was also relayed to the City by my predecessor Mary Hammer as well as the former recovery branch chief Harry McQuillen. Therefore, the administrative record shows that the precedent has been set regarding the Service's position on the availability of habitat in the Pullman ditch area. The Service continues to maintain the position that habitat does exist in the area along and adjacent to Pullman Ditch. Although it is still unclear whether the Corps will take jurisdiction of these waters, take under the Endangered Species Act of 1973 (as amended) and as described in previous emails, is not limited to projects requiring a federal nexus or an HCP. Take may occur through private citizens or a government entity. Under the law, any and all parties can be held responsible for their actions. It is the personal responsibility of the individual not to perform or allow these actions to occur, much like a robbery or theft. I only mention this portion of the law as it seems, based on previous emails and conversations that I have had with the Ctiy and their various applicants, that there is continuing confusion as to the purpose and role of the Service and its involvement in the area.
I encourage you to contact the Service to work to develop a strategy to implement this and the other projects in Half Moon Bay and to work toward the conservation of listed species. I am available to meet with you and your various staffers to develop a plan that will coordinate with everyone's interest. Please feel free to contact me at any time.

Lucy Triffleman
US Fish and Wildlife Service
Coast-Bay Delta branch
2800 Cottage Way room W-2605
Sacramento, CA. 95825
Ph. (916) 414-6628
Fax (916) 414-6712
----- Forwarded by Lucy Triffleman/SAC/R1/FWS/DOI on 03/27/2007 01:00 PM -----
Lucy Triffleman/SAC/R1/FWS/DOI

Exhibit C

ATTACHMENT 2

3/14/2006 12:28 PM

To
<ddakins@ci.half-moon-bay.ca.us>
cc
<DJOHNSTON@dfg.ca.gov>, "R3 HabCon Secretary" <HCSectyR3@dfg.ca.gov>, "Serge Glushkoff" <SGLUSHKOFF@dfg.ca.gov>, yzhang@coastal.ca.gov
Subject
Re: Pullman Ditch Biotic AssessmentLink

Don-

Having briefly visited the site on my own on 2/28/06 and reviewing the submitted Biological Resources Assessment, the US Fish and Wildlife Service (Service) does not feel that they have been provided with sufficient information to comment on this project at this time. We require additional information including:

-summary of previous ditch maintenance projects at the proposed location
-a description of the location where sediment removed as a result of the proposed action will be placed
-a description of the other phases of the proposed project (the report only refers to this as being phase one but fails to elaborate on future phases of the project)
-Discussion of monitoring plans proposed for during and after the completion of the proposed project
-Discussion of the impacts of the project on San Francisco Garter Snake populations (the Service does not agree with the conclusion that SFGS are not found in the area and in fact proposes that the Pullman ditch corridor is almost certainly used by this species as well as the California red-legged frog as a migration corridor between breeding populations and feeding areas).

In order to accurately comment on the Pullman Ditch Biological Resources Assessment, dated November 3, 2005, the Service requests a response to these missing items. The Service will

make official comments once these segments are complete. If you have any questions, feel free to contact me using the information provided below.

Sincerely,

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

Exhibit D

Enclosure

STATE OF CALIFORNIA—THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER GOVERNOR

CALIFORNIA COASTAL COMMISSION

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

March 22, 2007

PLANNING DEPT.

MAR 2 2 2007

RECEIVED

Steve Flint
Planning Director
City of Half Moon Bay
501 Main Street
Half Moon Bay, CA 94019

RE: PDP-004-06—Single Family Residence at 2788 Pullman Avenue

Dear Mr. Flint:

Thank you for the opportunity to comment on the above coastal development permit application for a single family residence at 2788 Pullman Avenue. The City's staff report for the March 22, 2007 Planning Commission meeting recommends the approval of the development that would be located less than 50 feet away from the riparian habitat at Pullman Ditch, which would not be consistent with the LCP policy that requires 50 feet buffer from habitat of rare and endangered species (Zoning Code Section 18.38.085.D).

The City staff report states:

> The bio report does specify that below the stream bank there may be vegetation that provides habitat or cover for wildlife, it does not specify that that is the habitat of a rare or endangered species. In fact, the bio report concludes that no wildlife species listed as threatened or endangered under the Federal Endangered Species Act are likely to occur on the project site. Therefore, the requirement in the LCP that a buffer zone of a minimum of 50 feet surrounding a habitat of a rare or endangered species would not apply to the proposed project site.

Staff from the Coastal Commission, Department of Fish and Game, and the U.S. Fish and Wildlife Service have all commented on the November 3, 2005 Pullman Ditch biological report referenced in the above finding, and have disputed the report's conclusion that neither California red-legged frogs nor San Francisco garter snakes are likely to be present on site.

It is Commission staff's position that California red-legged frogs and San Francisco garter snakes should be assumed present due to the proximity of Pullman Ditch to other known habitat of the above species (February 22, 2006 letter from Commission Staff YinLan Zhang to Don Dakins).

Dave Johnston from CDFG states in his March 9, 2006 email to City staff:

> We can't completely concur with the assessment's conclusion that California red-legged frogs (CRLF) would be very uncommon on the site and San Francisco

> garter snakes will not be present at all. The ditch is within the known range of these species and unsurveyed aquatic habitat is within easy dispersal distance. We do concur that the species are not resident and that individuals seen here would be dispersing and/or foraging.
>
> ...
>
> For any portions of this ditch or any other ditches in the area that contain ponded water or native riparian vegetation, we recommend a more in-depth biological evaluation, conducted with input from the Department and the United States Fish and Wildlife Service.

Lucy Triffleman from US Fish and Wildlife also states in her email March 14, 2006 email to City staff:

> The Service does not agree with the conclusion that SFGS are not found in the area and in fact proposes that the Pullman ditch corridor is almost certainly used by this species as well as the California red-legged frog as a migration corridor between breeding populations and feeding areas.

Based on the above comments, it would seem that the Pullman Ditch biological report should not be relied on to make the finding that Pullman Ditch and associated riparian area near the project site do not provide habitat for the California red-legged frog or the San Francisco garter snake. In addition, based on habitat requirements of these two species and the available information regarding their presence throughout the City, it appears that there is strong evidence to suggest that the California red-legged frog or the San Francisco garter snake are present in the Pullman Ditch area. Moreover, to date, there has not been any detailed biological survey of the project area to contradict assertions by Commission, Fish and Game, and Fish and Wildlife staff. Thus, commission staff recommends that the City require the proposed development to conform with the 50-foot buffer requirement in Section 18.38.085.D of the Zoning Code.

Commission staff appreciates this opportunity to comment on the above coastal development permit applications. Please do not hesitate to contact me at (415) 904-5267 with any questions.

Sincerely,

YinLan Zhang
Coastal Program Analyst
North Central Coast District

Exhibit E

Law Office of Gradstein & Gorman

80 Stone Pine Road, Suite 101
Half Moon Bay, California 94019

Telephone: (650) 560-0123
Fax: (650) 560-0124

January 12, 2012

City Council Members
Allan Alifano
Rick Kowalczyk
Marina Fraser
John Muller
Naomi Patridge
501 Main Street
Half Moon Bay, CA 94019

Hand Delivered on January 12, 2012

Dear City Council Memebers:

We are writing to express our concern with the item on your agenda for the meeting on January 17, 2012, dealing with your approval of the planning commission's decision to allow the application of Mark Stoloski for Gonzalez & Stoloski for a subdivision which would permit the creation of four residential parcels on 2.1 acres located at the 2700 block of North Cabrillo Highway.

We expressed our concerns at the Planning Commission meeting on December 13, 2012, primarily that the plan as currently drafted and approved does not **require** the property owner to provide adequate drainage of the water that currently runs from Cabrillo Highway west, through the Pullman Ditch, through a pipe under our property in which we reside, and then empties into an open extension of the ditch onto State Park land, and exits the ditch through a pipe under the Coastal Trail, and into the Pacific Ocean.

The current plan has several problems that have not been completely addressed as of this time:

1. The proposal would divert the water from the ditch into a 48" pipe that would carry the water from the ditch to a point to the west of our house. The net result of this would be that more water would enter the ditch just to the west of our house than has ever come through the much narrower pipe under our property.

2. Although there have been discussions with the Park Department and the City Planner and the applicant about having the water enter the Ditch further west, on State Park land and that Mr. Stoloski would install a 48" pipe under the Coastal Trail, that is not a condition of obtaining your or the planning commission's approval. We believe that such a requirement, or a requirement that the pipe be extended all the way to and under the Coastal Trail, is necessary to protect us and our neighbors on Naples Avenue from flooding.

3. In the ten plus years that we have lived in our house, even with the much narrower entry point into the Ditch it has backed up during periods of high rainfall, from the Coastal Trail, eastward towards Naples Avenue. On at least two occasions, I can recall the Fire Department intervening to help ease the flow of water backing up from the Coastal Trail.

4. Last Monday, there was a meeting between the local interested parties, the City Planner and representatives of the U.S. Army Corps of Engineers ("ACOE") at the north end of the Ditch on Pullman Avenue. Apparently, there is an appeal pending by one of the property owners to the exercise of jurisdiction by the ACOE over the ditch. It appeared from what was said at the meeting, that it was likely that the ACOE would assert jurisdiction and that it well might disapprove of the underground pipe solution.

5. It is, therefore, in our opinion, premature for the City Council to act on this matter. First, the ACOE position should be made clear, officially. Second, if the pipe is going to be allowed, there should be conditions included in the plan, before the City Council approves it, which will guarantee that the residents of Naples Avenue will be protected from flooding, caused by the subdivision.

For the foregoing reasons, we respectfully ask that the matter be continued until the conditions set forth above have been made requirements, not merely suggestions.

Sincerely,

Marc Gradstein and Jane Gorman
Residents of 2805 Naples Avenue, Half Moon Bay

Exhibit F, G, and H of the Appellant's contentions can be found in Exhibit 4 and 5 of the staff report.

Exhibit I

To see all the details that are visible on the screen, use the "Print" link next to the map.

Google

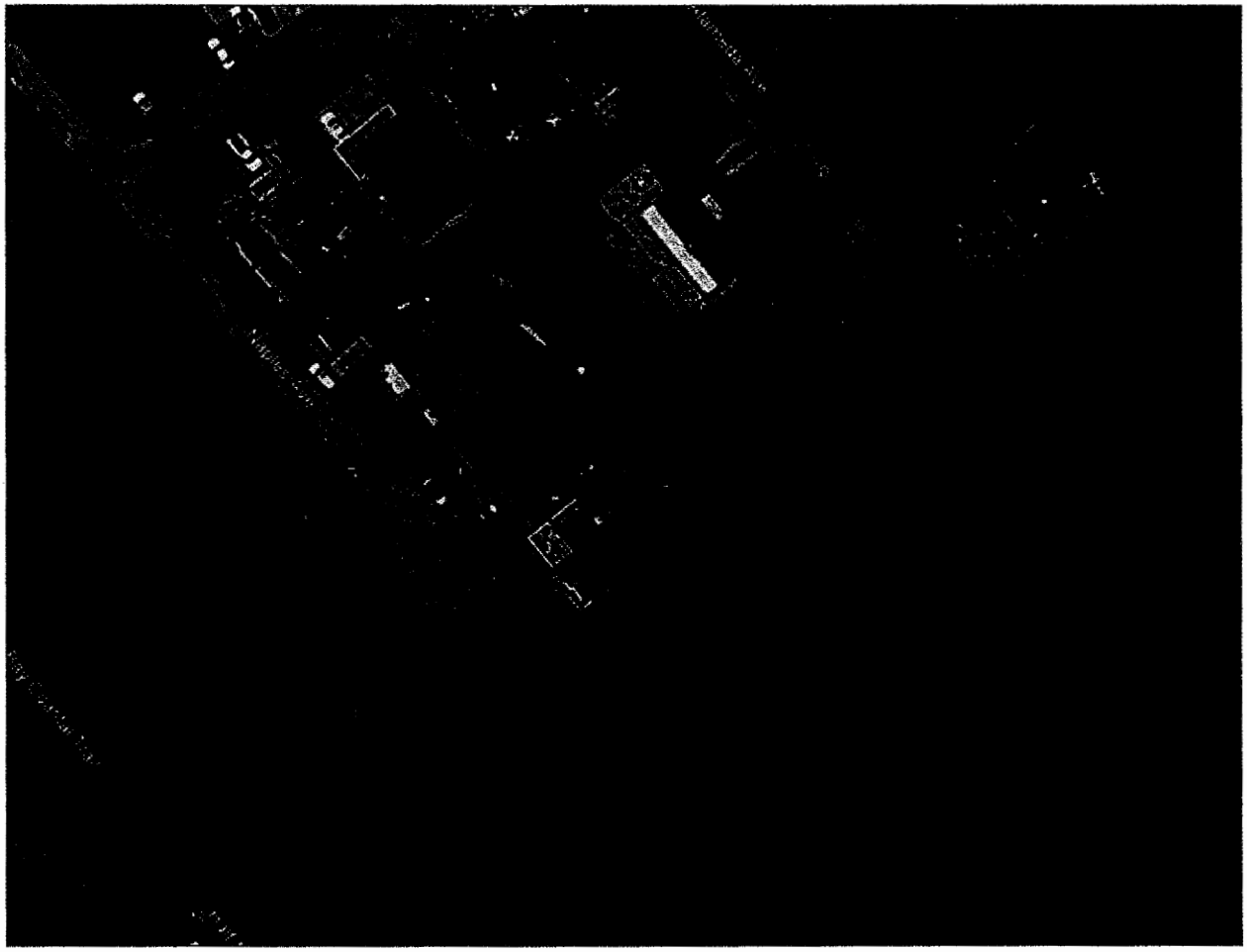


Exhibit J

BIOTIC ASSESSMENT

2812 CHAMPS ELYSEE BOULEVARD. (APN 048-112-210),
HALF MOON BAY, CALIFORNIA

SEPTEMBER, 2007

Prepared for:

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

Prepared by:

Tom Mahony, Principal/Plant Ecologist
Coast Range Biological, LLC
PO Box 1238
Santa Cruz, CA 95061
(831) 426-6226
coastrange@sbcglobal.net

Mark Allaback, Wildlife Biologist
Biosearch Associates, Santa Cruz, CA
PO Box 1220
Santa Cruz, CA 95061

COAST RANGE
BIOLOGICAL LLC

EXECUTIVE SUMMARY

Coast Range Biological, LLC conducted a biotic assessment on the parcel located at 2812 Champs Elysee Boulevard (APN 048-112-210) in the City of Half Moon Bay, California. The proposed project involves the construction of a ~2,350 ft^2 single family residence and ~150 foot long road extension. This biotic assessment addresses the potential for occurrence of sensitive or special-status biotic resources on the project site and surrounding Study Area, including special-status plant and wildlife species and Environmentally Sensitive Habitat Areas (ESHAs) (e.g., riparian vegetation, wetlands, and other sensitive habitats as defined by the Half Moon Bay Local Coastal Program and California Coastal Act).

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

Two special-status wildlife species, California red-legged frog and San Francisco garter snake, are expected to have a low potential for occurrence on the project site but some potential to inhabit nearby Pullman Ditch, and could therefore potentially be adversely impacted by the proposed project. One additional special-status wildlife species, saltmarsh common yellowthroat, is not expected to nest on the project site, but could potentially nest along Pullman Ditch, and therefore be indirectly impacted by the proposed project. In addition, other nesting bird species protected under the Migratory Bird Treaty Act and Fish and Game Codes have potential to nest on the project site and surrounding Study Area. All potential impacts to special-status wildlife and nesting bird species can be reduced to less than significant levels with the incorporation of mitigation measures discussed in this report.

No likely wetlands or Riparian habitat were observed on the project site itself, but the CCC should be contacted for concurrence with the conclusions of this report. Pullman Ditch occurs ~85 feet south of the project site and supports some marginal Riparian habitat and is considered a potential riparian ESHA. The riparian habitat itself will not be directly impacted by the proposed project. No other sensitive habitats were observed on the project site or surrounding Study Area.

TABLE OF CONTENTS

LIST OF FIGURES

APPENDICES

1.0 INTRODUCTION

Coast Range Biological, LLC conducted a biotic assessment on the parcel located at 2812 Champs Elysee Boulevard (APN 048-112-210) in the City of Half Moon Bay, California (Figure 1). The proposed project involves the construction of a ~2,350 ft^2 single family residence and ~150 foot long road extension. The area evaluated for this biotic assessment includes: (1) a "project site" encompassing the project's disturbance envelope, where biological resource impact determinations are made; and (2) a "Study Area", which includes both the project site and adjacent areas extending out to 200-feet around the project site, where habitats are mapped and evaluated for the potential presence of special-status biological resources (Figure 2).

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

2.0 METHODS

2.1 Literature Review

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

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

2.2 Field Studies

Plant Ecologist Tom Mahony and Wildlife Biologist Mark Allaback conducted reconnaissance-level field studies on August 17 and 24, 2007. The project site was traversed on foot to document habitat conditions to determine the potential for occurrence of special-status plant and wildlife species and other sensitive biotic resources.

Figure 1. Study Area location map.

Figure 2. Habitats on the Study Area.

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

Riparian habitat with public access was mapped in the field with a Trimble GPS unit (sub-meter accuracy) and overlain on a 2004 orthophoto (obtained from TerraServer) using ArcGIS software[1]. In addition, several property stakes were present in the field, and direct measurements from these stakes to Pullman Ditch were made using a 100 meter tape. Riparian areas, as well as other habitats, on private land were drawn directly onto the orthophoto.

2.2.1 Special-status Species

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

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

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

2.2.2 Other Sensitive Biotic Resources

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

[1] Due to variability in basemaps, GPS data, and mapping scale, the map in Figure 2 represents a good estimation of spatial relationships but should be used for general planning purposes only. Exact distances, if required, should be obtained by a licensed surveyor.

generally considered ESHAs under the LCP (Section 30107.5).

Wetland and Riparian Areas

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

Riparian areas are defined in the LCP as the "limit of riparian vegetation (i.e. a line determined by the association of plant and animal species normally found near streams, lakes, and other bodies of fresh water: red alder, jaumea, pickleweed, big leaf maple, narrowleaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder). Such an area must contain at least a 50% cover of some combination of the plants listed[2]." Riparian areas were identified and mapped during the site visit.

Other Sensitive Habitats

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

3.0 STUDY AREA DESCRIPTION

The Study Area is located at 2812 Champs Elysee Boulevard in Half Moon Bay, and includes the project site for the proposed residential construction project and a 200-foot buffer around this area (Figures 1 and 2). The project site itself is undeveloped, generally level, highly disturbed, and occurs at approximately 30 feet elevation (USGS 1991). Residential development occurs to the north, west, and southwest, with agricultural operations to the east and southeast.

3.1 Habitats

Four habitats are present on the Study Area: Ruderal Non-native Grassland, Riparian, Developed/Landscaped, and Agricultural (Figure 2). Ruderal Non-native Grassland covers virtually the entire project site (where direct project impacts will occur), and is dominated by non-native grasses and forbs adapted to disturbance, including Italian ryegrass (*Lolium multiflorum*[3]), bristly ox-tongue (*Picris echioides*), wild oats (*Avena* sp.), wild radish (*Raphanus sativus*), field bindweed (*Convolvulus arvensis*), velvet grass (*Holcus lanatus*), and English plantain (*Plantago lanceolata*), with occasional native species such as California aster (*Aster chilensis*). Included with this community on the project site is a small stand of trees (included in the Ruderal Non-native Grassland habitat type due to its small size) in the road right of way near Washington Boulevard, consisting of

[2] This definition was used as a guideline but not a strict determinant of riparian vegetation on the Study Area, since many more species characterize riparian areas than those listed above, and riparian areas are based on biotic function in addition to species composition.

[3] Botanical nomenclature follows Hickman (1993).

one arroyo willow (*Salix lasiolepis*) (Figure 2) and a small stand of non-native trees and shrubs, including cotoneaster (*Cotoneaster* sp.) and myoporum (*Myoporum* sp.).

Riparian habitat occurs within the banks of Pullman Ditch and consists of primarily non-native shrub, herb, and occasional tree species that perform some marginal riparian functions and values. Species observed within and adjacent to the ditch include California blackberry (*Rubus ursinus*), poison hemlock (*Conium maculatum*), fireweed (*Epilobium* sp.), garden nasturtium (*Tropaeolum majus*), and cape ivy (*Senecio mikanioides*). A small stand of arroyo willow occurs along the ditch in the southwestern portion of the Study Area. Trees not native to the Study Area, including Monterey pine (*Pinus radiata*) and Monterey cypress (*Cupressus macrocarpa*) have been planted along the banks of a portion of the ditch.

Developed/Landscaped habitat includes areas primarily to the north and west of the project site, and consist of areas dominated by residential development and associated infrastructure and landscaping. Agricultural habitat occurs in the southern portion of the Study Area, south of Pullman Ditch.

3.2 Hydrology and Soils

The project site itself appears well-drained, and no drainage channels or other direct or indirect evidence of ponding or concentrated water movement were observed. South of the project site but within the Study Area is Pullman Ditch, a narrow (~5 feet wide in the vicinity of the project site) man-made ditch that drains generally southwest for ~1,000 feet to Half Moon Bay State Beach. It is not mapped as a stream on the USGS (1991) Half Moon Bay topographic quadrangle. The ditch was dry at the time of the field visits and is considered intermittent. Soils in the vicinity of the Study Area are mapped as the well-drained Farallone Series (USDA 1961), and soils observed on the Study Area generally fit the series descriptions.

4.0 RESULTS

4.1 Special-status Plants

Forty-five special-status plant species are documented to occur in the Study Area region based on the background literature search discussed in Section 2.1. A list of these species, their status, and their typical habitats, is presented in Appendix A. A search of the August 4, 2007 CNDDB GIS database found no documented occurrences[4] of special-status plant species on or within one mile of the Study Area. Four special-status plant species have documented CNDDB occurrences within three miles of the Study Area: coastal marsh milk-vetch (*Astragalus pycnostachyus* var. *pycnostachyus*) (2.3 miles northwest of the Study Area), Kellogg's horkelia (*Horkelia cuneata* ssp. *sericea*) (1.3 miles east), Choris's popcorn-flower (*Plagiobothrys chorisianus* var. *chorisianus*) (2.4 miles south), and San Francisco campion (*Silene verecunda* ssp. *verecunda*) (2.5 miles north).

No special-status plant species were observed on the Study Area, but the field visit occurred after the blooming period of most plant species had ended, and focused surveys were not conducted. The 45 special-status plants identified for the region during the background literature search are considered unlikely to inhabit the project site (a potential for occurrence of "None" or "Low" as defined in Section 2.2) because the project site: (1) is heavily disturbed, surrounded by residential development, and dominated by a dense cover of ruderal, non-native species typical of disturbed areas; (2) lacks

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

macro or micro habitat components (e.g., suitable plant communities, wetlands, sandy or serpentine substrates, rocky outcrops) required by most special-status species known from the region; (3) has a long history of disturbance that has likely eliminated eliminating any remnant native soil seed bank; and (4) lacks documented occurrences of special-status plants nearby, which could (along with a native soil seedbank) provide a potential source of special-status plant propagules for the project site. Therefore, the 45 special-status plant species identified for the region during the background literature search are considered absent[5] or to have a low potential to inhabit the project site. These results concur with those of a previous biotic assessment prepared for Pullman Ditch and adjacent habitats (H.T. Harvey & Associates 2005).

4.2 Special-status Wildlife

A search of the August 4, 2007 CNDDB GIS database found no documented occurrences of special-status wildlife species on the Study Area. Fifteen special-status wildlife species were analyzed for their potential occurrence on the project site and surrounding Study Area because they: (1) occur in habitats present in the general vicinity of the Study Area, and (2) have ranges which include Half Moon Bay (Appendix A). None of the fifteen special-status wildlife species analyzed are expected to have a moderate or high potential to occur on the project site itself. However, two species, California red-legged frog (*Rana aurora draytonii*) and San Francisco garter snake (*Thamnophis sirtalis tetrataenia*) have some potential to occur on the Study Area along Pullman Ditch, and due to the mobility of each species, could occur incidentally on the project site. One special-status bird species, saltmarsh common yellowthroat (*Geothlypis trichas sinuosa*), is not expected to nest on the project site, but could nest in nearby Pullman Ditch on the Study Area. In additional, trees and shrubs on the project site in the road right of way, and trees and shrubs on the surrounding Study Area, support potential nesting habitat for other bird species protected under the Migratory Bird Treaty Act (MBTA) and California Fish and Game Codes. Potential significant impacts that may occur to special-status wildlife, and corresponding mitigation measures, are addressed in Section 5.2.

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

[5] Since biological phenomena are complex and often poorly understood, this should be considered an "extremely low" potential for occurrence and not an absolute claim of absence. Even if species are not anticipated to occur, if any special-status plant or wildlife species were encountered during project construction, the project would be required to comply with the CCA, CEQA, and the state and federal Endangered Species Acts.

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

The California red-legged frog is a large (85-138 mm), nocturnal species that historically occupied much of central and southern California. The species requires still or slow-moving water during the breeding season, where it deposits large egg masses, usually attached to submergent or emergent vegetation. Breeding typically occurs between December and April, depending on annual environmental conditions and locality. Eggs require 6 to 12 days before hatching and metamorphosis occurs 3.5 to 7 months after hatching (Stebbins 2003). Following metamorphosis between July and September, juveniles generally do not travel far from aquatic habitats. Movements of individuals generally begin with the first rains of the weather-year or in response to receding water. Radio-telemetry data indicates that individuals engage in straight-line movements irrespective of riparian corridors and can move up to two miles (Bulger et al. 2003). California red-legged frogs utilize a variety of water sources during the non-breeding season, and females are more likely than males to depart from perennial ponds shortly after depositing eggs (Fellers and Kleeman 2007). They may take refuge in small mammal burrows, leaf litter or other moist areas during periods of inactivity or whenever it is necessary to avoid desiccation (Rathbun et al. 1993; Jennings and Hayes 1994). Occurrence of this frog has shown to be negatively correlated with presence of introduced bullfrogs (Moyle 1973; Hayes and Jennings 1986, 1988). Recent genetic studies indicate that the nominal subspecies *draytonii* and *aurora* represent separate lineages and are therefore distinct species that require taxonomic revision (Shaffer et al. 2004).

California red-legged frogs are not documented to occur on the Study Area, but the CNDDB documents seven occurrences within three miles of the project site. The closest documented occurrence is 0.9 miles east in Frenchman's Creek, with additional occurrences 1.1 miles south, 1.5 miles southeast, 2.1 miles east, and 1.9, 2.6, and 2.9 miles northwest. The project site does not currently support upland or breeding habitat for red-legged frogs. However, nearby Pullman Ditch does not provide breeding habitat, but may provide marginal foraging and sheltering habitat for the species. The likelihood that California red-legged frogs would inhabit the project site is considered low since it lacks appropriate upland habitat. In addition, the project site is not likely dispersal habitat from Pullman Ditch to potential breeding habitat in the region to the north, northeast, or west, due to the presence of dense residential development. However, due to the proximity of marginal suitable habitat in Pullman Ditch in relation to the project site and mobility of the species, California red-legged frogs could occur incidentally on the project site if they seek temporary cover during project construction, especially during the rainy season. Mitigation measures are recommended (in Section 5.0) to reduce or eliminate any significant impacts to the species.

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

The San Francisco garter snake is found only on the San Francisco peninsula in San Mateo County and the northern portion of Santa Cruz County (Berry 1978; Brode 1990). It is an extremely colorful snake with a bright orange-red head, blue belly, greenish-yellow dorsal stripe and red and black stripes along either side. It grows to a length of three to four feet (Stebbins 2003). It occupies freshwater marshes, ponds, sloughs, and associated riparian corridors, especially where dense shoreline vegetation is present. It also uses a variety of upland habitats including grassland, woodland and coastal scrub in proximity to these aquatic habitats. During the fall and winter, it stays relatively inactive underground in rodent burrows, up to at least 150 meters from aquatic habitat (McGinnis, *et al.* 1987). During the spring and summer, it occupies dense vegetation near ponds or marshes and adjacent scrub and open upland habitat for temperature regulation and cover. Females produce between 12 and 24 live young in July or August. Adults feed primarily on larger frogs including red-

legged frogs, but may also take fish, salamanders, newts and earthworms. Pacific treefrogs appear to be an important part of the diet of young snakes (Larsen 1994). It is rarely seen but can sometimes be observed near the water's edge, basking on warm days, or when it retreats to water. Much of the range of the San Francisco garter snake lies within a heavily urbanized area, and alteration and isolation of habitats has been identified as the primary threat to the subspecies (Brode 1990). Agricultural development, overgrazing and illegal collecting have also been implicated in its decline.

San Francisco garter snake is not documented on the Study Area but has been documented along Pilarcitos Creek, ~one mile south of the project site. Though the habitat quality is marginal, Pullman Ditch provides some suitable dispersal and or/ foraging habitat for San Francisco garter snake. As with California red-legged frog, the project site is not likely dispersal habitat for San Francisco garter snake from Pullman Ditch to potential breeding habitat in the region to the north, northeast, or west, due to the presence of dense residential development. Therefore, the likelihood that San Francisco garter snake would occur on the project site is considered low, but due to the proximity of suitable habitat in Pullman Ditch in relation to the project site and mobility of the species, San Francisco garter snake could occur incidentally on the project site during construction. Mitigation measures are recommended (in Section 5.0) to reduce or eliminate any significant impacts to the species.

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

Saltmarsh common yellowthroat occurs in fresh and saltwater marshes in the San Francisco Bay Area. It typically requires thick, continuous cover down to the water surface for foraging. Tall grasses, tule patches, and/or willows are often used for nesting. Saltmarsh common yellowthroat is documented to occur in the vicinity of the Study Area, along Frenchman's Creek ~0.2 miles to the southeast, at the mouth of Pilarcitos Creek 0.9 miles to the south, and near Pillar Point Harbor, 2.5 miles to the northwest.

No suitable nesting habitat for saltmarsh common yellowthroat occurs on the project site, but the species could potentially nest on the Study Area along Pullman Ditch, particularly in the stand of arroyo willow in the southwestern portion of the Study Area. Mitigation measures are recommended (in Section 5.0) to reduce or eliminate any significant impacts to the species.

Other Nesting Native Bird Species

Marginal suitable avian nesting habitat is present in trees on the project site in the road right of way, and trees and shrubs on the surrounding Study Area support potential nesting habitat for other bird species protected under the MBTA. The MBTA regulates or prohibits taking, killing, and possession of migratory bird species and their nests as listed in Title 50 Code of Federal Regulation (CFR) Section 10.13. Bird species and their nests are also protected under Sections 3515 and 3503 of the California Fish and Game Code. According to project plans, several trees will be removed during project construction, potentially directly impacting nesting bird species, should they be nesting in trees slated for removal. In addition, noise and other disturbance during construction could adversely impact nesting bird species in the surrounding Study Area, potentially resulting in nest abandonment. Mitigation measures are recommended (in Section 5.0) to reduce or eliminate any significant impacts to nesting bird species.

4.3 Other Sensitive Biotic Resources

4.3.1 Wetland and Riparian Areas

Wetlands

Based on the reconnaissance surveys, the project site appears generally well-drained, and no direct or indirect indicators of wetland hydrology or hydric soils were observed. Vegetation on most of the project site is dominated by a mix of marginally hydrophytic (e.g., FAC according to Reed (1988)) species and upland species. The FAC species, such as Italian ryegrass and bristly ox-tongue, are likely responding to disturbance and coastal fog and stratus rather than hydrologic conditions, since no wetland hydrology or hydric soil indicators were observed.

An arroyo willow tree grows in the road right of way near Washington Boulevard (Figure 2). Arroyo willow is often associated with riparian vegetation along creeks and other waterways in coastal San Mateo County, and is classified as FACW in Reed (1988). No drainages, seeps, or other indicators of surface or near surface water were observed in the vicinity, no hydric soil indicators were observed in reconnaissance-level soil pits, and the topography under the tree is slightly convex (e.g., shedding rather than accumulating water). Therefore, the tree is likely acting as a phreatophyte (e.g., responding to deeper groundwater). The long taproots of phreatophytes allow them to reach groundwater, and they can exist in areas of only intermittent surface water inputs, and as such they can be misleading for the purposes of wetland delineations (USACE 2006). Due to a lack of drainage channels in the vicinity, the willow does not qualify as riparian vegetation. In addition, the lack of wetland hydrology and hydric soil indicators indicates that the willow does not likely meet the definition of "wetland" under the CCA/LCP (e.g., "lands within the Coastal Zone which may be covered periodically or permanently with shallow water."). However, the CCC should be contacted for concurrence, and they may require a formal wetland delineation or other measures to make a more definitive wetland determination.

Riparian Habitat

No riparian vegetation occurs on the project site. Pullman Ditch is located ~85 feet south of the project site. A small stand of arroyo willow occurs along the ditch in the southwestern portion of the Study Area, but most of the ditch does not contain any of the species listed in the LCP definition of "riparian species." However, even non-native vegetation within the ditch may offer some riparian functions and values, including plant and wildlife habitat and erosion control. The vegetation in and adjacent to the ditch consists primarily of non-native, ruderal species, such as poison hemlock and wild radish, but with occasional native species, such as California blackberry. Therefore, though most vegetation within the ditch is not undisturbed or typical riparian vegetation, it is considered broad "riparian habitat" based on fulfilling some marginal riparian functions and values, and was delineated[6] out to the top of bank of the ditch or the drip-line of species rooted below the top of bank, whichever was greater. The Riparian habitat is considered a potential ESHA under the CCA/LCP (Figure 2). The results in this report are in general agreement with those in H.T. Harvey & Associates (2005).

4.3.2 Other Sensitive Habitats

No other sensitive habitats (other than Riparian habitat, treated separately above), identified in the CNDDB or LCP, were observed on the project site or surrounding Study Area. The entire Study Area

[6] Vegetation boundaries shown in Figure 2 are intended for general planning purposes only.

is heavily impacted by past and current human disturbance, and therefore no sensitive habitats are present.

5.0 POTENTIAL BIOLOGICAL IMPACTS AND PROPOSED MITIGATION MEASURES

The proposed project involves the construction of a ~2,350 ft^2 single family residence and ~150 foot long road extension. The area of the proposed project evaluated for potential biological impacts was restricted to the project site, as shown on the project plans prepared by Sung Engineering, dated 3/27/07.

5.1 Special-status Plants

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

5.2 Special-status Wildlife

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

Potential Significant Impact 1: Currently, the project site does not support upland or breeding habitat for California red-legged frog or San Francisco garter snake. However, marginal foraging and sheltering habitat for California red-legged frog and San Francisco garter snake occurs ~85 feet to the south along Pullman Ditch. While Pullman Ditch will not be directly impacted by the proposed project, the proximity of suitable habitat to the project site may result in California red-legged frog and San Francisco garter snake incidentally occurring on the project site during construction. In particular, any open trenches associated with the project may trap California red-legged frog and San Francisco garter snake, should they occur in the area, potentially resulting in direct mortality during construction. Impacts to California red-legged frog and San Francisco garter snake are considered potentially significant.

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

Mitigation Measure 1b: For projects in general proximity to CRLF and SFGS habitat, CDFG and USFWS generally require exclusion fencing around the entire work area (Dave Johnston, pers. comm. August 27, 2007). CDFG and USFWS should be contacted for concurrence on whether exclusion fencing is required for the project. If they require exclusion fencing, two weeks prior to construction, exclusion fencing shall be installed around the entire work area. Fencing shall be at least 36 inches

above ground level and buried 4 to 6 inches into the ground, and shall have a gate to allow access to the work area, but shall remain closed when not in use, particularly overnight. Fencing can be made of plywood and/or erosion mesh, and shall contain one-way escape funnels. The fencing shall be monitored daily by construction personnel and inspected by a qualified biologist one per week, and shall remain intact for the duration of the project.

Mitigation Measure 1c: A qualified biologist shall monitor the initial removal of vegetation on the project site. Immediately prior to vegetation removal, the qualified biologist shall survey the work area for red-legged frogs and San Francisco garter snakes. If California red-legged frogs or San Francisco garter snakes are observed in the work area, work shall cease and the USFWS and CDFG contacted for guidance. If no California red-legged frogs or San Francisco garter snake are observed during the vegetation removal effort, then no additional biological monitoring (other than exclusion fence inspections, mentioned above) shall be performed unless a California red-legged frog or San Francisco garter snake is subsequently reported by construction personnel or others in the area. If a California red-legged frog or San Francisco garter snake is observed on or near the project site, USFWS and CDFG shall be contacted immediately and they may require daily biological monitoring and other mitigation measures.

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

Residual Significance: Less than Significant

Potential Significant Impact 2: Suitable nesting habitat for saltmarsh common yellowthroat occurs off the project site but within the Study Area, primarily in arroyo willow habitat along Pullman Ditch. In addition, trees and shrubs on the project site and surrounding Study Area provide suitable habitat for other species protected under the MBTA and Fish and Game codes. According to project plans, several trees will be removed during project construction, potentially directly impacting nesting bird species, should they be nesting in trees slated for removal. In addition, noise and other disturbance during construction could adversely impact nesting bird species in the surrounding Study Area, potentially resulting in nest abandonment. Impacts to protected nesting bird species are considered potentially significant.

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

Residual Significance: Less than Significant

5.3 Other Sensitive Biotic Resources

5.3.1 Wetland and Riparian Habitat

As discussed in Section 4.3, no likely wetlands or riparian areas were observed on the project site itself. However, the CCC should be contacted for concurrence, and they may require a formal wetland delineation or other measures to make a definitive wetland determination. According to project plans, a portion of the arroyo willow will be removed for the access road. Assuming the arroyo willow is not determined to be a jurisdictional wetland, impacts to it would be considered less than significant. However, the tree does provide some habitat for common wildlife species, and tree trimming/disturbance should be minimized to the maximum extent feasible.

Riparian habitat occurs near the project site along Pullman Ditch. The Riparian habitat potentially qualifies as an ESHA under the CCA/LCP.

According to Section 3-11(a) of the LCP, *"On both sides of riparian corridors, from the 'limit of riparian vegetation', extend buffer zones 50 feet outward for perennial streams and 30 feet outward for intermittent streams."* This requirement is also contained in Section 18.38.075 (D)(1) of the City of Half Moon Bay Zoning Code, where the "Riparian Buffer Zone" is defined as: *"land on both sides of the riparian corridors which extends from the "limit of riparian vegetation" 50 feet outward for perennial streams and 30 feet outward for intermittent streams."* Since Pullman Ditch is an intermittent stream, the setback from the "limit of riparian vegetation" would be 30 feet. However, Section 18.38.085(D) of the Zoning Code states that *"the minimum buffer surrounding a habitat of a rare or endangered species shall be 50 feet."* Since Pullman Ditch contains some suitable habitat (though marginal) for "rare and endangered species" (e.g., California red-legged frog and San Francisco garter snake) the setback from the limit of suitable habitat should be 50 feet.

The project site occurs ~85 feet from the "limit of riparian vegetation" and "habitat of a rare or endangered species" (considered here to be the top of bank of Pullman Ditch or the drip-line of vegetation rooted below top of bank, whichever is greater). Therefore, the proposed project occurs outside of both the riparian and "rare and endangered species" buffer zone as defined by the City.

5.3.2 Other Sensitive Habitats

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

6.0 CONCLUSIONS

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

Two special-status wildlife species, California red-legged frog and San Francisco garter snake, are expected to have a low potential for occurrence on the project site but some potential to inhabit nearby Pullman Ditch, and could therefore potentially be adversely impacted by the proposed project.

One additional special-status wildlife species, saltmarsh common yellowthroat, is not expected to nest on the project site, but could potentially nest along Pullman Ditch, and therefore be indirectly impacted by the proposed project. In addition, other nesting bird species protected under the Migratory Bird Treaty Act and Fish and Game Codes have potential to nest on the project site and surrounding Study Area. All potential impacts to special-status wildlife and nesting bird species can be reduced to less than significant levels with the incorporation of mitigation measures discussed in this report.

No likely wetlands or Riparian habitat were observed on the project site, but the CCC should be contacted for concurrence. Pullman Ditch occurs ~85 feet south of the project site and supports some marginal Riparian habitat and is considered a potential riparian ESHA. The riparian habitat itself will not be directly impacted by the proposed project. No other sensitive habitats were observed on the project site or surrounding Study Area.

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

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

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

Species	Status	Typical Habitat	Potential for Occurrence on Project Site	Potential Project Impacts
PLANTS				
Acanthomintha duttonii San Mateo thorn-mint	FE, SE, List 1B.1	Chaparral, valley and foothill grassland (serpentinite), 50-300 m. Blooms April-June.	**Low.** No suitable micro habitat present on project site. Out of elevational range.	**None.**
Agrostis blasdalei Blasdale's bent grass	List 1B	Coastal bluff scrub, coastal dunes, coastal prairie. Sandy or gravelly soil close to rocks w/ sparse vegetation, 5-150 m. Blooms May-July.	**Low.** No suitable micro habitat present on project site.	**None.**
Allium peninsulare var. *franciscanum* Franciscan onion	List 1B.2	Cismontane woodland, valley and foothill grassland (clay, often on serpentine), dry hillsides, 100-300 m. Blooms May-June.	**Low.** No suitable micro habitat present on project site. Out of elevational range.	**None.**
Amsinckia lunaris bent-flowered fiddleneck	List 1B.2	Coastal bluff scrub, cismontane woodland, valley and foothill grassland, 3-500 m. Blooms March-June.	**Low.** Ruderal grassland provides some marginal macro habitat components, but habitat quality is poor and no documented occurrences in vicinity.	**None.**
Arabis blepharophylla coast rock cress	LCP, List 4.3	Broadleafed upland forest, coastal bluff scrub, coastal prairie, coastal scrub, 3-1,100 m. Blooms February-May.	**Low.** No suitable habitat present on project site.	**None.**
Arctostaphylos andersonii Santa Cruz manzanita	List 1B.2	Broadleafed upland forest, chaparral, North Coast coniferous forest (openings, edges), 60-730 m. Blooms November-April.	**None.** No manzanita or suitable habitat present on project site.	**None.**
Arctostaphylos montaraensis Montara manzanita	List 1B.2	Chaparral, coastal scrub, 150 to 500 m. Blooms January-March.	**None.** No manzanita or suitable habitat present on project site.	**None.**
Arctostaphylos regismontana Kings Mountain manzanita	List 1B.2	Broadleafed upland forest, chaparral, North Coast coniferous forest, 305-730 m. Blooms January-April.	**None.** No manzanita or suitable habitat present on project site.	**None.**
Astragalus pycnostachyus var. *pycnostachyus* coastal marsh milk-vetch	List 1B.2	Coastal dunes (mesic), coastal scrub, marshes and swamps (coastal salt, streamsides), 0-30 m. Blooms April-October.	**None.** No suitable habitat present on project site.	**None.**
Centromadia parryi ssp. *parryi* pappose tarplant	List 1B.2	Coastal prairie, meadows and swamps (coastal salt), valley and foothill grassland (vernally mesic/often alkaline), 2-420 m. Blooms May-November.	**Low.** No suitable micro habitat present on project site.	**None.**
Chorizanthe cuspidata var. *cuspidata* San Francisco Bay	List 1B.2	Coastal bluff scrub, coastal dunes, coastal prairie, coastal scrub (sandy), 3-215 m. Blooms April-August.	**None.** No suitable habitat present on project site.	**None.**

Species	Status	Typical Habitat	Potential for Occurrence on Project Site	Potential Project Impacts
spineflower				
Cirsium andrewsii Franciscan thistle	List 1B.2	Broadleafed upland forest, coastal bluff scrub, coastal prairie (sometimes serpentinite), 0-150 m. Blooms March-July.	**Low.** No suitable micro habitat present on project site.	**None.**
Cirsium fontinale var. *fontinale* fountain thistle	FE, SE, List 1B.1	Chaparral (openings), valley and foothill grassland (serpentinite seeps), 90-175 m. Blooms June-October.	**Low.** No suitable micro habitat present on project site.	**None.**
Collinsia multicolor San Francisco collinsia	List 1B.2	Closed-cone coniferous forest, coastal scrub (sometimes serpentinite), 30-250 m. Blooms March-May.	**None.** No suitable habitat present on project site.	**None.**
Cordylanthus maritimus ssp. *palustris* Point Reyes bird's-beak	List 1B.2	Marshes and swamps (coastal salt), 0-10 m. Blooms June-October.	**None.** No suitable habitat present on project site.	**None.**
Dirca occidentalis western leatherwood	List 1B.2	Broadleafed upland forest, chaparral, closed-cone coniferous forest, cismontane woodland, North Coast coniferous forest, riparian forest and woodland. Usually on brushy slopes, mesic sites in mixed evergreen and foothill woodland communities, 30-550 m. Deciduous shrub, blooms January-April.	**None.** No suitable habitat present on project site .	**None.**
Eriogonum luteolum var. *caninum* Tiburon buckwheat	List 3.2	Chaparral, coastal prairie, valley and foothill grassland (serpentinite), 10-500 m. Blooms May-September.	**Low.** No suitable micro habitat present on project site.	
Eriophyllum latilobum San Mateo wooly sunflower	FE, SE, List 1B.1	Cismontane woodland (serpentinite, often on roadcuts), 45-150 m. Blooms May-June.	**None.** No suitable habitat present on project site.	**None.**
Erodium macrophyllum round-leaved filaree	List 1B.1	Cismontane woodland, valley and foothill grassland (clay), 15-1,200 m. Blooms March-May.	**Low.** Ruderal grassland provides some marginal macro habitat components, but habitat quality is poor and no documented occurrences in vicinity.	**None.**
Erysimum franciscanum San Francisco wallflower	LCP, List 4.2	Chaparral, coastal dunes, coastal scrub, valley and foothill grassland (serpentinite, granite, coastal dunes), 0-520 m. Blooms March-June.	**Low.** No suitable micro habitat present on project site.	**None.**
Fritillaria biflora var. *ineziana* Hillsborough chocolate lily	List 1B.1	Cismontane woodland, valley and foothill grassland (serpentinite), 150-500 m. Blooms March-April.	**Low.** No suitable micro habitat present on project site.	**None.**
Fritillaria liliacea fragrant fritillary	List 1B.2	Cismontane woodland, coastal prairie, coastal scrub, valley and foothill grassland (often serpentinite), 3-410 m. Blooms February-April.	**Low.** No suitable micro habitat present on project site.	**None.**
Grindelia hirsutula var.	List 1B.2	Coastal bluff scrub, coastal scrub, valley and foothill	**Low.** No suitable micro habitat present on	**None.**

Species	Status	Typical Habitat	Potential for Occurrence on Project Site	Potential Project Impacts
maritima San Francisco gumplant		grassland (sandy or serpentinite), 15-400 m. Blooms August-September.	project site.	
Hesperolinon congestum Marin western flax	FT, ST, List 1B.1	Chaparral, valley and foothill grassland (serpentinite), 5-370 m. Blooms April-June.	**Low.** No suitable micro habitat present on project site.	**None.**
Horkelia cuneata ssp. *sericea* Kellogg's horkelia	List 1B.1	Closed-cone coniferous forest, chaparral, coastal dunes, coastal scrub (sandy or gravelly openings), 10-200 m. Blooms April-September.	**Low.** No suitable habitat present on project site.	
Horkelia marinensis Point Reyes horkelia	List 1B.2	Coastal dunes, coastal prairie, coastal scrub (sandy), 5-350 m. Blooms May to September.	**Low.** No suitable micro habitat present on project site.	**None.**
Leptosiphon croceus coast yellow linanthus	List 1B.1	Coastal bluff scrub, coastal prairie, 10-150 m. Blooms April-May.	**None.** No suitable habitat present on project site.	**None.**
Leptosiphon rosaceus rose linanthus	List 1B.1	Coastal bluff scrub, 0-100 m. Blooms April-July.	**None.** No suitable habitat present on project site.	**None.**
Lessingia arachnoidea Crystal Springs lessingia	List 1B.2	Cismontane woodland, coastal scrub, valley and foothill grassland (serpentinite), 60-200 m. Blooms July-October.	**Low.** No suitable micro habitat present on project site.	**None.**
Limnanthes douglasii ssp. *sulphurea* Point Reyes meadowfoam	SE, LCP, List 1B.2	Coastal prairie, meadows and seeps, marshes and swamps (freshwater), vernal pools, 1-140 m. Blooms March-May.	**Low.** No suitable habitat present on project site. Last seen in San Mateo County in 1968. Believed to be extirpated from the County.	**None.**
Lupinus eximius San Mateo tree lupine (=Davy's bush lupine)	LCP, List 3.2	Chaparral, coastal scrub, 90-550 m. Blooms April-July.	**None.** No suitable habitat present on project site.	**None.**
Malacothamnus aboriginum Indian Valley bush mallow	List 1B.2	Chaparral, cismontane woodland (rocky, often in burned areas), 150-1700 m. Blooms April-October.	**None.** No suitable habitat present on project site. Out of elevational range.	**None.**
Malacothamnus arcuatus arcuate bush mallow	List 1B.2	Chaparral, 15-355 m. Blooms April-September.	**None.** No suitable habitat present on project site.	**None.**
Malacothamnus davidsonii Davidson's bush mallow	List 1B.2	Chaparral, cismontane woodland, coastal scrub, riparian woodland, 185-855 m. Blooms June-January.	**Low.** No suitable habitat present on project site. Out of elevational range.	
Malacothamnus hallii Hall's bush mallow	List 1B.2	Chaparral, coastal scrub, 10-760 m. Blooms May-September.	**None.** No suitable habitat present on project site.	**None.**
Microseris paludosa marsh microseris	List 1B.2	Closed-cone coniferous forest, cismontane woodland, coastal scrub, valley and foothill grassland, 5-300 m. Blooms April-June.	**Low.** No suitable micro habitat present on project site.	**None.**
Pedicularis dudleyi Dudley's lousewort	List 1B.2, SR	Chaparral (maritime), cismontane woodland, North Coast coniferous forest, valley and foothill grassland, 60 to 900 m. Blooms April-June.	**Low.** No suitable habitat present on project site, out of elevational range.	**None.**

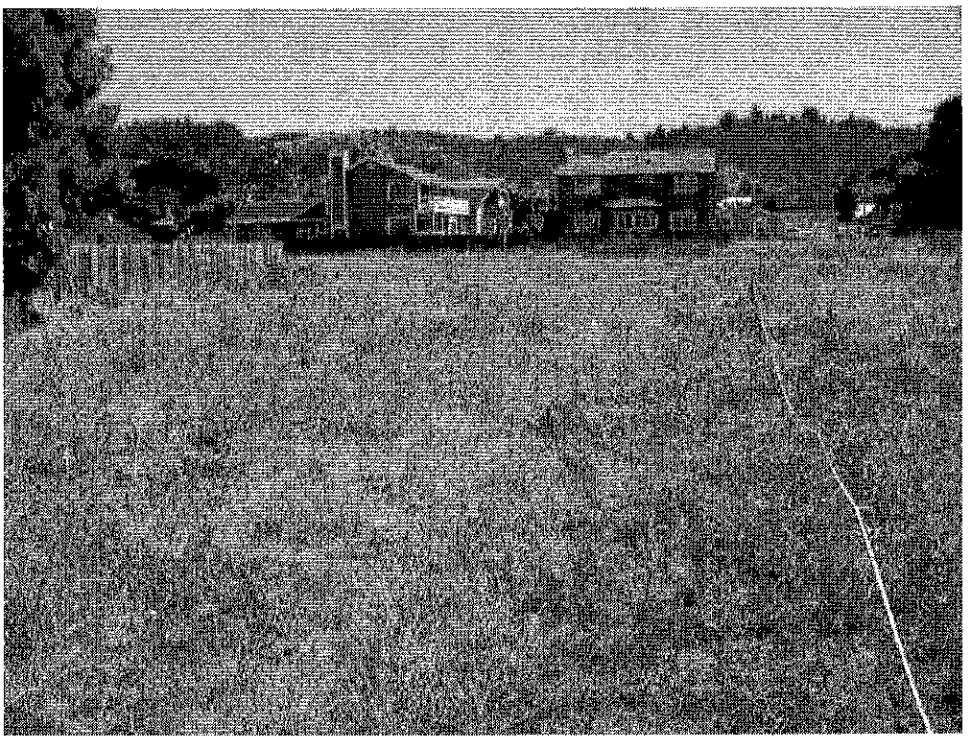
Species	Status	Typical Habitat	Potential for Occurrence on Project Site	Potential Project Impacts
Pentachaeta bellidiflora white-rayed pentachaeta	FE, SE, List 1B.1	Valley and foothill grassland. Open dry rocky slopes and grassy areas, often on soils derived from serpentine bedrock, 35-620 m. Annual herb, blooms March-May.	**Low.** No suitable micro habitat present on project site. Out of elevational range.	**None.**
Perideridia gairdneri ssp. *gairdneri* Gairdner's yampah	LCP, List 4.2	Broadleafed upland forest, chaparral, coastal prairie, valley and foothill grassland, vernal pools, 0-365 m. Blooms June-October.	**None.** No suitable habitat present on project site. Likely extirpated from San Mateo County. Field visits observed during species recorded blooming period and it was not observed.	**None.**
Plagiobothrys chorisianus var. *chorisianus* Choris's popcorn-flower	List 1B.2	Chaparral, coastal prairie, coastal scrub (mesic), 15-100 m. Blooms March-June.	**Low.** No suitable micro habitat present on project site.	**None.**
Potentilla hickmanii Hickman's cinquefoil	FE, SE, List 1B.1	Coastal bluff scrub, closed-cone coniferous forest, meadows and seeps (vernally mesic), marshes and swamps (freshwater), 10-135 m. Blooms April-August.	**Low.** No suitable habitat present on project site.	**None.**
Silene verecunda ssp. *verecunda* San Francisco campion	List 1B.2	Coastal bluff scrub, chaparral, coastal prairie, coastal scrub, valley and foothill grassland (sandy), 30-645 m. Occurs primarily on mudstone, shale, or serpentine. Blooms March-August.	**Low.** No suitable micro habitat present on project site. Out of elevational range. Field visits observed during species recorded blooming period and it was not observed.	**None.**
Trifolium depauperatum var. *hydrophilum* saline clover	List 1B.2	Marshes and swamps, valley and foothill grassland (mesic, alkaline), vernal pools, 0-300 m. Blooms April-June.	**Low.** No suitable micro habitat present on project site.	**None.**
Triquetrella californica coastal triquetrella	List 1B.2	Coastal bluff scrub, coastal scrub, 10-100 m.	**Low.** No suitable habitat present on the project site.	**None.**
Triphysaria floribunda San Francisco owl's-clover	List 1B.2	Coastal prairie, coastal scrub, valley and foothill grassland (usually serpentinite), 10-160 m. Blooms April-June.	**Low.** No suitable micro habitat present on project site.	**None.**
WILDLIFE				
Invertebrates				
Danaus plexippus monarch butterfly	Winter roosts sensitive (CDFG)	Winter roost sites extend along the coast from northern Mendocino to Baja. Roosts in wind-protected tree groves (eucalyptus, Monterey pine, cypress), with nectar and water sources nearby.	**Low.** No suitable winter roost habitat present on the project site. Nearby trees along Pullman Ditch lack wind protection and, regardless, will not be impacted by the proposed project.	**None.**
Fishes				
Oncorhynchus mykiss irideus steelhead – central California	FT	From Russian River south to Soquel Creek and to, but not including, the Pajaro River. Also includes San Francisco	**None.** No fish habitat present on the project site. Nearby Pullman Ditch is	**None.**

Species	Status	Typical Habitat	Potential for Occurrence on Project Site	Potential Project Impacts
coast ESU		and San Pablo Bay Basins.	intermittent, does not support fish, and will not be impacted by proposed project.	
Amphibians				
Rana aurora draytonii California red-legged frog	FT, CSC	Breeds in semi-permanent and perennial water sources often with dense, shrubby or emergent riparian vegetation including stock ponds and marshes; uses a variety of wetland habitats including streams during the summer months.	**Low in project site; Moderate in Study Area.** Project site doesn't support suitable upland or breeding habitat, but Pullman Ditch provides foraging and sheltering habitat, especially when water is present.	**Yes: Mitig. Measures 1a, b, c, d**
Reptiles				
Emys (=Clemmys) marmorata western pond turtle	CSC	Inhabits permanent or nearly permanent bodies of water in many habitat types below 6000 ft. elevation. Typically nests in grassy, open habitat.	**Low.** No suitable habitat present on the project site.	**None.**
Thamnophis sirtalis tetrataenia San Francisco garter snake	FE, SE, FP	Vicinity of freshwater marshes, ponds, and slow moving streams in San Mateo and extreme northern Santa Cruz Counties. Prefers dense wetland cover that supports ranid frog prey and adjacent uplands with open scrub areas	**Low in project site; Low in Study Area.** No suitable habitat present on the project site. Marginal habitat present in Pullman Ditch but only if amphibian prey are present.	**Yes: Mitig. Measures 1a, b, c, d**
Birds				
Accipiter cooperii (nesting) Cooper's hawk	CSC	Nest sites mainly in deciduous riparian trees, in canyon bottoms and river flood plains, and live oaks.	**None.** No nesting habitat on project site or surrounding Study Area.	**None.**
Accipiter striatus (nesting) sharp-shinned hawk	CSC	Open deciduous woodlands, forests. Prefers riparian habitat.	**None.** No nesting habitat on project site or surrounding Study Area.	**None.**
Circus cyaneus (nesting) northern harrier	CSC	Nests on ground in grassy vegetation, usually at marsh edge.	**Low.** No nesting habitat within project site or adjacent Study Area due to nearby urbanization; may forage on or near site.	**None.**
Elanus leucurus (nesting) white-tailed kite	FP	Open grassland, meadows, or marshes, for foraging, close to isolated, dense-topped trees for nesting and perching.	**Low.** No nesting habitat on project site or surrounding Study Area due to nearby urbanization; may forage onsite.	**None.**
Asio flammeus (nesting) Short-eared owl	CSC	Nest on ground in wet meadows, marshes; forage in open habitats	**None.** No suitable nesting habitat present on the project site or surrounding Study Area.	**None.**
Dendroica petechia brewsteri(nesting) yellow warbler	CSC	Nests in riparian areas that typically support willows with one or more larger species such as cottonwoods, aspens, sycamores, and alders.	**Low.** No suitable nesting habitat present on project site or surrounding Study Area.	**None.**
Geothlypis trichas sinuosa saltmarsh common yellowthroat	BCC, CSC	Fresh and saltwater marshes. Requires thick, continuous cover down to water surface for foraging; nests in tall grasses, tule patches, and willows.	**Moderate.** No nesting habitat present on project site, but suitable nesting habitat present on Study Area in stand of arroyo	**Yes: Mitig. Measure**

Species	Status	Typical Habitat	Potential for Occurrence on Project Site	Potential Project Impacts
			willow.	2
Mammals				
Antrozous pallidus pallid bat	CSC	Roosts in caves, trees and buildings; forages in variety of habitats	**Low.** Trees on the project site do not support bat roosting habitat. Trees and buildings in the surrounding Study Area could potentially support bat roosts, but these will not be disturbed by the proposed project.	**None.**
Neotoma fuscipes annectens San Francisco dusky-footed woodrat	CSC	Forest habitats of moderate canopy and moderate to dense understory. Also in chaparral habitats. Constructs houses of shredded grass, leaves, and other material.	**Low.** No potential suitable habitat on the project site and no woodrat houses observed. Some marginal habitat components present along Pullman Ditch within the Study Area, but no woodrat houses observed, and, even if present, would not be disturbed by the proposed project.	**None.**
Taxidea taxus American badger	CSC	Most abundant in drier open stages of most shrub, forest, and herbaceous habitats, with friable soils. Needs sufficient food, friable soils, and open, uncultivated ground. Prey's on burrowing rodents. Digs burrows.	**None.** Not expected due to proximity of urbanization.	**None.**

Key to Status:	
BCC	Federal Bird of Conservation Concern
FE	Federal Endangered
FT	Federal Threatened
SE	State Endangered
ST	State Threatened
SR	State Rare
CSC	California Department of Fish and Game Species of Special Concern
FP	California Department of Fish and Game Fully Protected Species
List 1B	CNPS list of plants rare, threatened, or endangered in California and elsewhere
List 2	CNPS list of plants rare, threatened, or endangered in California but more common elsewhere
List 3	CNPS list of plants for which more information is needed; a review list
List 4	CNPS list of plants of limited distribution; a watch list
.1/.2/.3	Seriously endangered in California/Fairly endangered in California/ Not very endangered in California
LCP	Listed in the 1993 City of Half Moon Bay LCP

Photograph 1. Pullman Ditch, ~85 feet south of the project site, Half Moon Bay, CA.



Photograph 2. Portion of the project site, looking ~northeast, Half Moon Bay, CA.

Exhibit K

DECLARATION OF MARC GRADSTEIN IN SUPPORT OF APPEAL

The undersigned, under penalty of perjury, pursuant to the laws of the State of California, declares that the following statements are true and correct and, that if called to testify I could competently do so of my own personal knowledge.

1. This declaration is being filed both as an explanation of the reason for the filing of some of the previous attachments and to supply information which has been received by the undersigned since the Half Moon Bay City Council meeting on January 17, 2012.

2. Exhibit J is a biotic assessment of the area, dated September, 2007, by Coast Range Biological, LLC, in regard to another proposed project ~85 feet north of Pullman Ditch. The study area encompassed Pullman Ditch.

   At page 7, first paragraph under 4.2 "**Special-status Wildlife**":
   "However, two species, California red-legged frog (*Rana aurora draytonii)* and San Francisco garter snake (*Thamnophis sirtalis tetrataenia)* have some potentiality to occur on the Study Area along Pullman Ditch, and due to the mobility of each species, could occur incidentally on the project site. One special-status bird species, could occur incidentally on the poject site. One special-status bird species, saltmarsh common yellowthroat (*Geothlypis trichas sinuosa*) is not expected to nest on the project, but could nest in nearby Pullman Ditch on the Study Area. In addition, trees and shrubs on the project site in the road right of way, and trees and shrubs on the surrounding Study Area, support potential nesting habitat for other bird species protected under the Migratory Bird Treaty Act (MBTA) and California Fish and Game Codes. Potential significant impacts that may occur to special-status wildlife, and corresponding mitigation measures, are addressed in Section 5.2."

   At page 8, second full paragraph, under heading "**California Red-legged Frog (*Rana aurora draytonii*), Federal Status: Threatened; State Status: Species of Special Concern**":
   "However, due to the proximity of marginal suitable habitat in Pullman Ditch in

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GRADSTEIN & GORMAN
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SUITE 101
ALF MOON BAY, CA 94019
TEL: (650) 560-0123

relation to the project site and mobility of the species, California red-legged frogs could occur incidentally on the project site, if they seek temporary cover during project construction, especially during the rainy season. Mitigation measures are recommended (in Section 5.0) to reduce or eliminate any significant impacts to the species."

At page 10, entitled **"Riparian Habitat"**:
"Therefore, though most vegetation within the ditch is not undisturbed or typical riparian vegetation, it is considered broad 'riparian habitat' based on fulfilling some marginal riparian functions and values. . .The Riparian habitat is considered a potential ESHA under the CCA/LCP."

At page 12, entitled **"Potential Significant Impact 2"**:
"Suitable nesting habitat for saltmarsh common yellowthroat occurs off the project site, but within the Study Area, primarily in arroyo willow habitat along Pullman Ditch. In addition, trees and shrubs on the project site and surrounding Study Area provide suitable habitat for other special protected under the MTA and Fish and Game codes. . . .Impacts to protected nesting bird species are considered potentially significant."

At page 13, section 5.3, entitled **"Other Sensitive Biotic Resources; 5.3.1 Wetland and Riparian Habitat":**
"Riparian habitat occurs near the project site along Pullman Ditch. The Riparian habitat potentially qualifies as an ESHA under the CCA/LCP."
At page 13, 14, entitled "**Conclusions**":
"Two special-status wildlife species, California red-legged frog and San Francisco garter snake, are expected to have. . .some potential to inhabit nearby Pullman Ditch, and could therefore potentially be adversely impacted by the proposed project.
"One additional special-status wildlife species, saltmarsh common yellowthroat. . .could potentially nest along Pullman Ditch, and therefore be indirectly impacted by the proposed project. In addition, other nesting bird species protected under the Migratory Bird Treat Act and Fish and Game Codes have potential to nest on the project site and surrounding Study Area. . .
". . .Pullman Ditch occurs ~85 feet south of the project site and supports some marginal Riparian habitat and is considered a potential riparian ESHA."

3. On January 28, 2012 the applicant, Mark Stoloski, met with my wife, Jane Gorman, and me at our house, 2805 Naples Avenue, Half Moon Bay. Mr. Stoloski's

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unexpected visit was, he said, an effort on his part to explain his plan for the proposed 48 inch water drainage pipe and the narrower sewer pipe. He told us that he had heard that we were planning to appeal to the California Coastal Commission, and that he hoped that we could reach an agreement that would make such an appeal unnecessary.

4. He showed us where he planned to dig a six foot wide by six foot deep trench to accommodate the 48 inch water drainage pipe. Contrary to the Tentative Parcel Map which has been submitted by the applicant to the Half Moon Bay Planning Commission regarding this project (Attached as Exhibit H):

a. There is a manhole located approximately 22 to 24 feet from the Pullman Ditch, to which the proposed new sewer line would be attached.

b. There is also an east-west row of six "heritage" cypress trees just to the east of that manhole cover, also approximately 22 to 24 feet from the Pullman Ditch. These do not appear on the Tentative Parcel Map.

Mr. Stoloski explained to us that the trench for the water drainage pipe would begin approximately seven feet south of the ditch and extend approximately six feet wide. He explained that the sewer pipe would connect with manhole from which an existing sewer runs to the north.

Therefore, it would appear to be almost inevitable, that the digging of these two pipes would result in both the loss of all of the pine trees which are on the Tentative Parcel Map, and of the cypress trees which are omitted from the map.

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Mr. Stoloski said that the water drainage pipe would enter the Pullman Ditch at Naples Avenue, at an angle, and empty into the Ditch.

We expressed our concern that all the trees would probably be lost as a result of his plan, and that the ditch would have to accommodate much more water in times of heavy flow than has historically been necessary, thus creating a backup at the Coastal Trail, which would, in-turn, flow back and overflow at Naples Avenue.

He said that he would have Kerry Burke, who is managing the project call us and discuss our concerns the following week. He also told us that after the construction of the pipes, he would sell the property immediately to the south of us, and that the undeveloped land south of that would then be subdivided into single family residences.

We have not heard from Ms. Burke and the week has passed.

5. Exhibit I is a recent aerial photograph of the area being discussed above. Our house is shown at "A." The two sets of trees adjacent to our house are to the south, and appear from the air to be one stand of trees. This is because their branches overlap each other. It is my understanding that if the proposed subdivision is allowed to proceed as planned, all of those heritage trees would be lost. The trees are home to owls, raptors (such as hawks) and a variety of small birds.

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The foregoing declaration was signed in Half Moon Bay, California on February 4, 2012.

Marc Gradstein

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Exhibit L

Speakers at the December 13, 2012, Planning Commission Meeting
PDP-009-10

Kerry Burke
34 Amesport Landing
Half Moon Bay, CA 94019

Mark Stoloski
727 Main Street
Half Moon Bay, CA 94019

Mark Gradstein
2805 Naples Avenue
Half Moon Bay, CA 94019

Jane Gorman
2805 Naples Avenue
Half Moon Bay, CA 94019

Thomas J. Carey
2920 Woodside Road
Woodside, CA 94062

Don Torre
16 Kimmet Court
Belmont, CA 94002

James Kellenberger
2855 Naples
Half Moon Bay, CA 94019

Sandy Paoli
2647 Washington
Redwood City, CA 94061

Michael Ashley
509 Georgetown Avenue
San Mateo, CA 94402

Geoff Riley
WRA
2169-G East Francisco Blvd
San Rafael, California 94901

Corresponence:

Suzan Suer
301 Washington Blvd
Half Moon Bay, CA 94019

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN MATEO)

I am employed in the County of San Mateo, State of California. I am over the age of 18 and not a party to the within action. My business address is 80 Stone Pine Road, Suite 101, Half Moon Bay, CA 94019.

On this date, I served the document(s) described as **APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT, WITH ATTACHMENTS A - L** on the interested parties in this action as follows:

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

Half Moon Bay Planning Commission
501 Main Street
Half Moon Bay, CA 94019

Army Corps of Engineers
1455 Market Street
San Francisco, CA 94103-1398

California Department of Fish and Game
7329 Silverado Trail
Napa, CA 94558

U.S. Fish and Wildlife Service
Coast-Bay Delta Branch
2800 Cottage Way
Sacramento, CA 95825

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California Department of Parks & Recreation

1416 9th Street
Sacramento, CA 95814

Mark Stoloski
727 Main Street
Half Moon Bay, CA 94019

Stoloski & Gonzales, Inc.
727 Main Street
Half Moon Bay, CA 94019

Kerry Burke
34 Amesport Landing
Half Moon Bay, CA 94019

Thomas J. Carey
2920 Woodside Road
Woodside, CA 94062

Don Torre
16 Kimmet Court
Belmont, CA 94002

James Kellenberger
2855 Naples Avenue
Half Moon Bay, CA 94019

Sandi Paoli
2647 Washington
Redwood City, CA 94061

Michael Ashley
509 Georgetown Avenue
San Mateo, CA 94402

Geoff Riley
WRA
2169–G East Francisco Blvd.
San Rafael, CA 94901

Proof of Service

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FAX: (650) 560-0124

Susan Suer
301 Washington Blvd.
Half Moon Bay, CA 94019

_X___ (BY U.S. MAIL) I caused such envelope with postage thereon fully prepaid for delivery by first class mail to be place in the U.S. Mail box in Half Moon Bay, California on this date.

____ (BY OVERNIGHT MAIL) I caused such envelope with fees thereon fully prepaid for overnight delivery to be placed in the pickup box in Half Moon Bay, California on this date for pickup by the designated overnight carrier.

_____ (BY FACSIMILE TO JONATHAN RICHTER) I caused such document to be sent by facsimile to the aforementioned numbers on this date.

This document was executed under penalty of perjury under the laws of the State of California on February 6, 2012 in Half Moon Bay, California.

Jessica Weber
Law Office of Gradstein & Gorman

Proof of Service

LAW OFFICE OF
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CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT
1385 8th Street, Suite 130
ARCATA, CA 95521
(707) 826-8950

MEMORANDUM

FROM: John D. Dixon, Ph.D.
Ecologist

TO: Jeannine Manna

SUBJECT: Stoloski Project

DATE: March 13, 2014

Documents reviewed:

DeLeon, S. (California Department of Fish and Wildlife). 2013. Email letter dated November 4, 2013 regarding "Final draft of CDFW opinion of Pullman ditch, north Cabrillo Highway subdivision, Stoloski subdivision."

Garcia and Associates. 2007. Preliminary Wetland Delineation Report. Waters of the United States, including wetlands and deepwater habitats. California Department of Transportation Pullman Ditch improvement project, San Mateo County, State Route 1. A report to Caltrans dated August 2007.

Jennings, M. (Rana Resources). 2014. Letter to J. Manna (CCC) dated February 9, 2014 regarding the status of the Pullman ditch as potential habitat for California red-legged frogs and San Francisco garter snakes.

Tattersall, E. (U.S. Fish & Wildlife Service). 2014. Letter to J. Manna (CCC) dated January 07, 2014 regarding "Suitable habitat for listed species within the Pullman drainage, Half Moon Bay, San Mateo County, California.

Webb, P. (City of Half Moon Bay). 2012. Letter to M. Cavalieri (CCC) dated May 9, 2012 regarding "Appeal from Local Coastal Permit Decision."

WRA Environmental Consultants. 2010. North Cabrillo Highway subdivision biological resource assessment. A report to the City of Half Moon Bay dated January 2010.

WRA Environmental Consultants. 2011. North Cabrillo Highway subdivision project, recirculated Initial Study. A report to the City of Half Moon Bay dated October 2011.

WRA Environmental Consultants. 2011. Letter to K. Burke dated August 8, 2013 regarding "Coastal Commission Appeal of Stoloski Subdivision, A-2-HMB-12-005.

The proposed project is located on a parcel that is parallel and adjacent to the southern edge of the Pullman ditch (Figures 1 & 2). The Pullman ditch is a man-made ditch that currently drains portions of Highway 1 and portions of the large nursery complex east of the highway. The ditch begins at the mouth of a culvert under Highway 1 and continues west about 400 yards until it discharges onto the beach at the State Park. From bank to bank, the ditch is as much as 15 feet wide. The stream channel is generally two to seven feet in width, is bounded by a cement-block retaining wall at its eastern end, and passes through several culverts under or adjacent to houses, the park road, and the coastal trail. The ditch intermittently conveys flows and may contain small ponded areas during portions of the year. At the eastern end of the ditch near Highway 1 there is about 0.01 acre of wetlands within the channel (Figure 3) that meet both the federal definition and the wetland definition in the Local Coastal Program (Garcia and Associates 2007). Based on aerial photographs, the area adjacent to the ditch was largely unvegetated until sometime between about 1974 and 1982. Over most of its length it is now heavily vegetated; however, with the exception of a small stand of willows and blackberry thickets, most of the vegetation is ruderal, ornamental, or planted Monterey cypress and Monterey Pine. It appears that only the small stand of willows meets the definition of "riparian vegetation" in the Local Coastal Program[1].

Despite the fact that most of the habitat along the ditch is significantly degraded, it may periodically be used by and therefore can "support" California red-legged frogs and San Francisco garter snakes, which are federally listed as "threatened" and "endangered," and state listed as a "species of special concern" and "endangered," respectively. Due largely to the low quality of the ditch and a perceived lack of connectivity to other suitable habitats, the City's consultant, WRA (2010) believes that the likelihood that these species use the ditch is low and concludes that "CRLF are not expected to be present in the Project Area or in the surrounding 200-foot-wide Study Area" and that Pullman ditch does not provide suitable dispersal habitat for S.F garter snakes and that the snakes are "unlikely to occur in the Project and Study Areas." The applicant's consultant, Mr. Mark Jennings (a herpetologist who has studied these species), concludes that, "…the Pullman Ditch is not suitable for (or inhabited by) CRLF and SFGS due to the lack of sustained surface water conditions, the proximity and extent of urbanization (with documented frog and snake predators), and the great distance to the nearest suitable CRLF and SFGS habitat via an extremely narrow coastal scrub/iceplant corridor that is regularly patrolled by domestic cats and raccoons."

The professional opinions of the consultants for the City and the applicant contrast sharply with the professional opinions of biologists for the California Department of Fish and Wildlife and the U. S. Fish and Wildlife service, who since 2006 have cautioned that the Pullman ditch provides suitable dispersal and foraging habitat for these species. After visiting the site in February 2006, Lucy Triffleman (USFWS) stated[2] that, "the

[1] WRA (2010) contends that even the willows do not meet the definition of "riparian vegetation" because they do not constitute at least 50% vegetative cover. However, this calculation is inappropriately based on the proportion of the entire length of the Pullman ditch that is covered by willows rather than the ground cover within the actual willow stand.

[2] Email from L. Triffleman (USFWS) to D. Dakins (City of Half Moon Bay) dated March 14, 2006.

Service does not agree with the conclusion SFGS are not found in the area and in fact proposes that the Pullman ditch corridor is almost certainly used by this species as well as the California red-legged frog as a migration corridor between breeding populations and feeding areas." On August 21, 2013, U.S. Fish and Wildlife Service biologists Dan Cordova and Sheila Larson (a S.F garter snake expert[3]) visited the site. They concluded[4] that the Pullman ditch is potential habitat for both California red-legged frogs and San Francisco garter snakes and found that Triffleman's earlier assessment "still holds true." In a formal letter (Tattersall 2014), the Service concluded that the Pullman drainage provides suitable dispersal and foraging habitat for both the snake and the frog. The California Department of Fish and Wildlife (DeLeon 2013) points out that red-legged frogs have been documented to use similar habitats for dispersal and concludes that the absence of the California red-legged frog and San Francisco garter snake from the Pullman ditch cannot be assumed. In recent correspondence[5], it was stated that, "It is still CDFW's recommendation, the project proponent assume presence of CRLF and SFGS in the project area and appropriately follow ESA/CESA/DFG Code regulations or be liable for potential enforcement action."

The biologists who have proffered opinions on this matter have experience with these species, have visited the site, and are in essential agreement as to the physical characteristics of the Pullman ditch and surrounding areas. They disagree only regarding the likelihood that San Francisco garter snakes and California red-legged frogs use the Pullman ditch for dispersal and foraging. I conclude from the evidence that has been presented and several visits to the site that the Pullman ditch is degraded habitat that is not appropriate breeding habitat for these sensitive species and may not be regularly inhabited, but it does provide dispersal and foraging habitat that may be periodically used by both species. Since Pullman ditch thus "supports" rare species and since it is an intermittent stream, Pullman ditch meets the definition of "a sensitive habitat" under Section 3-1 of the City's Land Use Plan[6].

It has been proposed that two bridges be constructed over Pullman ditch and that associated roads plus residential cul de sacs be constructed within a 50-foot buffer adjacent to the ditch. The structures themselves would have relatively little effect on the quality of habitat within the ditch. The road would displace some upland habitat that might otherwise be periodically used when frogs or snakes were present, but the area would be small relative to the size of the buffer. The greatest risk to these sensitive species would be road use, which would put them at risk of being crushed. Roadways are particularly dangerous for snakes because they hold heat and are attractive for

[3] Larsen, S.S. 1994. Life history aspects of the San Francisco garter snake at the Millbrae habitat site. M.S. Thesis, California State University, Hayward.
[4] Email from D. Cordova (USFWS) to K. Geisler (CCC) dated August 26, 2013.
[5] Email from S. DeLeon (CDFW) to J. Manna (CCC) and D. Cordova (USFWS) dated January 10, 2014.
[6] 3-1 Definition of Sensitive Habitats
(a) Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and as those areas which meet one of the following criteria: (1) habitats containing or supporting "rare and endangered" species, (2) all perennial and intermittent streams and their tributaries,….

basking. It is difficult to assess the risk of "take"[7] resulting from the proposed development because it is a joint function of the likelihood these species would be present in the ditch habitat, the likelihood that they would move into the upland area, and the likelihood that they would move onto the roadway and be killed, none of which is known. However, an incidental take permit may be required by the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife.

Local Coastal Program Policy 3-25 requires "developers to make sufficiently detailed analysis of any construction which could impair the potential or existing migration routes of the SF garter snake. Such analyses will determine appropriate mitigation measures to be taken to provide for appropriate migration corridors." Based on the opinions of the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife, the Pullman ditch is a "potential or existing" migration route for California red-legged frogs and San Francisco garter snakes. I recommend that the developer's consultant assume such use of the Pullman ditch in order to develop appropriate mitigation measures as required by the LCP.

[7] "Take" is to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

Figure 1. Landscape view of the Pullman ditch. California red-legged frogs have been documented to occur in Frenchman's Creek.

Figure 2. Pullman Ditch from Highway 1 to the beach.

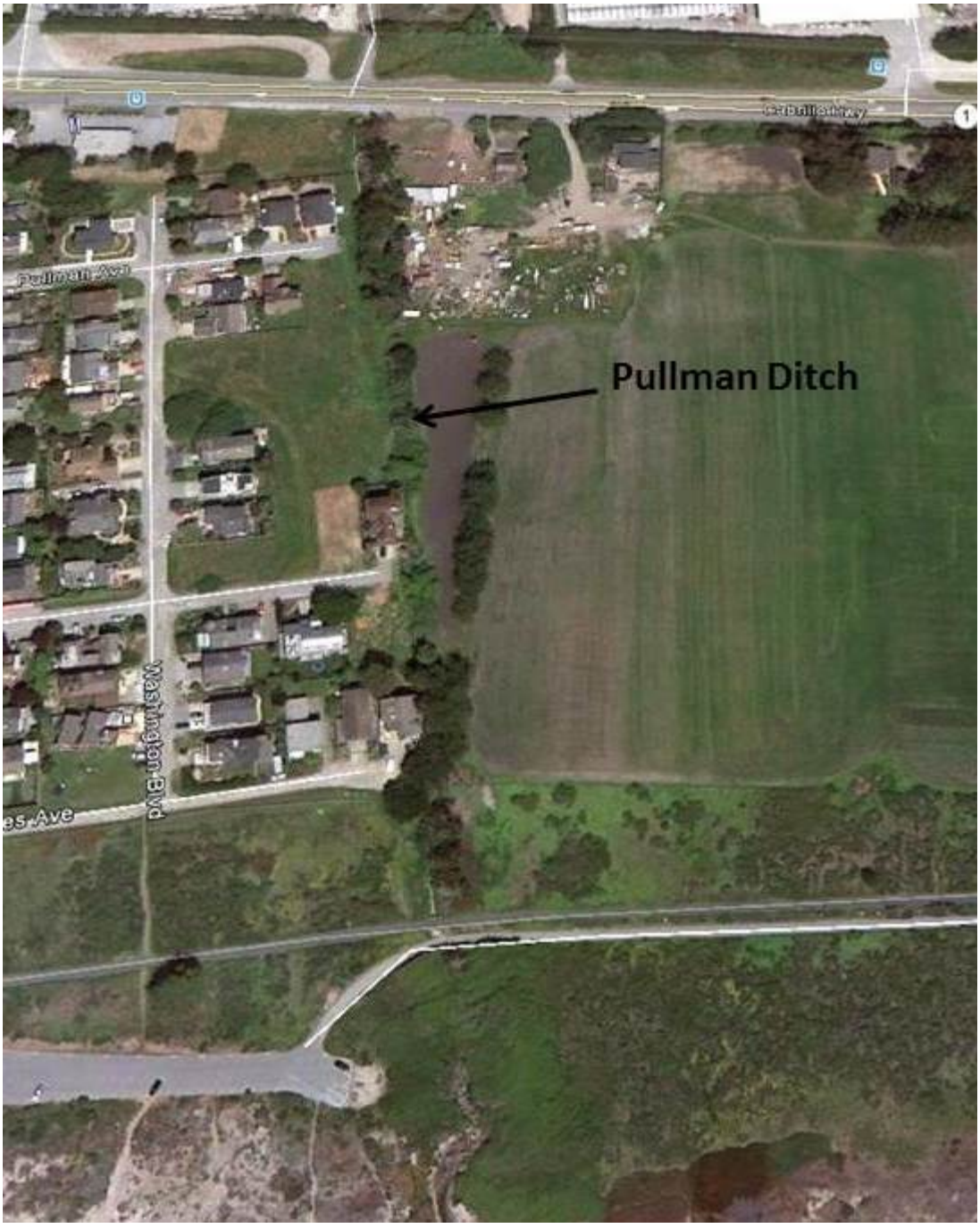

Figure 3. Results of a wetland delineation for Caltrans conducted on March 7, 2007 (from Figure 3-1 in Garcia and Associates 2007). The study area was only the reach of Pullman Ditch between Pullman Avenue and Highway 1.

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846

In Reply Refer To:
08ESMF00-2014-TA-0159

JAN 0 7 2014

Jeannine Manna
District Supervisor
North Central Coast District
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California 94105

Subject: Suitable Habitat for Listed Species within the Pullman Drainage, Half Moon Bay, San Mateo County, California

Dear Ms. Manna,

This correspondence is being sent in response to your December 9, 2013 electronic mail request for clarification regarding the U.S. Fish and Wildlife Service's (Service) position that the Pullman Drainage in Half Moon Bay provides suitable habitat for both the California red-legged frog (*Rana draytonii*) and San Francisco garter snake (*Thamnophis sirtalis tetrataenia*), and whether habitat alteration would constitute take under the Endangered Species Act of 1973 (as amended)(Act).

The California red-legged frog and the San Francisco garter snake are known to use upland habitat for dispersal and foraging. Suitable upland habitat has been documented as including, but is not limited to, ephemeral drainages, grasslands, dense riparian vegetation, rodent burrows, and similar features within 2 miles of breeding sites. The Pullman drainage contains these features, and therefore provides suitable upland dispersal and foraging habitat. Documented occurrences of both species are located within dispersal distance of the Pullman drainage. Due to the presence of suitable upland habitat and the lack of survey data, it is reasonable for the Service to consider that the Pullman drainage, and potentially similar drainages throughout the Half Moon Bay area, is occupied by both species. Therefore, projects occurring in these areas have the potential to result in take of the California red-legged frog and San Francisco garter snake.

Section 9 of the Act prohibits the take of any federally listed animal species by any person subject to the jurisdiction of the United States. Within the Act, take is defined as "...to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Within the definition of take, harm has been further defined in 50 CRF § 222 to

include habitat modification or degradation when it kills or injures a listed species by interfering with essential behavioral patterns, such as breeding, migration, foraging, or resting. Thus, the California red-legged frog and San Francisco garter snake are protected from activities that cause their death or injury through damage or destruction of their habitat. Additionally, harass has been defined as "to intentionally or negligently, through act or omission, create the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns such as breeding, feeding, and sheltering."

Take incidental to an otherwise lawful activity may be authorized by one of two procedures. If a federal agency is involved with the permitting, funding, or carrying out of the project and a listed species is going to be adversely affected, then initiation of formal consultation between that agency and the Service pursuant to section 7 of the Act is required. Such consultation could result in a biological opinion addressing the anticipated effects of the project to the listed species and may authorize a limited level of incidental take. If a federal agency is not involved in the project, and federally listed species may be taken as part of the project, then an incidental take permit pursuant to section 10(a)(1)(B) of the Act should be obtained. The Service may issue such a permit upon completion of a satisfactory conservation plan for the listed species that would be taken by the project.

If you have any questions regarding this correspondence, please contact Dan Cordova (Dan_Cordova@fws.gov) or Coast Bay Forest Foothills Division Chief, Ryan Olah (Ryan_Olah@fws.gov) at (916) 414-6600.

Sincerely,

for Eric Tattersall
Deputy Assistant Field Supervisor

cc:
Suzanne DeLeon, California Department of Fish and Wildlife

Manna, Jeannine@Coastal

From: Geisler, Karen@Coastal
Sent: Wednesday, October 16, 2013 10:41 AM
To: Deleon, Suzanne@Wildlife
Cc: Manna, Jeannine@Coastal
Subject: FW: Pullman: CRLF & SFGS

Karen J Geisler, Coastal Program Analyst
California Coastal Commission, Central Coast District
725 Front Street, Suite 300, Santa Cruz, CA 95060
Phone: (831) 427 4863 Fax: (831) 427 4877
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From: Cordova, Dan [mailto:dan_cordova@fws.gov]
Sent: Wednesday, August 28, 2013 12:27 PM
To: Geisler, Karen@Coastal
Cc: Sheila Steen Larsen (Sheila_Larsen@fws.gov)
Subject: Re: Pullman: CRLF & SFGS

Hi Karen,

After answering some of your questions during our last phone conversation I figured I had better send a follow-up email regarding my use of the term "potential habitat". The Pullman drainage area provides suitable upland dispersal and foraging habitat for the California red-legged frog and the San Francisco garter snake. Due to the known occurrences of both species being located within dispersal distance of the Pullman drainage, the presence of suitable habitat on site, and the lack of survey data, it is reasonable for the Service to consider that the Pullman drainage, and potentially similar drainages throughout the Half Moon Bay area, are occupied by both species, and therefore potentially affected by project activities within these areas.

I hope this clarifies our brief exchanges.

Sincerely,

Dan

Dan Cordova
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
Coast Bay Forest Foothills Division
Sacramento Fish and Wildlife Office
2800 Cottage Way
Sacramento, CA 95825
916-414-6600

On Tue, Aug 27, 2013 at 7:57 AM, Geisler, Karen@Coastal <Karen.Geisler@coastal.ca.gov> wrote:

Good morning Dan and Sheila:

I just tried to call you, Dan, as I have a quick question. Please can you help me to answer it? Would an incidental take permit be required for the Pullman Ditch project because there is potential habitat here for CRLF and SFGS? Please let me know.

Thank you!

~Karen

Karen J Geisler, Coastal Program Analyst

California Coastal Commission, Central Coast District

725 Front Street, Suite 300, Santa Cruz, CA 95060

Phone: (831) 427 4863 Fax: (831) 427 4877

Karen.Geisler@coastal.ca.gov

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From: Cordova, Dan [mailto:dan_cordova@fws.gov]
Sent: Monday, August 26, 2013 10:35 AM
To: Geisler, Karen@Coastal
Subject: Re: Pullman: CRLF & SFGS

Karen,

On August 21, 2013, U.S. Fish and Wildlife Biologists Sheila Larsen and myself visited the Pullman ditch area.

The U.S. Fish and Wildlife Service still considers the Pullman Ditch area as potential habitat for the San Francisco garter snake (SFGS) and the California red-legged frog. Furthermore, Triffleman's assessment; "the Pullman ditch corridor is almost certainly used by this species (SFGS) as well as the California red-legged frog as a migration corridor between breeding populations and feeding areas" still holds true.

Sincerely,

Dan Cordova

Fish and Wildlife Biologist

U.S. Fish and Wildlife Service

Coast Bay Forest Foothills Division

Sacramento Fish and Wildlife Office

2800 Cottage Way

Sacramento, CA 95825

916-414-6600

On Tue, Aug 20, 2013 at 10:29 AM, Geisler, Karen@Coastal <Karen.Geisler@coastal.ca.gov> wrote:

Hello Sheila and Dan:

Can you help me with a project I'm working on, please? Actually, it's a recommended denial for a project proposed adjacent to Pullman Ditch in Half Moon Bay. The bio report claims there is no sensitive habitat or sensitive species to be found here and consequently the project does not have 50ft setbacks. It is my understanding that there is a likelihood of the presence of frog or snake in this area and therefore the project needs to take effective measures for protection before it can be approved.

I want to be sure of the facts. It would be great to have your feedback and input even if your comments are provided through email it would be helpful. The project originally proposed to place the ditch into a culvert and this would have triggered an Army Corps permit but now that bridges are proposed to span the ditch, I don't think this will be the case. However, understanding USFWS viewpoint is key to direct the project requirements.

In the first attachment (Applicant's response):

On pg 6 there is a statement from Lucy Triffleman dated 2006. Is this still current information?

On pg 14 is the WRA response to the Commission's view that there is sensitive habitat here – and sensitive species could be found here, which in WRA's opinion is NOT the case. I'm also attaching a copy of their bio report.

In the Bio report (2010):

On pg 18 -19 discuss absence of CRLF

On pg 22 SFGS “unlikely to occur”

Please can you take a quick look at these 2 reports (I refer to the relevant pages above) and give me your feedback? I would really appreciate it.

If you have questions, my direct line is 831 427 4879.

Thank you!

Best

~Karen

Karen J Geisler, Coastal Program Analyst

California Coastal Commission, Central Coast District

725 Front Street, Suite 300, Santa Cruz, CA 95060

Phone: (831) 427 4863 Fax: (831) 427 4877

Karen.Geisler@coastal.ca.gov

www.coastal.ca.gov ><((((º>`·.¸¸.·´¯`·.¸.·´¯`·...¸><((((º>

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Manna, Jeannine@Coastal

From: Deleon, Suzanne@Wildlife
Sent: Monday, November 04, 2013 11:17 AM
To: Manna, Jeannine@Coastal
Cc: Weightman, Craig@Wildlife; Blinn, Brenda@Wildlife; Cordova, Dan (dan_cordova@fws.gov); Bruce Ambo (bambo@hmbcity.com) (bambo@hmbcity.com)
Subject: Final Draft of CDFW Opinion of Pullman Ditch, North Cabrillo Highway Subdivision, Stoloski Subdivision

Hello,
Please disregard the previous electronic message regarding Pullman Ditch. This letter clarifies CDFW referencing the Re-circulated Initial Study as well as the 2011 WRA report to the Commission. If you have any questions, please contact Suzanne DeLeon at Suzanne.deleon@wildlife.ca.gov or 831.440.9433. Thank you.

CDFW would like to provide more background supporting CDFW's statement quoted in the Coastal Commission Staff Report on the Stoloski Subdivision that Pullman Ditch is "definitely habitat and [a] corridor" for California red-legged frog and San Francisco garter snake, and refine the statement to be more consistent with the information currently available. CDFW considers Pullman Ditch as a potential migratory and foraging corridor for the California red-legged frog (CRLF) a California Species of Special Concern and listed as threatened under the Endangered Species Act (ESA) and San Francisco garter snake (SFGS), a species listed as endangered under both the ESA and The California Endangered Species Act and fully protected under Section 5050 of the Fish and Game Code. Pullman Ditch is within reasonable dispersal distances of known CRLF and SFGS locations. A new sighting of a CRLF in December, 2012 approximately 0.80 miles south of Pullman Ditch on Wave Avenue occurred after the release of The Re-circulated Initial Study for the North Cabrillo Highway Subdivision Project, October 2011 (Attached CNDDB Form not yet entered into the CNDDB database). This particular animal was found just after a rain in an open space area between two drainages that CRLF are known to inhabit. The same habitat exists between drainages around Pullman Ditch and within the matrix of coastal drainages within Half Moon Bay generally and it is likely CRLF will use these areas for dispersal. Also, the Initial Study and the 2011 WRA report do not discuss the Roosevelt Drainage approximately 0.15 miles north of the Pullman Ditch. This drainage has the potential to occupy CRLF, has a dense willow riparian habitat and is much closer to Pullman Ditch than the other creeks and drainages mentioned.

The 2011 WRA report states a biological reconnaissance was conducted of the Property and the Study Area on November 11, 2010. The WRA report states the site was traversed "…on foot to determine (1) the presence of sensitive coastal resources or habitat areas (ESHAs); and (2) if existing conditions provided suitable habitat for any rare, endangered, or unique plant or wildlife species (special status species), including a detailed habitat assessment specifically for endangered CRLF and SFGS known to occur in the vicinity of the Project Area." The WRA report states "The site visit does not constitute a protocol-level survey and is not intended to determine the actual presence or absence of a species; however, if a special status species is observed during the site visit, its presence will be recorded and discussed." The WRA report states Pullman Ditch may provide aquatic non-breeding habitat, may provide suitable upland habitat and the Project Area is within

CRLF dispersal distance of other known populations. The WRA report states CRLF is not likely expected to be present in the Project Area or Pullman Ditch because dispersal barriers exist.

CRLF are known to disperse across open fields and agricultural lands or through culverts. In the City of Burlingame, one CRLF was found in a very small section of a daylighted creek that was culverted up- and downstream, surrounded by a chain-link fence and a paved parking lot (Location: 37°35'38.14"N, 122°22'12.01"W; (Patrick Kobernus, Principal at Crecology; Suzanne DeLeon, CDFW personal observation). In a study by Fellers and Kleeman (2007), one radio-transmitted CRLF had moved 1.0 km either across a two-lane paved road or under the road through a culvert to a small tributary of Olema Creek, Marin County. CRLF have also been found dispersing and migrating in open areas and migration studies show migration corridors can include agricultural fields just tilled or in operation (Bulger, 2003). Bulger (2003) and Fellers and Kleeman, (2007), also found CRLF do not necessarily have to follow drainages during their migration and movement occurred either in a straight line toward the location they wanted to head no matter the vegetation, cover or topography in the area or across a grazed pasture to a riparian area. Because summer fog is prevalent along the coast, CRLF could move through the summer using grassland without risking desiccation unlike in inland or other warmer climates (Fellers and Kleeman, 2007).

On Page 29 of the Initial Study, there is a conclusion that SFGS do not occupy Pullman Ditch because their main prey item, CRLF, is absent. CRLF are not the only prey item of SFGS and CRLF and other frog species could occur at times on this site.

Based on the lack of site specific surveys for CRLF and SFGS in this area; the fact there is a matrix of creeks, drainages, agricultural ditches and open space in the area; known occurrences of CRLF and SFGS in the general area; and sufficient dispersal habitat; one cannot biologically validate the absence of these species without further intensive surveys.

References

Bulger, J.B., N. J. Scott Jr., and R. B. Seymour. 2003. Terrestrial activity and conservation of adult California Red-legged Frogs *Rana aurora draytonii* in coastal forests and grasslands. Biological Conservation 110: 85-95.

Fellers. G.M. and P.M Kleeman. 2007. California Red-Legged Frog (*Rana draytonii*) Movement and Habitat Use: Implications for Conservation. Journal of Herpetology, Vol 41. No 2. pp 271-281, 2007.

Suzanne DeLeon
Environmental Scientist
California Dept. Fish and Wildlife
Bay Delta Region
7329 Silverado Trail
Napa, Ca 94558
831.440.9433

Mail to:
California Natural Diversity Database
Department of Fish and Game
1807 13th Street, Suite 202
Sacramento, CA 95811
Fax: (916) 324-0475 email: CNDDB@dfg.ca.gov

Date of Field Work (mm/dd/yyyy): 12/24/2012

For Office Use Only
Source Code _____ Quad Code _____
Elm Code _____ Occ. No. _____
EO Index No. _____ Map Index No. _____

Reset

California Native Species Field Survey Form

Send Form

Scientific Name: *Rana draytonii*

Common Name: California red-legged Frog

Species Found? ☑ Yes ☐ No _____ If not, why?

Total No. Individuals 1 Subsequent Visit? ☐ yes ☑ no

Is this an existing NDDB occurrence? _____ Yes, Occ. # ☑ no ☐ unk.

Collection? If yes: _____ Number _____ Museum / Herbarium

Reporter: James Benjamin
Address: 400 Pilarcitos Avenue
Half Moon Bay, CA 94019
E-mail Address: jamben@pacbell.net
Phone: (650) 713-0186

Plant Information

Phenology: _____% vegetative _____% flowering _____% fruiting

Animal Information

_____ # adults _____ # juveniles _____ # larvae _____ # egg masses 1 # unknown

☐ wintering ☐ breeding ☐ nesting ☐ rookery ☐ burrow site ☐ other

Location Description ***(please attach map AND/OR fill out your choice of coordinates, below)***

On street in front of 403 Wave Avenue (near intersection with Pilarcitos Avenue) in Half Moon Bay.

County: San Mateo Landowner / Mgr.: Public right-of-way
Quad Name: Half Moon Bay Elevation: 33 feet
T____ R____ Sec ____, ____ ¼ of _____¼, Meridian: H☐ M☐ S☐ Source of Coordinates (GPS, topo. map & type): GoogleMaps
T____ R____ Sec ____, ____ ¼ of _____¼, Meridian: H☐ M☐ S☐ GPS Make & Model _____
DATUM: **NAD27** ☐ **NAD83** ☐ **WGS84** ☑ Horizontal Accuracy _____ meters/feet
Coordinate System: UTM Zone 10 ☐ UTM Zone 11 ☐ ***OR*** Geographic (Latitude & Longitude) ☑
Coordinates: Lat. 37.477918, Long. -122.446379

Habitat Description (plants & animals) *plant communities, dominants, associates, substrates/soils, aspects/slope:*
Animal Behavior *(Describe observed behavior, such as territoriality, foraging, singing, calling, copulating, perching, roosting, etc., especially for avifauna):*

Found carcass on shoulder of Wave Avenue, residence is next to open space.

Frog may have been attempting to colonize new habitat, or to forage in adjacent habitat during or after after the previous evening's cool rainstorm, and may have been hit by a car.

Mr. Michael E. Peck, 568 Pilarcitos Avenue (shown with dogs in attached picture) also observed carcass.

Please fill out separate form for other rare taxa seen at this site.

Site Information Overall site/occurrence quality/viability (site + population): ☐ Excellent ☐ Good ☐ Fair ☐ Poor

Immediate AND surrounding land use: Neighborhood street, adj. to Casa del Mar subdivision, undeveloped PUD (scrub habitat), and state beach

Visible disturbances: auto traffic, illegal off-road vehicles.

Threats: Illegal off-road vehicles, weed abatement (aestivation), development

Comments: The red-legged frog apparently occupied available appropriate habitat in the open space adjacent to the residence. After photography where encountered, I removed and froze carcass, which will be offered to California Academy of Sciences. USFWS, CAFWS, Coastal Commission Staff will receive copies of this observation.

Determination: *(check one or more, and fill in blanks)*

☐ Keyed (cite reference): _____
☐ Compared with specimen housed at: _____
☐ Compared with photo / drawing in: _____
☑ By another person (name): Mark R. Jennings
☐ Other: _____

Photographs: *(check one or more)* Slide Print Digital

Plant / animal ☐ ☑ ☑
Habitat ☐ ☑ ☑
Diagnostic feature ☐ ☐ ☐

May we obtain duplicates at our expense? yes ☑ no ☐

A-2-HMB-12-005
Exhibit 8
Page 9 of 10

DFG/BDB/1747 Rev. 6/16/09

Manna, Jeannine@Coastal

From: Deleon, Suzanne@Wildlife
Sent: Friday, January 10, 2014 4:07 PM
To: Manna, Jeannine@Coastal; Cordova, Dan (dan_cordova@fws.gov)
Subject: RE: Stoloski Update

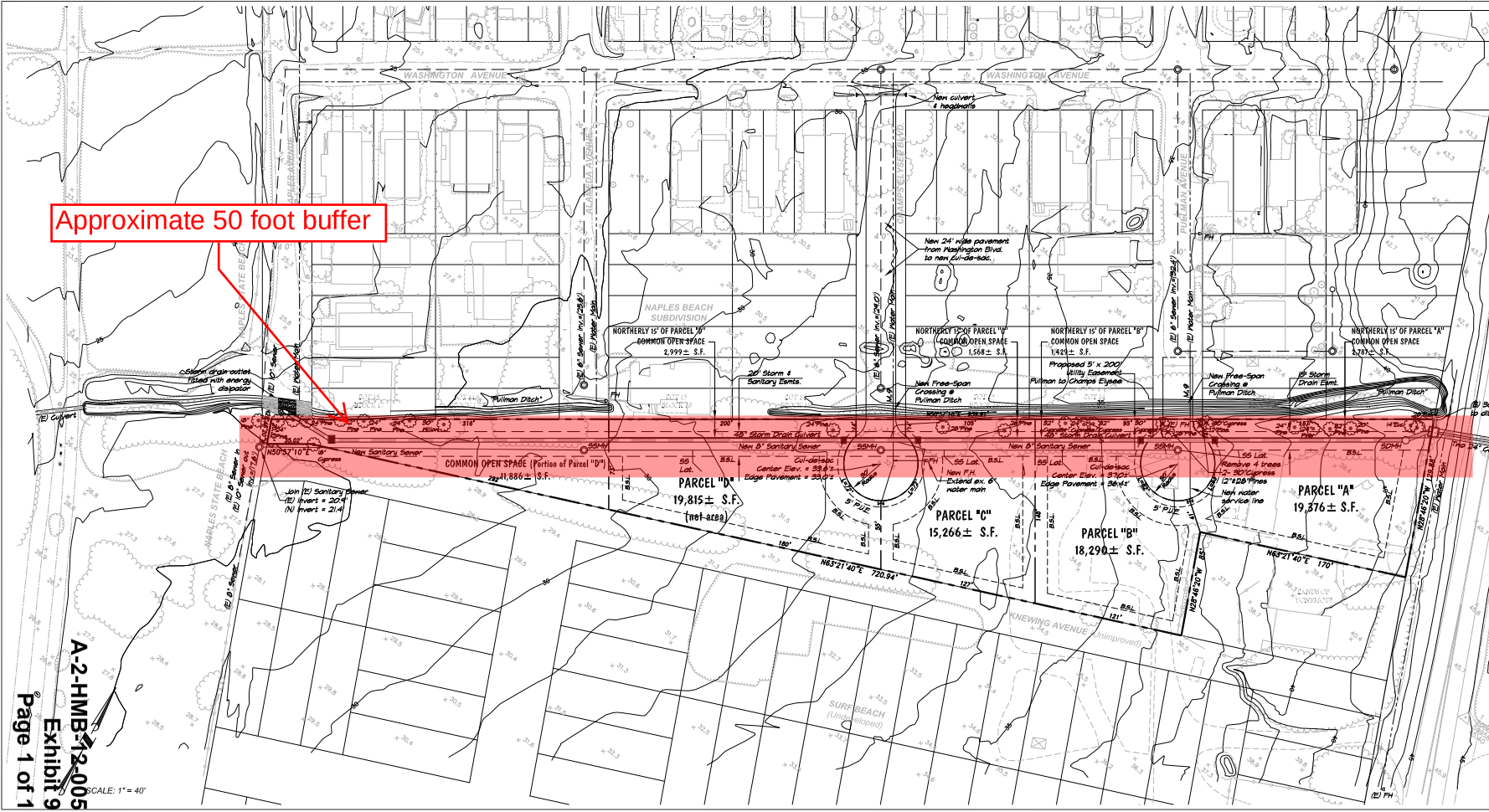
HI,
The letter is already with management for review and much time and effort was put into the review, so it will probably go out next week. It's interesting Mark Jennings is their new biologist. However, at this point, I believe there is not much more that can be said. Mark Jennings will be writing a letter to the Coastal Commission and if you need technical assistance, we can help provide it, but we most likely will not respond to him with another formal letter. We can only speak to our regulations and not to how their project relates to the LCP or to your jurisdiction. It is still CDFW's recommendation, the project proponent assume presence of CRLF and SFGS in the project area and appropriately follow ESA/CESA/DFG Code regulations or be liable for potential enforcement action.

Suzanne DeLeon
Environmental Scientist
California Dept. Fish and Wildlife
Bay Delta Region
7329 Silverado Trail
Napa, Ca 94558
831.440.9433

From: Manna, Jeannine@Coastal
Sent: Friday, January 10, 2014 3:55 PM
To: Cordova, Dan (dan_cordova@fws.gov); Deleon, Suzanne@Wildlife
Subject: Stoloski Update

Hi Dan and Suzanne,
Just wanted to update you on the Stoloski project as we had a meeting with their biologists today to discuss the frog and snake issue at Pullman Ditch. Their biologists (Mark Jennings and Dana Riggs) continue to assert that the ditch is not used by the species based on the lack of water, food source, and dispersal distances from nearby sites. Their biologists are planning to formally submit comments in a letter within the next few weeks. I hope to discuss this document with you once it is sent to us.
Suzanne, since your letter has not been finalized yet, I thought it may be appropriate to put the final review on hold until we receive the letter from their biologists in case there is something else you would like to address. I communicated this to Brenda Blin this morning via voicemail, as we had discussed the review process yesterday. I very much appreciate your feedback on this project. Please let me know if you have any questions.
Thank you,
Jeannine

Jeannine Manna
District Supervisor
North Central Coast District
California Coastal Commission
(415)-904-5250
Jeannine.Manna@coastal.ca.gov



A-2-HMB-12-005

Exhibit 9

Page 1 of 1

GRAPHIC SCALE

0 40 60 80 120 200

SCALE: 1" = 40'

PROJECT STATEMENTS:

A. EXISTING ZONING: P.U.D.

B. PROPOSED LAND USE IS 4 SINGLE FAMILY LOTS

PROJECT STATEMENTS (cont'd):

Q. COPIES OF THE TITLE REPORT ACCOMPANY THIS MAP.

R. SWIMMING POOLS ARE EXEMPT FROM LOT COVERAGE REQUIREMENT.

ZONING:

City of Half Moon Bay

Land Use Plan and Access

Adopted by Resolution C-51-10 of the Half Moon Bay City Council on June 6, 2010

LEGEND

Land Use Plan

	R-M	Residential - Medium Density
	R-H	Residential - High Density
	C-G	Commercial - General
	C-V	Commercial - Visitor Serving
	IND-L	Industrial - Light
	U-R	Urban Reserve
	OS-R	Open Space Reserve
	PR-R	Public Recreation - Regional
	PR-L	Public Recreation - Local & Open Space
	R-C	Riparian Habitat
	B-H	Business - Horticultural
	PD	Planned Development District
	PS	Public Facilities & Institutions

Facilities

CP	CP	City Park (Existing)
CPF	CPF	City Park (Future)
P	BP	Beach Parking
	EP	Equestrian Parking
	GOLF	Golf Course
	OTH	Other Facility
	RV	RV Park

Trails - Bike & Pedestrian

	Existing
	Proposed

Routes

	Beach Access Route
	Greenbelt - Stream Corridor
	Proposed Beach Access Route

This map depicts parcel information from the San Mateo County Assessor's Office. Assessor's parcels are mapped for tax purposes only; therefore, this map should not be used to determine if a parcel is a legal lot for land development purposes. Legal lots are those that are validly created or recognized under the State Subdivision Map Act and local ordinances.

Due to limitations inherent to the mapping process, the precise location of features depicted on this map may not be as shown. Any questions that may arise should be referred to the City of Half Moon Bay Planning Department. Actual locations of features shall govern for regulatory purposes.

City of Half Moon Bay
501 Main Street
Half Moon Bay, CA 94019
Modified by CSG Consultants

April 2013
Scale 1:9,000
1" = 750'

0 1/8 1/4 1/2 3/4 1 Mile

DISCLOSURE OF EX PARTE COMMUNICATIONS

Date and time of receipt of communication:
March 10, 2014 at 10:00 am

Location of communication:
Redwood City

Type of communication:
In person

Person(s) in attendance at time of communication:
Dante Hall, Bruce Ambo, Tony Condotti

Person(s) receiving communication:
Carole Groom

Name or description of project:

Item W14a – Appeal No. A-2-HMB-14-0004 (Half Moon Bay Drainage Maintenance)

LCP Amendment No. HMB-MAJ-1-11

Appeal No. A-2-HMB-12-005 (Stoloski)

Appeal No. A-2-HMB-12-011 (320 Church Street)

Tsunami Siren Appeal

Detailed substantive description of the content of communication:

The staff representatives of the City of Half Moon Bay indicated that the drainage maintenance appeal (Appeal No. A-2-HMB-14-0004) should be denied because this is routine work that needs to be done for the safety of residents. They indicated that it involves the clearing of vegetation in drains to reduce fire and flooding risks. As a part of the drainage maintenance appeal, the representatives indicated that the Kehoe Ditch has been identified as dispersal habit for garter snake and red legged frog, despite being a manmade ditch. They indicated that the city met with Fish & Wildlife Service and Army Corps of Engineers to make modifications to ensure a "no substantial issue" finding.

Regarding LCP amendments, the city staff is in agreement with coastal commission staff regarding proposed R-1 development standards; however they are not in agreement regarding the relocation of the architectural and historic code amendments. Because of this disagreement, city staff requested that the amendments could be addressed separately so that the items in agreement can be approved, while additional areas of disagreement could be resolved or further studied, or that staff could recommend denial to return to further study.

Regarding the Stoloski appeal, representatives indicated that the project should be approved because Dr. Jennings, an expert in sensitive habitat, attested that no red-legged frogs are located in the Pullman ditch.

Representatives indicate that appeal (Appeal No. A-2-HMB-12-011) was based on the safety of development in a tsunami inundation zone and its location in a floodplain, but studies have shown that even if natural disasters occur simultaneously, the property is safe. Furthermore, city staff indicated that coastal commission staff may be in support of traffic mitigation that involves purchasing another parcel elsewhere for retirement from development for each parcel developed. However, the city attorney indicated that this is unconstitutional because it doesn't mitigate traffic impact in a logical way.

City staff indicated that the appeal is based on the siren sound being disruptive to sensitive receptors near the ditch. City staff indicated that the City Council agreed to lower the volume by half; however engineers required it be amended back to full volume. This item went to the Coastal Commission in 2009.

Date: Apr 7 2014

Signature of Commissioner: Carole Groom

DISCLOSURE OF EX PARTE COMMUNICATIONS

Date and time of receipt of communication:
March 19, 2014 at 2:00 pm

Location of communication:
Redwood City

Type of communication:
In person

Person(s) in attendance at time of communication:
Kerry Burke, Stanley Lamport, Mark Stoloski

Person(s) receiving communication:
Carole Groom

Name or description of project:
Appeal No. A-2-HMB-12-005 (Stoloski Subdivision, Half Moon Bay)

Detailed substantive description of the content of communication:

The representatives indicated that coastal commission staff will recommend denial of the project because the staff biologist agrees with the findings of the Fish & Wildlife Service. They mentioned that FWS findings indicate that there is a potential for sensitive habitat in the ditch because red legged frog have been found in similar environments. The representatives attested that there have been four independent survey reports and none of the reports have revealed the current existence of red legged frog, and the representatives also indicated that Dr. Mark Jennings, a specialist with regards to sensitive habitats, wrote a letter to staff rebutting that there is not enough standing water in the ditch to support habitat.

Representatives mentioned that this project was approved in accordance with LCP guidelines and that there is no precedent for the 50 foot setback, as recommended by staff.

All materials have been provided to staff.

Date: Apr 7 2014

Signature of Commissioner: carole groom

CALIFORNIA COASTAL COMMISSION
NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT ST, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5260
FAX (415) 904-5400
TDD (415) 597-5885

Memorandum May 13, 2014

To: Commissioners and Interested Parties

FROM: Dan Carl, North Central Coast District Deputy Director
North Central Coast District

Re: ***Additional Information for Commission Meeting Thursday, May 15, 2014***

Agenda Item	Applicant	Description
Th12a	**Marin County LC P Amendment Number LCP-2-MAR-13-0224-1 Part A (Marin Land Use Plan Update)**	**Ex Parte Communication, Amy Trainer, EAC of West Marin** **Ex Parte Communication, Jack Liebster, Brian Crawford, County of Marin** **Ex Parte Communication, Amy Trainer** **Correspondence, Pacific Legal Foundation** **Correspondence, John A. Becker** **Correspondence, Linda Emme** **Correspondence, Richard and Brenda Kohn** **Email, Jules Evens** **Email, Amy Trainer** **Email, John Kelly** **Email, Tim Stanton** **Email, Michael Sewell** **Correspondence, Christian C. Scheuring** **Email, Susan Burrows**

Note: 990 email comments substantially identical to this email comment were received. This email comment is provided as a representative sample of the 990 email comments. All of the 990 email comments substantially identical to this email comment are available for review at the Coastal Commission's North Central Coast Office in San Francisco.

Correspondence, Jon Elam
Correspondence, West Marin Environmental Action Committee

Correspondence, Kirk Wilbur
Correspondence, Megan Isadore
Email, Ione Conlan
Email, Carol Smith
Email, Thomas Baty
Correspondence, Carol K Longstreth
Correspondence, Catherine Caufield
Correspondence, Bridger Mitchell
Correspondence, Kirk Wilbur
Correspondence, Louise Gregg
Correspondence, David Lewis

Th14a ***A*-2-HMB-12-005 (Stoloski, Half Moon Bay)**

Ex Parte Communication, Stanley Lamport
Ex Parte Communication, Marc Gradstein
Ex Parte Communication, Stan Lamport for applicant Stoloski
Correspondence, Lennie Roberts
Correspondence, John F. Lynch
Correspondence, Donald Torre
Correspondence, James Benjamin
Correspondence, Kenneth Rosales
Correspondence, Lennie Roberts
Correspondence, Charise Hale McHugh
Correspondence, Ralph Faust
Correspondence, Stanley W. Lamport
Correspondence, Paul Stewart
Correspondence, Stuart Schillinger

Th14b **A-2-MAR-11-025 (Caltrans, Marin County)**

Correspondence, Frank Dean
Correspondence, Andy Peri
Ex Parte Communication, Stefan Galves
Correspondence, Danita Rodriguez

Th14a

DISCLOSURE OF EX PARTE COMMUNICATIONS

Date and time of receipt of communication:
May 7, 2014 at 10:00 a.m.

Location of communication:
Redwood City

Type of communication:
Teleconference

Person(s) in attendance at time of communication:
Stanley Lamport

Person(s) receiving communication:
Carole Groom

Name or description of project:
Item Th14a – Appeal No. A-2-HMB-12-005 (Stoloski Subdivision, Half Moon Bay)

Detailed substantive description of the content of communication:
The representative identified four areas of issue with the Coastal Commission staff's findings and recommendation. First, the representative maintained that four protocol level surveys have been done of the Pullman Ditch, revealing that there is no evidence of red legged from or California garter snake, that there is evidence of heavy predation, and that there is no standing water to create viable food sources for invertebrates.

Second, the representative indicated that policies of perennial streams only apply to map overlay of environmentally sensitive habitats. He maintained that, as this site is not currently identified as a sensitive habitat, the city should first amend the overlay map with the designation of environmentally sensitive and then implement the policies instead of implement policies in spite of the overlay map designation, as the staff recommends.

Third, the representative indicated that the buffer zone provisions should refer to riparian corridors, which must be reflected in the overlay map. Similar to the sensitive habitat designation, the representative maintains that the overlay map should first be amended to show the riparian corridors, and then policies should be implemented. He maintained that the buffer zones should not apply in this situation because the riparian corridor is not on the map. Finally, the representative maintained that the proposal is consistent with planned development policies and is meant to limit density and direct access from Highway 1.

All materials have been provided to staff.

Date: May 12 2014

Signature of Commissioner: Carole Groom

Th14a

DISCLOSURE OF EX PARTE COMMUNICATIONS

Date and time of receipt of communication:
May 9, 2014 at 2:30 p.m.

Location of communication:
Redwood City

Type of communication:
Teleconference

Person(s) in attendance at time of communication:
Marc Gradstein

Person(s) receiving communication:
Carole Groom

Name or description of project:
Item Th14a – Appeal No. A-2-HMB-12-005 (Stoloski Subdivision, Half Moon Bay)

Detailed substantive description of the content of communication:

The appellant expressed concern over the approval of this project by the City of Half Moon Bay when it neglected to address the requirements of its LCP. Mr. Gradstein maintained that the LCP requires a Specific Plan for any development in a PUD district, which was not addressed prior to approval of the project.

Further, Mr. Gradstein maintained that the Pullman Ditch does fill with water and can lead to flooding during times of intense rainfall, which has not occurred recently due to drought conditions. Mr. Gradstein expressed concern for both his property and adjacent properties regarding potential flooding issues in the future that could arise based on the proposal.

Date: May 12 2014

Signature of Commissioner: Carole Groom

Th14g

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc.: Stoloski appeal .**A ppeal No. A-2-HMB-12-005**

Date and time of receipt of communication: May 12, 2014 10:30 a.m. - 10:45 a.m.

Location of communication: Santa Barbara

Type of communication (letter, facsimile, etc.): telecon 213 393 2033

Person(s) initiating communication: Stan Lamport for applicant Stoloski

The bottom line as late as the beginning of this year, they were 'assuming' the species was there pending further studies. They brought in Mark Jennings, after FW letter came in they had a meeting with staff. Exhibit 8 is Jennings letter of February , said it is impossible for species to be there. The May 6 2014 is a protocol survey which found there were no invertebrates at all in the ditch. The protocol calls for one summer survey, which hasn't happened, but using the optimal conditions they found none. The reason they found no invertebrates is because they really are not a food source, the water is not collecting long enough. They are going to get predated. If the ditch is not a sensitive habitat the buffer is not an issue.

There are no proposed homes, there is a development envelope is 30 feet from the center line of the ditch. The bridge was found by Dixon previously not to have an adverse impact. If the bridge is not allowed, the question then is where you take access. The City does not want the alternative access; they don't want infrastructure in Surf Beach. The City's objective was to reduce the number of intersections. The advantage of using the bridge is using existing roads. Not putting infrastructure in Surf Beach tract; not facilitating the conversion of the paper lots.

They did pull a building permit for the Oliva house. There was a SI hearing, and Exh 17, the appeal was withdrawn, appellants Steve Blank and Mike Reilly. There is no explanation of why. Staff claims that City had found that it was a sensitive habitat. The staff report is in exhibit 15, highlighted at p. 151 of the exhibit. The city's position was actually identical to the position the applicant is taking now.

May 12, 2014 /s/ Jana Zimmer

COMMITTEE FOR
GREEN FOOTHILLS

Th14a

May 4, 2014

ITEM TH.14.a
Support Staff

Steve Kinsey, Chair and
Members of the California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: Item TH 14. a. **Appeal No. A-2-HMB-12-005 (Stoloski**, Half Moon Bay) Appeal by Marc Grandstein and Jane Gorman of City of Half Moon Bay's decision granting permit with conditions to Mark Stoloski for subdivision of 2 parcels, totaling 2.1 acres, into 4 residential lots with associated infrastructure improvements, including utilities, in 2700 block of No. Cabrillo Hwy (State Highway One) in Half Moon Bay, San Mateo County. (JM-SF)

Dear Chair Kinsey and Commissioners,

On behalf of Committee for Green Foothills (CGF), I am writing in strong support of the Staff Recommendation that you find **the Appeal raises Substantial Issues** as to the above-referenced project's conformity with the Coastal Act and LCP. CGF further commends the staff for their thorough analysis and recommendation that you **Deny the Coastal Development Permit** for the proposed subdivision and associated development for the following reasons:

1. **Subdivision of this parcel and associated development is inconsistent with the Half Moon Bay certified LUP Policies regarding Planned Development.** The project is located within the 50-acre Surf Beach/Dunes Beach Planned Development (PD) area as designated in the certified HMB Land Use Plan. The intent of the PD designation is to ensure that large, undeveloped areas planned for residential use are planned in a comprehensive way that protects resource values, ensures coastal access, eliminates poorly planned subdivisions, and clusters development to provide open space and recreation (LCP Policies 9.8 and 9.9). LUP Policy 9.3.3 (a) specifically requires that a Specific Plan for the entire Surf Beach/Dunes Beach Area shall be prepared that shows the locations of roads and structures, and indicates the amount and location of open space, public recreation, and commercial recreation. The Specific Plan shall be subject to environmental review under city CEQA guidelines. No Specific Plan has yet been prepared for this area.

2. **The proposed project does not comply with HMB LCP Policy 9.9 which requires that PD areas use flexible design concepts to create comprehensive development plans with the goal of protecting coastal resources and provision of public open space.** The proposed project would impact sensitive habitats in and around Pullman Ditch, which provides riparian habitat and dispersal and foraging habitat for sensitive species including San Francisco garter snake and California red-legged frog. The Dunes Beach area also contains prime agricultural soils and has well documented drainage and flooding issues that

COMMITTEE FOR
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www.GreenFoothills.org

threaten nearby residential areas and the Coastal Trail. All of these constraints need to be addressed comprehensively through a Specific Plan.

3. **Approval of the proposed subdivision within the PD area amounts to piecemeal development and does not comply with the comprehensive planning that is called for in the certified HMB LUP.** The City of Half Moon Bay is currently doing a comprehensive update of its LCP. Approval of this proposed subdivision would be premature in light of the ongoing planning at the local level and could prejudice the outcome.

Please deny this Coastal Development Permit and provide clear direction to the City of Half Moon Bay that the LCP requires that the Dunes Beach/Surf Beach area must be comprehensively planned in order to protect adjacent homes and natural areas from flooding, to ensure protection of special status species, to maintain public recreation, agricultural and open space uses, and to provide for public access to the coast as required by the certified LCP.

Thank you for consideration of our views.

Sincerely,

Lennie Roberts

Lennie Roberts
San Mateo County Legislative Advocate

Th14a

San Mateo County League for Coastside Protection

May 5, 2014

California Coastal Commission Item Th.14.a (Stoloski)
North Central Coast District Office Support Staff Recommendation
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Dear Chair Kinsey and Members of the Commission:

The San Mateo County League for Coastside Protection (SMC LCP) strongly supports the Staff Recommendation that the Commission find that Appeal No A-2-HMB-12-005 (Stoloski) raises Substantial Issues as to the proposed project's conformity with the LCP and Coastal Act. Further, SMC LCP supports the Staff Recommendation for Denial of the Coastal Development Permit.

As the Staff Report points out, several elements of the project are in direct conflict with policies of Half Moon Bay's certified Local Coastal Program (LCP) which control development in and adjacent to sensitive habitat areas, in areas subject to coastal hazards such as flooding, and in LCP designated Planned Development areas.

The Staff Report observes that riparian areas are protected under the LCP whether intermittent or perennial, man-made or natural. The project is adjacent to and would affect flows in the Pullman Watercourse. The project, as proposed, and approved by the City, does not ensure an adequate buffer from the intermediate Pullman drainage and associated riparian area.

The California Department of Fish and Wildlife and the US Fish and Wildlife Service consider the project area as occupied by listed species, and have concluded that the project may result in a take of the California red-legged frog and San Francisco garter snake through degradation of upland dispersal and foraging habitat.

Furthermore, the appellants and others have reported flooding in the vicinity of the Pullman watercourse, and this project, as proposed, would increase flows in the already inadequate drainage. The LCP requires permitted development to

neither cause nor contribute to flood hazards, and there is not sufficient information to justify the City of Half Moon Bay's conclusion that the project complies with this requirement.

Finally, the project is located within the Surf Beach/Dunes Beach Planned Development (PD) district. All Planned Development districts require that a specific plan be adopted and certified prior to approval of development, but there is no such adopted plan for this district. The specific plan should include the district's beach access routes, drainage impoundments to manage flood risks and to enhance habitat, and identification and protection for the biological productivity of environmentally sensitive habitats with appropriate buffer areas.

For all these reasons, the San Mateo County League for Coastside Protection strongly endorses the conclusion of the Coastal Commission's staff, and urges the Coastal Commission to adopt the Staff Findings for Denial as outlined on page 6 of the staff reported dated May 2, 2014.

Thank you for considering our position, and for protecting the coast for future generations.

Respectfully,

John F. Lynch, (signed)
Chairman Emeritas

2098 Touraine Lane • Half Moon Bay CA 94019
LCP.sanmateo.org • ID 1234363

TH14a

Donald and Silvana Torre
16 Kimmie Court
Belmont, CA 94002

Steve Kinsey, Chair and
Members of the California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

May 8, 2014

Re: Item TH14.a.Appeal No.A-2-HMB-12-005 (Stoloski) –
Oppose staff recommendation – support Half Moon Bay approval of the project

Dear Chair Kinsey and Members of the California Coastal Commission,

We own two 50' x 100' parcels (APN 048-121-100 and 048-121-160). Pullman ditch is located along the entire length of the southern boundary of our parcels. Our property is zoned for single-family development. There are homes in our neighborhood and the adjacent Oliva parcel to our lot on Pullman Avenue has applied for a building permit. We hope to develop our lots in the future for our children.

We have always supported the Stoloski project and endorse the development of his 2+-acre parcel adjacent to our property into four future home sites. We have no objection to the proposed street extensions of Pullman that fronts our parcel APN 048-121-100 and Champs Elysee that fronts our parcel 048-121-160. There is an existing water main across the Pullman ditch at Pullman Avenue already on Mr. Stoloski's parcel and existing buildings on his parcel. The proposed project is consistent with the intent of the HMB zoning and General Plan.

The project approved by Half Moon Bay would create four large residential lots with a minimum of a 30-foot setback from Pullman ditch. **The proposed project well exceeds two other existing homes located at 2805 Naples and 2805 Alameda that are 5 feet or less from Pullman ditch. These two homes were approved under the current Half Moon Bay Local Coastal Plan. Why would the CCC staff recommend a different standard for the Stoloski project?** This is not fair to the Stoloski project and would also prevent any development of our two residential lots. Has the CCC staff considered the impacts to all the undeveloped lots along the Pullman ditch? If you approve the CCC staff recommendation, how will we be compensated for our two standard sized residential lots?

The staff report also brings up the PUD policies in regards to the Stoloski project. This project relies on the existing roads in our neighborhood and Roosevelt Avenue for access to Highway One. This is consistent with the HMB LCP and Circulation Element. **Why would CCC staff recommend an alternative that could create a new access hazard on Highway One?**

The Stoloski project was unanimously approved by the Planning Commission the City Council that correctly found the project consistent with the HMB Certified Local Coastal Plan. Mr. Stoloski amended his project to appease the appellants. The appellants enjoy ZERO setback from the Pullman ditch. Please support the local jurisdiction's appropriate action on this project and deny the appeal.

Respectfully yours,

Donald Torre

Donald Torre
650-787-7075

Th14a

May 9, 2014

California Coastal Commission
North Central Coast District Office
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Item Th.14.a (Stoloski)
Support Staff Recommendation

Dear Chair Kinsey and Members of the Commission:

After reviewing the applicant's response to the staff report, I write to convey my continuing support of staff's recommendation that the Commission find that Appeal A-2-HMB-12-005 (Stoloski) raises substantial issues as to the proposed project's conformity with the policies of Coastal Act and the City of Half Moon Bay's certified Local Coastal Program (LCP) as well as its implementing ordinance. Because of this non-conformance, the coastal development permit should be denied.

This project's Planned Unit Development Area (PUD) location is a poster child of piecemeal development's threat to such areas, and why the City's LCP wisely requires approved specific plans prior to development in PUDs. Such a plan would locate roads away from sensitive habitat, and would minimize conflicts between coastal access and residential circulation within the PUD. A well-thought-out plan for drainage would not only mitigate coastal hazards such as flooding, but would also improve the biologic productivity and the area's appeal for visitors and residents. A plan that protects foraging and dispersal habitat of listed species, and treats draining water as a resource instead of a nuisance, could easily yield a biological opinion from the US Fish and Wildlife Service that development would likely not result in take of listed species, and CA DFW would concur. The proposed project achieves none of these LCP policy goals.

As a former Chair of the Half Moon Bay Planning Commission, I have worked extensively with the policies and implementing ordinance of the City's LCP. Unfortunately, even as revised the project continues to violate these policies and ordinance. The City's long term biological vitality, freedom from hazards, livability, and appeal to visitors all depend on honoring these principles, particularly in our large PUDs. For this reason, I respectfully ask that the Coastal Commission accept its staff's recommendations, and require a specific plan for the PUD prior to development.

Thank you for considering my views, and for protecting the coast for future generations of residents and visitors to the City of Half Moon Bay.

Very truly yours,

/s/James Benjamin

James Benjamin
400 Pilarcitos Avenue
Half Moon Bay

Th 14a

Sierra Club Loma Prieta Chapter
Celebrating 80 years of protecting the planet

3921 East Bayshore Road, Suite 204, Palo Alto, CA 94303
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May 9, 2014

California Coastal Commission
North Central Coast District Office
45 Fremont Street, Suite 2000
San Francisco, California 94105

Item TH.14.a
Support Staff Rec

Dear Chairman Kinsey and Coastal Commissioners,

On behalf of the Sierra Club's Loma Prieta Chapter Coastal Issues Committee - acting as the conservation policy voice of the Sierra Club for the San Mateo coastline - we wish to express the Committee's unanimous support for the Staff Recommendation for a finding of Substantial Issue and subsequent Denial of the above referenced project.

The Sierra Club has a long history of support for the California Coastal Act as administered through Local Coastal Programs with oversight from the California Coastal Commission. That oversight is much needed in this particular case as necessitated by the City of Half Moon Bay's inadequate – to say the least – implementation of its responsibilities under the Local Coastal Program with regard to coastal resource protection and Planned Development District planning requirements.

Regarding the adjoining waterway, we do not understand the miraculous happenstance by which this particular waterway in this coastal plain would come to be the only such waterway in Half Moon Bay that's devoid of habitat potential - especially since it's been in existence since at least the 1940s and is well within the migratory range of other known habitats.

More importantly, though, is the fact that this project should not be before you without an LCP mandated Specific Plan processed as an LCP amendment. Such an amendment is referenced under several development policies in Chapter 9 of the Half Moon Bay LCP yet the City's findings, as shown in your staff report, recognize only that one policy using the word "may" and then interpret that word as excusing the requirement. Those findings ignore the policies using the word "shall" that make it clear that such a Plan is mandatory, not optional.

This type of evasive practice does no favor to the applicant. Now, after two years of the appeal process, there is no Specific Plan LCP Amendment at hand for the Commission to certify and the Commission has no legislative authority to create one.

The sooner this proposal is sent back to the City for straightforward processing consistent with the Half Moon Bay Local Coastal Program the better off the applicant will be.

Thank you for your staff's understanding of the key issues regarding this proposal.

Best Regards,

Kenneth Rosales
Conservation Programs Coordinator
Sierra Club Loma Prieta Chapter

COMMITTEE FOR
GREEN FOOTHILLS

Th 14a

May 11, 2014

Steve Kinsey, Chair and Members
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: Stoloski Appeal – Item Th 14.a. May 15, 2014

Dear Chair Kinsey and Commissioners,

Please accept these additional comments on behalf of Committee for Green Foothills (CGF) in support of the Staff Recommendation for Substantial Issue and Denial of the Stoloski subdivision.

As you know, the Coastal Act is a unique partnership between the California Coastal Commission and local governments to carry out the mandates of the Coastal Act. This partnership depends upon local governments to take their obligation seriously.

Unfortunately, the City of Half Moon Bay is not committed to upholding its own end of the bargain, as evidenced by how it has handled the local approval of the Stoloski project as well as several other recent proposed projects.

The City's Planning Staff cherry-picked policies of the certified Land Use Plan, apparently hoping that no one would notice the absence of analysis of the project's compliance with all applicable policies. One only has to look at the City's Findings for Approval to realize that key LUP policies regarding the Surf Beach/Dunes Beach PDD, were simply ignored. These include:

Policy 9-14: In the case of any Planned Development District hereafter described where portions of the District are in separate ownership, **approval may be given for development of a parcel or group of parcels** in the same or different ownerships, **provided that the City has approved a specific plan for the District as required by the provisions of this section.**

Planned Development District 9.3.3 (a): Surf Beach/Dunes Beach: A specific plan shall be prepared for the entire area which incorporates all of the conditions listed below and conforms to all other policies of the Land Use Plan. The specific plan shall show the locations of roads and structures, and indicate the amount and location of open space, public recreation, and commercial recreation. The specific plan shall be subject to environmental review under City CEQA guidelines. (emphasis added)

The failure of the City to analyze the project's conformance with these clear and unambiguous LUP policies is deeply disappointing but not surprising. It would be even more disappointing and a great surprise if the California Coastal Commission were to reward this egregious oversight with an approval.

COMMITTEE FOR
GREEN FOOTHILLS

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CGF notes that several previous development proposals in another portion of the Surf Beach/Dunes Beach PD area have not proceeded forward due to their inability to secure access across other properties as well as the need to prepare a Specific Plan prior to approval.

The Applicant is an experienced General Contractor (Stoloski and Gonzalez) with longstanding relationships with Half Moon Bay City officials. He has done many public works projects in San Mateo County and beyond. Undoubtedly he has done a good job. His consultants on this matter have many years of experience in coastal planning. Neither the Applicant nor his consultants should be surprised by the fact that his project, as approved by a development-friendly City Planning Commission and Council, has created significant controversy.

Rather than continuing to push for special treatment that ignores the clear and unambiguous LUP policies for the Surf Beach/Dunes Beach Planned Development Area, the Applicant should be working with the City to ensure that a Specific Plan for this area is prepared as part of the ongoing LCP Update.

Please do not set a terrible precedent for this Planned Development District and all of the other PD Districts in Half Moon Bay.

Please deny the Coastal Development Permit for this project.

Sincerely,

Lennie Roberts

Lennie Roberts, San Mateo County Legislative Advocate

Th14a

HALF MOON BAY COASTSIDE
CHAMBER OF COMMERCE & VISITORS' BUREAU
It's your connection

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May 13, 2014

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco CA, 94105

Re: A-2-HMB-12-005 (Stoloski Subdivision)

Dear Commissioners:

The Half Moon Bay Coastside Chamber of Commerce & Visitors' Bureau does not take a stance on residential sub divisions, but would like to comment on the specifics surrounding this project A-2-HMB-12-005 (Stoloski Subdivision).

We understand the Commission and its staff are charged with the need for a cautious approach towards development. However, when a project has met all local government requirements and request-upon-request is made by the Coastal Commission staff for objections, and then finally neighbors who never commented during any of the previous local process comment periods all of a sudden speak up with unsubstantiated objections, then it makes one wonder??

Two neighbors who live together (Mark Gradstein and Jane Gorman) appealed the proposal to the Coastal Commission. Gradstein and Gorman claim (with no studies performed on their part or published data submitted to the Coastal Commission, and therefore, no financial investment on their part.

Their complaint centers around:
1) The project requires a specific plan. It does not. The project is consistent with the HMB LCP wherein the property is zoned Planned Unit Development and is a stand along parcel and therefore, not subject to the dictates of the Surf Beach tract – a claim made by the Coastal Commission staff

2) That a ditch running on the property is habitat to a protected frog and snake. The proponent has had additional biological studies done that, again, confirmed the WRA findings though it was apparent that Coastal Commission staff kept trying to find a consultant who would countermand that conclusion.

3) That a proposed culvert for storm water would create flooding near the home of the appellants at 2805 Naples. The culvert was subsequently removed to appease the appellant.

It is disturbing when reporting agencies do not raise an issue and CCC staff overrides local approvals and makes decisions on surmises and assumptions rather than data.

Interestingly, the proponent continuously supplied the Coastal Commission staff with requested information and made repeated requests to meet on site, which staff never did until December of last year. The proponent also had several project alternatives prepared per request of the Coastal Commission staff but a two way discussion never takes place. This seems to be a repeated scenario by the California Coastal Commission.

We appreciate the opportunity to express our concerns, and thank you in advance for your consideration.

Sincerely,

Charise Hale McHugh, ACE
President/CEO

Th 14a

Ralph Faust
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707-825-9347
ralph.faust@gmail.com

Mr. Steve Kinsey, Chair
Coastal Commissioners
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: Stoloski Appeal: A-2-HMB-12-005; Agenda # TH. 14 (a)

Dear Chair Kinsey and Coastal Commissioners:

I represent Marc Gradstein and Jane Gorman. I write to you in support of their appeal of the approval of the Stoloski subdivision by the City of Half Moon Bay (A-2-HMB-12-005). Commission staff has carefully reviewed the record on the appeal and recommends that the Commission find that the appeal raises a substantial issue on three separate grounds. Staff further recommends that the Commission deny the permit at the de novo hearing and remand the matter back to the City of Half Moon Bay for further consideration and development of a Planned Unit Development Plan (PUDP) prior to approval of development in this area of the City, as is required by the City's certified Local Coastal Program. We support the recommendation of the staff and urge the Commission to adopt the findings and deny the proposed development.

INTRODUCTION

Stoloski proposes to subdivide a long and narrow 2.1-acre parcel into four separate parcels. The existing Stoloski parcel is at the north end of the Surf Beach/Dunes Beach District which is an area designated in the City's LCP for Planned Development (PD). It is bordered on the north by Pullman Ditch, an intermittent stream that drains an area of the City to the east of Highway 1. Pursuant to the terms of the City's LCP, Pullman Ditch is both a "riparian area" and "sensitive habitat". In addition, the U. S. Fish and Wildlife Service and the California Department of Fish and Wildlife have notified the Commission and the applicant that the habitat of Pullman Ditch supports rare and endangered species. The area toward the western end of Pullman Ditch is subject to periodic flooding.

The Stoloski parcel is bordered on the south by an antiquated subdivision, the Surf Beach tract, which is the principal focus of the requirement in the LCP for preparation of a PUDP for the Surf Beach/Dunes Beach District. To the south of the Surf Beach tract is additional land south of Young Ave., also within the Surf Beach/Dunes Beach (PD) District, planning for which also must be encompassed within a PUDP for the District.

Although the parcel proposed to be subdivided in this matter presently has access to Highway 1 directly at its eastern edge, access to the proposed subdivision instead is planned to come through an existing subdivision to the north of Pullman Ditch, requiring the construction of roads and two bridges through that riparian area. The extent and location of development to be allowed in the PD area, including on this parcel, appropriate circulation routes and access to Highway 1 to be developed in light of that development, and resolution of the drainage and flooding issues in the area west of Highway 1 are all among the issues that are properly contemplated to be resolved in the planning process for the preparation of the PUDP. Approval of development of this parcel without prior completion of the PUDP is prohibited by the LCP, precisely because it would have significant impacts not simply upon this parcel itself, but also, more importantly, upon the options for resolution of the more comprehensive planning issues that exist within the PD, some of which are discussed below.

THE CITY IS REQUIRED TO PREPARE AND APPROVE A PLANNED UNIT DEVELOPMENT PLAN FOR THE ENTIRE SURF BEACH/DUNES BEACH AREA DESIGNATED IN THE LCP AS PLANNED DEVELOPMENT BEFORE IT APPROVES ANY DEVELOPMENT WITHIN THAT PD DISTRICT.

The parcel that the applicant proposes to develop is at the north end of the Surf Beach/Dunes Beach Planned Development District (PD). As is specified in LCP Policy 9.3.3, the Surf Beach/Dunes Beach area

> "Is a partially undeveloped area totaling about 50 acres, bisected by Young Avenue and bounded by Half Moon Bay State Beach on the west and south, Highway 1 on the east, and the partially developed City of Naples subdivision on the north."

The applicant has contended (in their letter of May 8) that the specific plan requirement applies only to the Surf Beach tract, but the clear language of the LCP contradicts that contention. The land described in the above quoted language from Policy 9.3.3 includes the Surf Beach tract, but it also includes parcels both to the north and to the south of the Surf Beach tract, including the Stoloski property that is the subject of this permit application. (See Exhibit 2 of the Commission staff report,

which graphically illustrates the area described in the quoted language; the entire area is labeled PD on the map).

Policy 9.3.3 discusses the entire PD area and the various constraints that exist in that area. These include water supply, drainage and flooding, traffic and access to Highway 1, commercial recreation, visitor-serving development and recreation, and the extent and location of residential development. The policy makes clear that the purpose of the required PUDP is to resolve these various and potentially conflicting issues at one time for the entire area of the PD. Piecemeal development only serves to limit the future planning options, and is specifically prohibited by Policy 9-14 which allows approval of development on a portion of the land in the PD only where "the City has approved a specific plan for the District as required by the provisions of this section". There is no provision in Policy 9-14 for approval of development within a portion of the District after approval of a PUDP for only a portion of the District, as the City purported to do here. Consequently, approval of the proposed Stoloski subdivision is prohibited by this LCP provision.

Nor are these issues hypothetical in relation to this project; rather they are part and parcel of the issues that the PUDP is required to address. The proposed subdivision, if approved, would result in 4 residential lots; but the PD presently has a theoretical identified zoned development potential of 241 lots in addition to this parcel, and Policy 9.3.3 limits future development in the PD to 150 lots total. So a minimum of 245 "theoretical" lots would have to become 150 "actual" lots as part of the PUDP process. Whether the lots to be created in this subdivision application should be permitted at the expense of other potential development on other parcels in the PD is precisely the purpose of the PUDP. Approval of these lots now is premature; it is bad planning and it is contrary to the LCP.

In addition, the subdivision proposed in this application takes access through a convoluted scheme involving two bridges over Pullman Ditch from the Naples Beach subdivision to the north, which is not in the Surf Beach/Dunes Beach Planned Development District. The habitat protection problems created by this proposal (to be discussed below) are rationalized based upon the need to limit existing and future access to Highway 1, which has significant traffic problems that Caltrans and the City are attempting to address. LCP Policy 9.3.3 (h), for example, provides that not more than one opening onto Highway 1 north and south of Young Avenue shall be permitted to provide access to residential development within the Surf Beach/Dunes Beach District.

Thus the location of future access to the Surf Beach/Dunes Beach PD area is one of the critical issues that the PUDP is intended to address. The applicant itself, in its May 8 letter, suggests at least three alternatives to its proposed access route within the Surf Beach tract, which it then dismisses because they would involve development of that tract. These alternatives did not even include Young Avenue or the other potential access opening to Highway 1 from the District south of Young

Avenue. Which route or combination of routes is best suited to the development pattern that the City wants to endorse in the PD is again precisely the task of the PUDP. All of these decisions should be made in an integrated fashion. They should not be piecemealed as would result from approval of the development proposed in this permit, in a manner that forecloses future options and creates unnecessary additional problems. This is particularly the case with respect to habitat impacts in Pullman Ditch that can be completely avoided after development of the PUDP.

Finally the appeal raised, and the Substantial Issue portion of the staff report considered, issues related flooding hazards. The City has long been aware of drainage and flooding problems in the area west of Highway 1. The LCP notes that "drainage is poor" in the entire area of the Surf Beach/Dunes Beach PD and further notes that "drainage requirements may conflict with dune protection". The appellants, in a letter to the City Council dated January 12, 2012, noted the flooding problems that they thought would ensue from the proposed development, and further noted that the Fire Department had on at least two occasions during their ownership come out to intervene to help ease the flooding. The applicant attempted to remove this issue from consideration at the de novo stage by eliminating the underground drainage feature from its project description, and staff has not further analyzed it in its de novo report. But the issues of flooding and drainage predate this project and will only be exacerbated by the increase in impermeable surfaces from the new development. These drainage and flooding issues are best addressed with an integrated solution that looks at the problems and the proposed development in the PD as a whole and that, with the entire context of the future problem in view, crafts appropriate mitigation to alleviate the problem. Once again, this is a task that the PUDP, looking at the entire area, should address and resolve.

These are examples of the reason for the requirement of Policy 9-14 that no individual development within the Surf Beach/Dunes Beach PD be approved until the City has approved a specific plan for the District. Approval of this proposed subdivision is illegal because it is contrary to the requirement that a PUDP be prepared prior to development in the area. It also makes no planning sense. The proposed subdivision must be denied.

THE PROPOSED DEVELOPMENT WOULD HAVE SIGNIFICANT IMPACTS UPON PULLMAN DITCH, WHICH IS BOTH A RIPARIAN AREA AND SENSITIVE HABITAT UNDER THE LCP. THE LCP REQUIRES A BUFFER AREA TO SEPARATE ALL DEVELOPMENT FROM THAT RESOURCE.

Riparian Area

Policy 3.3 of the City of Half Moon Bay LCP defines "riparian area" as any area of land bordering a stream or lake, including its banks. It includes land at least up to the highest point of an obvious channel and extends outward to the outer edge of

appropriate indicator plant species. It applies, by the language of the Policy, not merely to natural watercourses but to all bodies of water, intermittent or perennial, man-made or natural. Thus Pullman Ditch is a riparian area within the meaning of the LCP.

The applicant suggests that Pullman Ditch does not qualify as a riparian corridor, because, under Policy 3-7, riparian corridors are defined by the "limit of riparian vegetation", and except for one patch of arroyo willow, the existing vegetation along Pullman Ditch is not riparian vegetation. While this narrow interpretation is beneficial for the applicant's position in this matter, its application as an interpretation of the LCP would eliminate many of Half Moon Bay's stream courses themselves from any protection whatsoever. Simply put, this confuses riparian vegetation with the riparian area, the stream and its banks, itself.

The applicant's letter of May 8 also cites, but then ignores Policy 3-11, which provides for the establishment of buffer zones. Policy 3-11 (b) provides that "where no riparian vegetation exists along both sides of riparian corridors, extend buffer zones 50 feet from the bank edge for perennial streams and 30 feet from the midpoint of intermittent streams". As this language makes clear, a minimum buffer of 30 feet is required from the midpoint of intermittent streams, even if there is no riparian vegetation whatsoever. The clear meaning of this subsection is made even more apparent when it is compared to the language of Policy 3-11 (a). That subsection provides: "On both sides of riparian corridors, from the 'limit of riparian vegetation', extend buffer zones 50 feet outward for perennial streams and 30 feet outward for intermittent streams".

Thus it is clear that Policy 3-11 (a) defines the outward limit of any riparian vegetation buffer, where riparian vegetation exists that meets the definition, based upon the 'limit of riparian vegetation', in Policy 3-7, while Policy 3-11 (b) establishes the minimum buffer requirement where the stream is not bordered by any riparian vegetation. This interpretation is in accord with Section 18.38.075 (A) (2) of the City's Zoning Code, regarding Riparian Buffer Zones, which provides that the riparian buffer zone includes "land along both sides of riparian corridors which extends fifty feet from the bank edge for perennial streams and thirty feet from the midpoint of intermittent streams, where no riparian vegetation exists" (Emph. Added).

In conclusion, all development in Half Moon Bay at the edge of a riparian area, as defined in Policy 3-3, must observe a minimum buffer of 30 feet "from the midpoint of intermittent streams". The proposed development here, to the extent that it does not meet that minimum required buffer, cannot be approved pursuant to the LCP.

Sensitive Habitat

Pullman Ditch is also "sensitive habitat" pursuant to the LCP. Policy 3.5.3-1 (a) defines eight categories of sensitive habitat. These include: (1) habitats containing or supporting "rare and endangered" species as defined by the State Fish and Game Commission, (and) (2) all perennial and intermittent streams and their tributaries. Pullman Ditch qualifies as sensitive habitat under both of these categories. It supports "rare and endangered species", specifically the California Red Legged Frog (CRLF) and the San Francisco Garter Snake (SFGS), as noted by both the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) in letters to the Commission. Further it is unquestionably an intermittent stream.

The applicant's letter of May 8 contends that, by the terms of Policy 3.4, only habitat that is designated in the Habitat Areas and Water Resources Overlay qualifies for the protections for "sensitive habitat" provided in the LCP. Again, this interpretation is unduly narrow and is belied by other language in the LCP. The Habitat Areas and Water Resources Overlay Map was intended to symbolically indicate the location of six ecological categories specified in Policy 3.4. However, at the time that the LCP was written, no threatened or endangered species had been documented in Half Moon Bay. The last sentence of Policy 3.4 makes that clear, and thus also makes clear that the Overlay Map did not and was not intended to cover threatened and endangered species, habitats for which are not among the six specified ecological categories covered by the Overlay Map.

However, the policies contained in Policy 3.5 do cover the habitats of rare and endangered species, as is made clear in Policy 3-1 (a). Further, pursuant to Policy 3-2 (a) sensitive habitats include, but are not limited to, those "shown on the Habitat Areas and Water Resources Overlay". (Emph. Added). Consequently, habitat for rare and endangered species is, by definition, "sensitive habitat", whether or not it is shown on the Habitat Areas and Water Resources Overlay. Further, this is the interpretation that has been carried over and implemented in the City's Zoning Code. Section 18.38.085 (D) provides that "the minimum buffer surrounding a habitat of a rare or endangered species shall be 50 feet". Thus the critical question becomes whether Pullman Ditch can be called habitat for a rare or endangered species.

Biologists from the U. S. Fish and Wildlife Service and from the California Department of Fish and Wildlife have for a number of years asserted that Pullman Ditch supports the CRLF and the SFGS, rare and endangered species. Consultants hired by the Applicant and the City, on the other hand, suggest that Pullman Ditch does not provide suitable habitat for either the CRLF or the SFGS. The Commission's Senior Staff Ecologist, Dr. John Dixon has weighed the various scientific opinions, and after several personal site visits has concluded that Pullman Ditch habitat supports the two rare and endangered species under consideration and therefore

qualifies as "sensitive habitat". Therefore, pursuant to this conclusion, the Commission should find that development must be set back 50 feet from Pullman Ditch pursuant to Section 18.38.085 (D). Because the development proposed by the applicant and approved by the City does not meet that standard, the project must be denied.

THE COMMISSION MUST DENY THE PROPOSED DEVELOPMENT.

There are two fundamental reasons why the Commission must deny the proposed subdivision. First, the property is within the Surf Beach/Dunes Beach Planned District. The LCP for that area in Section 9-14 requires that a Planned Unit Development Plan (PUDP) be approved by the City prior to its approval of any specific development within the District. As discussed above, there are multiple good planning reasons for this requirement, and the coordination and implementation of multiple uses within the context of specific development constraints was a critical goal in the creation of the Planned Districts. More important, however, for purposes of this appeal, is that approval of the proposed development here, in the absence of an approved PUDP for the District, is prohibited by the LCP. For this reason the proposed subdivision must be denied.

Second, Pullman Ditch, over which access to the new lots would occur, is both a "riparian area" and "sensitive habitat" under the terms of the LCP. The LCP requires that buffers be maintained at specific distances from streams designated as riparian areas and from land designated as sensitive habitat. Development cannot be placed within these buffer areas. The development proposed here by Stoloski would intrude into these required buffer areas, and for that reason cannot be approved consistent with the LCP. For both of these reasons, the proposed Stoloski subdivision must be denied.

Sincerely,

[Original Signed By]

Ralph Faust

Cc: Dr. Charles Lester, Executive Director
Ms. Nancy Cave, District Manager
Ms. Jeannine Manna, District Supervisor
Mr. Marc Gradstein
Ms. Jane Gorman

COX CASTLE NICHOLSON

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File No. 68298

California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 90405

Re: Stoloski Half Moon Bay Appeal – Item 14a May 15, 2014

Dear Chair Kinsey and Members of the Coastal Commission:

We represent the project applicants in this appeal. For the reasons set forth in this letter, we request that your Commission find that there is no substantial issue, or, alternatively, that your Commission approve the project on the terms and conditions of the City of Half Moon Bay ("City") approval.

This letter addresses the following points:

1. The Staff Report's conclusion regarding the Pullman Ditch habitat value is based on speculation and assumptions that have been disproven by extensive field reconnaissance surveys and by recent protocol surveys of Pullman Ditch. These studies show that neither California Red Legged Frog ("CRLF") nor the San Francisco Garter Snake ("SFGS") occupy Pullman Ditch and that Pullman Ditch does not function as any kind of habitat for either species.

2. None of the City LCP policies and zoning ordinances the Staff Report cites apply to Pullman Ditch. All of the LCP policies the Staff Report cites are tied to the City's Habitat Areas and Water Resources Overlay Map, which does not designate Pullman Ditch as a sensitive habitat. The Overlay Map would have to be amended before the policies the Staff Report cites could apply to Pullman Ditch. That would require an LCP amendment that only the City can initiate. Furthermore, the zoning code buffer only applies when a biological report indicates that an endangered species actually exists in a location, which has never been the case for Pullman Ditch.

3. Contrary to the Staff Report claim, the City has never determined that Pullman Ditch is a sensitive habitat.

4. The City's LCP does not require either Mr. Stoloski or the City to adopt a specific plan to facilitate development of the Surf Beach Tract.

A. Background Information

This appeal concerns the City's approval of a tentative subdivision map and a planned unit development permit ("PUDP") to create four residential lots and an open space lot on a 2.1 acre parcel. The subdivision is just north of the Surf Beach Tract, an antiquated subdivision containing 91 small lots with dedicated rights of way. The undersized lots in the Surf Beach Tract are not developed and are currently in agricultural production. (See Ex. 1.)

Pullman Ditch is immediately north of the subdivision. Pullman Ditch is a man made drainage ditch that carries surface runoff from a large commercial agricultural operation and other properties located to the east of the subdivision across Highway 1 out to the beach. To the north of Pullman Ditch is the largely developed Naples tract of single family residences on lots typically ranging in size between 5,000 and 7,000 square feet.

The appellants, Marc Gradstein and Jane Gorman ("Gradstein"), live in one of two houses that are located on top of Pullman Ditch. (Exs. 2 & 3.) Both houses were built after the Coastal Act was enacted. The Gradstein's appeal primarily concerns the City's approval of a culvert on the Stoloski property as part of the subdivision to resolve drainage problems in Pullman Ditch that have resulted from the construction of the Gradstein residence and the other house built on the ditch. The drainage issue is associated with runoff coming from the agricultural operation east of Highway 1. It has never been associated with the Stoloski property. Mr. Stoloski had included the culvert in his subdivision to address the drainage problem, even though his property was not contributing to that problem.

As a result of the Gradstein appeal, in June 2012 Mr. Stoloski removed the culvert from the plan. (Ex. 4.) In addition, as a result of the large size of the proposed lots, the project will be able to incorporate low impact design standards, which retain runoff onsite. While the Staff Report mentions the drainage issue in the substantial issue discussion, this issue is now moot as a result of the removal of the culvert and because there is no offsite drainage from the subdivision as approved.

The remaining issue in this appeal concerns the driveway access to the subdivision and the setback from Pullman Ditch. The development envelopes on the four residential lots are setback 30 feet from the Ditch. The proposed subdivision has been designed to avoid developing infrastructure in the Surf Beach Tract by extending two public streets and utilities in the Naples tract over Pullman Ditch through two free standing bridges. In so doing, the subdivision allows the Surf Beach Tract to remain in agricultural use and avoids hastening the conversion of that land to residential development, which would inevitably result if the subdivision was required to develop access through the Surf Beach Tract.

The basic issue here concerns the bridges and the setbacks. The Staff Report maintains that Pullman Ditch is a habitat that supports CRLF and SFGS and that the City's certified LCP requires a 50-foot setback from Pullman Ditch and prevents constructing the bridges over Pullman Ditch. The Staff Report also maintains that the subdivision should be taking access and

extending utilities through the Surf Beach Tract and that the LCP requires the City to approve a specific plan to facilitate residential development of the Surf Beach Tract.

B. Pullman Ditch Does Not Support Any Endangered or Unique Species

The U.S. Fish and Wildlife Service ("USFWS") and the California Department of Fish and Wildlife ("CDFW") maintain that the ditch *is assumed to be used* by both species as dispersal and foraging habitat. USFWS maintains that the ditch has some of the constituents of an upland habitat that both species use for dispersal and foraging. CDFW now claims that Pullman Ditch is within a distance that CRLF and SFGS could travel and therefore assumes that both species could be present in the ditch.

It is important to understand that neither USFWS nor CDFW maintain that Pullman Ditch actually supports either species. Instead they are assuming that the ditch could support the species until surveys using the USFWS protocols are performed that would determine whether Pullman Ditch is actually a viable habitat. In the January 7, 2014 letter attached to the Staff Report, USFWS states, "Due to the presence of suitable upland habitat and *the lack of survey data*, it is reasonable for the Service to consider that the Pullman drainage, and potentially similar drainages throughout Half Moon Bay area, is occupied by both species." (Emphasis added.) In the November 7, 2013 email attached to the Staff Report, CDFW states, "*Based on the lack of site specific surveys* for CRLF and SFGS in this area…one cannot biologically validate the absence of these species *without further intensive surveys*." (Emphasis added.)

Surveys using the USFWS protocol have now been performed in Pullman Ditch by WRA, who has been the City's biologist with respect to this project. (See Ex 5.) That survey not only found there are no CRLF or SFGS in Pullman Ditch, but that the ditch is devoid of any invertebrates (no frogs, newts, or snakes). The survey found that key elements that are necessary for the habitat to support CRLF and SFGS are not present in the ditch. The ditch does not have the aquatic conditions suitable for foraging (there is nothing for either species to feed on). In addition, the ditch is subject to heavy predation by raccoons and cats, which explains the absence of any invertebrates in the ditch.

The protocol surveys confirm that Pullman Ditch does not support either CRLF or SFGS. There is nothing for either species to feed on in the ditch and they could not survive in the ditch for long in light of the heavy predation and the absence of prolonged surface water. In light of the protocol level survey work that has now been performed, there is no basis for either USFWS or CDFW to assume that either species is present in the ditch.

The protocol work confirms the results of years of field reconnaissance work that found that neither species is present in the ditch or ever likely to use the ditch for dispersal or foraging.

In November 2010, WRA, Inc., the City's consulting biologists, conducted a biological reconnaissance of the Stoloski property and Pullman Ditch. (Ex. 6.) With respect to SFGS, WRA's biological resource assessment concluded (i) the SFGS requires seasonal or permanent

water bodies as a basic habitat requirement, which is not present in the Pullman Ditch, (ii) there is no connectivity between documented SFGS occurrences and Pullman Ditch, and (iii) Pullman Ditch does not provide suitable dispersal habitat due to the lack of connectivity and the absence of continuous vegetative cover along the ditch.

With respect to CRLF, the WRA report concluded: (i) Pullman Ditch does not provide aquatic breeding habitat for CRLF, and (ii) the lack of connectivity between Pullman Ditch and other suitable habitats make Pullman Ditch unsuitable as either an upland habitat or a dispersal and foraging habitat. These results were consistent with field work on Pullman Ditch that WRA performed for the City in October 2007 and October 2009.

WRA reiterated its findings in its August 8, 2013 letter to the Commission when this project was last on the Commission's agenda. (Ex. 7.) The letter states that (i) WRA has been employed by the City to oversee biological resources assessments, surveys and reporting on the Pullman Ditch and surrounding areas since 2000, (ii) WRA biologists, who are highly trained in identification of CRLF and SFGS and their habitats and who carry USFWS federal recovery permits for both species, have investigated Pullman Ditch on numerous occasions, (iii) neither CRLF nor SFGS have been found in Pullman Ditch and are highly unlikely to be found there based on the lack of connectivity to documented occurrences of both species, and (iv) no riparian habitat is present in Pullman Ditch.

Dr. Mark Jennings also studied Pullman Ditch. Dr. Jennings has conducted 25 years of research on CRLF movement and habitats in San Mateo County. Much of the current knowledge regarding the habitats and movement of CRLF is based on his work, which was extensively used for the USFWS recovery plan for the species. His report is attached as Exhibit 8.

Dr. Jennings conducted an extensive site assessment in November 2013 to determine whether Pullman Ditch has the Primary Constituent Elements (PCEs) that comprise the necessary habitat required for occupancy by CRLF and SFGS. He also reviewed prior biological resource assessments performed on Pullman Ditch as well as the correspondence from USFWS and CDFW.

Dr. Jennings found (i) the vegetation structure and species composition is not the kind of habitat used by CRLF and SFGS along this part of the Central Coast, (ii) there is no established pool of surface water that would support a foraging habitat for the CRLF or SFGS, and (iii) there are no conditions that would allow CRLF to reach Pullman Ditch from locations where the species is known to occur. With respect to the last point, Dr. Jennings stated:

> Based on my long-term familiarity with this species along the Central Coast (Jennings and Hayes 1990; Rathbun et al. 1993; and Jennings 1998, 2005), and my experience with known occupied CRLF habitats in Half Moon Bay (e.g., Kehoe Ditch, Belleville Road, and Wavecrest Village), I find it impossible that CRLF would be able to move over 3,300 feet between these two creeks (and to and from the Pullman Ditch) given the absence of sustained

> surface water, narrow strip of land available for frog overland movement, and the presence of so much urbanization nearby (with the resulting large population of domestic cats (*Felis catus*) and raccoons (*Procyon lotor*)). I have observed locals to regularly leave pet food at specific outdoor locations in Half Moon Bay for feral cats, raccoons, and other wild animals. Such activities certainly have increased the population of these known predators of CRLF and SFGS (Jennings 2000a, 200b) to artificially high levels. With the only potential movement corridor for CRLF adjacent to the Half Moon Bay Coastal Trail, which would certainly be regularly used by domestic cats and raccoons, no CRLF would be able to move overland without a high probability of being predated.

With respect to the USFWS and CDFW claims that Pullman Ditch should be assumed to be a dispersal and foraging habitat, Dr. Jennings stated:

> Agency (CDFW and USFWS) documents maintain that the site is within the known dispersal distance for CRLF and SFGS and, as a result, they hypothesize that Pullman Ditch could be occupied by CRLF and SFGS (Trifffleman 2006, 2007; DeLeon 2012; Tattersall 2014). However, the agencies' hypotheses have not been validated in the biological assessments conducted since 2005 by myself and other biologists who have examined the site and surrounding area in detail, and are familiar with CRLF and SFGS in Half Moon Bay, and have reviewed all of the known information (H.T. Harvey and Associates 2005, WRA 2010, Riggs 2013).
>
> There are many sites within the Half Moon Bay city limits that have suitable PCEs for the presence of CRLF and SFGS. However, a close examination of many individual sites within the City and surrounding area has demonstrated to me that CRLF and SFGS are not found throughout the City and that every drainage within the City is not a potential habitat either for resident populations or for dispersal or foraging. These locations lack one or more PCEs for these species and therefore they are not present. The Pullman Ditch Project falls into the latter category and thus the development of the Stoloski Subdivision including the two proposed, free-spanning bridge crossings of Pullman Ditch would not have any negative effect on CRLF and SFGS populations in the vicinity of Half Moon Bay.

The Staff Report asserts that a Cal Trans biological assessment in 2005 contradicts the foregoing assessments. However, that assessment was not based on a field survey and did not examine whether Pullman Ditch is connected to other drainages or means of dispersal. The report simply assumed that Pullman Ditch is a foraging and dispersal habitat, as USFWS and CDFW have. The most recent protocol surveys and the field work performed by WRA and Dr. Jennings demonstrate that there is no connectivity between Pullman Ditch and known

populations of the species and that the ditch does not have essential PCEs to support either species as a foraging or dispersal habitat.

Dr. Dixon's report, which is attached to the Staff Report, does not address the lack of connectivity. Dr. Dixon's conclusion is "that the Pullman ditch is degraded habitat that is not appropriate breeding habitat for these sensitive species and may not be regularly inhabited, but it does provide dispersal and foraging habitat that *may be periodically used* by both species." (Emphasis added.) Yet Dr. Dixon acknowledges that his conclusion is highly speculative. His report states:

> It is difficult to assess the risk of "take" resulting from the proposed development because it is a joint function of the likelihood these species would be present in the ditch habitat, the likelihood that they would move into the upland area, and the likelihood that they would move onto the roadway and be killed, none of which is known.

Of course, the recent protocol surveys and the WRA and Dr. Jennings' findings directly address the factors Dr. Dixon listed above. They all show, based on extensive field work, that the likelihood that the species would ever be present is extremely low. Furthermore, the protocol survey results show that neither species is occupying Pullman Ditch.

Dr. Dixon's report acknowledges that the bridges that would be constructed for the subdivision over Pullman Ditch would have relatively little effect on the quality of the habitat within the ditch. Instead, Dr. Dixon maintains that the greatest risk to the species would result if the species used the road on the bridge to bask. Given the lack of connectivity and the lack of actual foraging and dispersal habitat in Pullman Ditch, the likelihood that either species would be basking on the roadway to the subdivision is extremely low; likewise, if either species were to bask on the roadway they would likely be predated due to the number of urban predators documented in the ditch. Dr. Dixon's report does not explain why CRLF and SFGS would be any more likely to be basking on the driveways leading to the subdivision than on any of the many other roads and hardscapes they would necessarily encounter in order to reach Pullman Ditch.

The USFWS and CDFW positions are based on speculation and assumptions about the likely presence of CRLF and SFGS in Pullman Ditch, which has been repeatedly disproven in the field. A habitat that does not provide actual foraging and which would subject the species to heavy predation is not a habitat that supports the species.

C. The Development Restrictions the Staff Report Cites Do Not Apply

1. Pullman Ditch Has Not Been Designated as a Sensitive Habitat in the LCP

The Staff Report asserts incorrectly that the Half Moon Bay LCP treats any watercourse that has any riparian vegetation as a sensitive habitat. Based on this incorrect premise, the Staff

Report claims every body of water, intermittent or perennial, man-made or natural in the City, including the Pullman Ditch must comply with LCP Policy 3-1 (stating how the City will define a "sensitive habitat"), Policy 3-3 (stating that the City will prohibit land use or development that will impact sensitive habitat areas) and Policy 3-4 (stating that the City will permit only resource dependent uses in sensitive habitats and require compliance with USFWS and CDFW regulations in sensitive habitats).

The Staff Report's conclusion is based on selective quotes from the City's LCP, which omit a key provision that ties all of these policies only to riparian habitats designated in the City's Habitat Areas and Water Resources Overlay Map ("Overlay Map"), which does not designate the Pullman Ditch as a riparian habitat. (See Ex. 9.) The rare and endangered species habitat policies and the unique species habitat policies would only apply if the Overlay Map were amended to designate the habitat. Such an amendment would require an LCP amendment, which only the City can initiate.

All of the habitat policies the Staff Report quotes are found in Section 3.5 of the LCP. However, the Staff Report fails to cite LCP Section 3.4, which qualifies the scope of the Section 3.5 policies. Section 3.4 states:

> 3.4 Habitat Areas and Water Resources Overlay Designation
>
> The Land Use Plan proposes Habitat Areas and Water Resources Overlay designation to address the deficiencies in existing regulatory procedures. The overlay designation symbolically indicates the locations of habitat areas in Half Moon Bay. ***The policies set forth within this Plan and particularly this section of the Plan are to serve as guidelines for development on or adjacent to the areas illustrated on the Habitat Areas and Water Resources Overlay Map.*** (Emphasis added; See Ex. 10.)

Thus, contrary to the Staff Report contention, Policies 3.1, 3.3, 3.4 and 3.5 do not apply to every drainage ditch in the City. Section 3.4 specifically ties these policies to the habitats designated on the Overlay Map, which does not designate Pullman Ditch as a riparian habitat area. As a result, the policies the Staff Report cites regarding resource dependent uses and setbacks in designated habitats do not apply to Pullman Ditch.

Furthermore, the LCP is clear that the Overlay Map must be amended through an LCP amendment initiated by the City to designate Pullman Ditch as a riparian habitat before the policies apply. In this regard, Section 3.4 has a footnote, which states:

> While the designations reflected on the Habitat Areas and Water Resources Overlay Map represent the best available information, these designations are not definitive and may need modification in the future. The scale of the map precludes complete accuracy in the mapping of habitat areas, and in some cases, the precise location of habitat areas is not known. In addition, migration of

> species or discovery of new habitats would result in the need for designation of a new areas [sic]. Therefore, the boundaries of the designations would be updated periodically in order to incorporate new data. ***Changes in the overlay designations may be initiated by the City or by landowners***. (Emphasis added.)

This concept is carried into the policies concerning the designation of habitats for rare and endangered species and concerning the designation of habitats for unique species. Policy 3-21 addresses the designation of habitats for rare and endangered species. It states:

> 3-21 Designation of Habitats of Rare and Endangered Species
>
> In the event the habitat of a rare or endangered species is found to exist within the City, ***revise the Habitat Areas and Water Resources Overlay to show the location of such habitat. Any habitat so designated shall be subject to Policies 3-22 through 3-31***. (Emphasis added.)

Thus, before the land use restrictions in Policies 3-22 through 3-24 apply to a particular location, the Overlay Map must first be amended to designate the areas where those policies will apply. Policy 3-32 sets up exactly the same process for the designation and regulation of unique species habitats. It states:

> 3-32 Designation of Habitats of Unique Species
>
> (a) In the event the habitat of a unique species is found to exist within the City, ***revise the Habitat Areas Resources Overlay to show the location of such habitat. Any habitat so designated shall be subject to policies 3-33 through 3-36***. (Emphasis added.)

The City's Zoning Code reinforces this point. (See Ex. 11.) Section 18.38.025 of the City's Coastal Resource Conservation Standards governs amendments to coastal resource area maps. It states that "Amendments to coastal area maps shall be made as prescribed for amendments to zoning district boundaries in this title." Section 18.01.035 of the City's Zoning Code governs amendments to zoning district maps. It states, "All changes in boundaries or reclassification of territory from one district to another shall be by ordinance adopted pursuant to the provisions of this title."

Chapter 18.24 governs the amendment process itself. (See Ex. 12.) Section 18.24.010 states that "This title may be amended by changing the boundaries of districts or changing any other provisions whereof whenever the public necessity and convenience and the general welfare require such amendments by following the procedure specified in this chapter." It then states that Amendments may be proposed by (a) resolution of intention by the city council, (b) resolution of intention of the planning commission, (c) property owners, or (d) a plaintiff in an eminent domain action. It does not provide for the Coastal Commission to initiate an amendment.

The Chapter 18.24 provisions follow the normal process for amending an LCP, involving hearings and a decision at the City followed by a submission to the Coastal Commission for certification when the amendment is to the LCP. (Section 18.24.100.)

Under the Coastal Act, the Commission cannot unilaterally amend a certified LCP. (*Security National Guaranty, Inc. v. California Coastal Com.* (2008) 159 Cal.App.4th 402 ("*SNG*").) *SNG* court stated:

> SNG asserts that the Commission has no authority under the Coastal Act to designate its property as ESHA in the course of a permit appeal. SNG contends that the ESHA designation effected an amendment of the Sand City LCP and that the Coastal Act assigns the task of drafting and amending the content of an LCP exclusively to local government. SNG's position is that the Coastal Act grants to local governments the power to draft their own LCP's and to determine the content thereof. SNG contends that the Commission's role is limited to determining whether a local government's LCP complies with the provisions of the Coastal Act. Our examination of the relevant provisions of the Coastal Act compels us to conclude that SNG is correct. (*SNG* 159 Cal.App.4th at 419.)

Just as the Commission could not amend the Sand City LCP in *SNG* to designate an ESHA not designated in a certified LCP, the Commission cannot amend the Half Moon Bay Overlay Map to designate Pullman Ditch as either a riparian habitat or as a rare, endangered or unique species habitat.

Because Pullman Ditch has not been designated as a sensitive habitat on the Overlay Map, the policies the Staff Report cites do not apply. As a result, the subdivision is not inconsistent with those policies.

2. The Buffer Zones Do Not Apply to Pullman Ditch

The Staff Report also incorrectly claims that the LCP buffer zone provisions prevent any non-resource dependent development within 50-feet of Pullman Ditch. The claim is based on LCP Policy 3-11 and City Zoning Code Section 18.38.085D. However, neither buffer zone applies to Pullman Ditch. Policy 3-11 is limited to "riparian corridors," which do not exist in Pullman Ditch. Zoning Code Section 18.38.085 applies when a biological report indicates the existence of a rare or endangered species, which has not occurred.

a. Policy 3-11 Applies to Riparian Corridors, Which Pullman Ditch Is Not

The Policy 3-11 buffer zones, which the Staff Report cites, relate to "riparian corridors" within designated riparian habitats. Even if Pullman Ditch had been designated as a riparian habitat in the Overlay Map (which is not the case), Pullman Ditch is not a riparian corridor. Policy 3-11 states:

3-11 Establishment of Buffer Zones

(a) On both sides of ***riparian corridors***, from the 'limit of riparian vegetation,' extend buffer zones 50 feet outward for perennial streams and 30 feet outward for intermittent streams.

(b) Where no riparian vegetation exists along both sides of ***riparian corridors***, extend buffer zones 50 feet from the bank edge for perennial streams and 30 feet from the midpoint of intermittent streams. (Emphasis added.)

The LCP defines a "riparian corridor" in Policy 3-7 as follows:

3-7 Definition of Riparian Corridors

(a) Define riparian corridors by the "limit of riparian vegetation" (i.e. a line determined by the association of plant and animal species normally found near streams, lakes and other bodies of fresh water: red alder, jaumea, picklewood, big leaf maple, marrowleaf, cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder). ***Such a corridor must contain at least a 50% cover of some combination of the plants listed.*** (Emphasis added.)

As the Staff Report notes, the only riparian vegetation in Pullman Ditch is a small patch of arroyo willow located at the western end of the site where the open space lot is located. (Ex 13.) It clearly does not comprise 50% of the vegetation cover in Pullman Ditch. Since the setbacks relate to riparian corridors and Pullman Ditch does not qualify as a riparian corridor, the setbacks do not apply.

Indeed, no biologist contends that Pullman Ditch is a riparian corridor. The City's biologist, who has thoroughly investigated Pullman Ditch on multiple occasions since 2000, found it was not a riparian corridor. Dr. Jennings, whose expertise concerning CRLF and SFGS habitats and movement has been described above, conducted a field reconnaissance of the ditch and found that it did not meet the criteria for a riparian corridor. USFWS and Dr. Dixon both refer to Pullman Ditch as an upland habitat, which the LCP definition of "Riparian Vegetation" distinguishes as non-riparian vegetation.

Since the 50-foot and 30-foot setbacks and the development restrictions associated with those setbacks in the LCP only apply to riparian corridors and because Pullman Ditch is not a riparian corridor, the setbacks do not apply even if the ditch could be designated as a sensitive habitat.

b. The Zoning Code Buffer Applies Only Where Endangered Species Actually Exist

The Staff Report claims that City Zoning Code Section 18.38.085.D requires a minimum 50-foot buffer around rare or endangered species habitats for all development in the City. In fact that is not the case. While the Staff Report quotes Zoning Code Sections 18.38.085.A (which lists the SFGS as one of the rare or endangered species that could occur in the coastal zone) and Section 18.38.085.D (which calls for the 50-foot buffer around rare and endangered species habitat), it does not mention Section 18.38.085.B, which states that the use restrictions apply only "in the event that a biological report indicates the existence of any of the [listed endangered] species in an area."

It is important to note that the Zoning Code section only concerns rare or endangered species, which is limited to SFGS. It does not apply to CRLF, which is classified as a unique species.

No biological report has ever found that SFGS exists in Pullman Ditch. The 2005 H.T. Harvey Report prepared for the City vegetation clearance work in Pullman Ditch found that Pullman Ditch is not a habitat for SFGS. (Ex. 14.) WRA, the City's biologist, has conducted multiple biological resources assessments, surveys and reporting on the Pullman Ditch over many years. Over that time, WRA consistently reported that the SFGS has not been found in Pullman Ditch and is highly unlikely to be found there based on the lack of connectivity to known occurrences of the species. (Ex. 7.) Dr. Mark Jennings performed an extensive field reconnaissance of Pullman Ditch last year. His report concludes that Pullman Ditch is not suitable for (or inhabited by) SFGS. (Ex. 8.)

Neither USFWS nor CDFW has ever found SFGS in Pullman Ditch. Even Dr. Dixon acknowledges that Pullman Ditch is degraded habitat that is not appropriate breeding habitat for SFGS and may not be regularly inhabited by the species. Dr. Dixon claims that Pullman Ditch may be periodically used by SFGS. However, Dr. Dixon notes that it is difficult to assess the risk of a "take" of SFGS resulting from the subdivision because, among other things, he does not know the likelihood that SFGS will ever actually be present in the ditch.

In the absence of any biological report indicating that SFGS exists in Pullman Ditch, there is no basis to apply the 50 foot buffer in Section 18.38.085.D.

D. The City Never Determined Pullman Ditch to Be a Sensitive Habitat in Any Permit

The Staff Report claims that the City previously found that Pullman Ditch was an intermittent stream per their certified LCP in connection with the City approval of the Francisco Oliva single family residence in March 2007. In fact, the City's Resolution of Approval for that project (PDP 004-06) referenced in footnote 5 in the Staff Report made no such finding. (See Ex. 15.) The Oliva project is located on Pullman Avenue on a lot adjacent to Pullman Ditch (across the ditch from the Stoloski subdivision).

In fact, the Commission (by Commissioners Reilly and Blank) appealed the City's approval of the Oliva project. The grounds for the appeal were that the approved house would be set back 42 feet from the edge of the riparian vegetation next to Pullman Ditch and that improvements such as a stone path and landscaping would be installed less than 42 feet from the edge of Pullman Ditch. (Ex. 16.) After the Commission found a substantial issue on May 9, 2007, the appeal was withdrawn which left the City approval of the residence within 42 feet of the ditch in place. (Ex. 17.)

Thus, not only did the City not find that Pullman Ditch was a sensitive habitat, but it did not apply the 50 foot setback in Zoning Code Section 18.38.085.D. The Commission's 2007 staff report for the substantial issue hearing noted that the City did not apply the setback because the biological report found that no threatened or endangered species were likely to occur in the ditch. In other words, the City did not apply the 50 foot setback in Section 18.38.085.D for the very reasons why it does not apply in this case. In withdrawing its appeal, the Coastal Commission allowed the City's decision to stand.

Indeed, neither the City nor the Coastal Commission has imposed a setback on any development approved adjacent to Pullman Ditch since the Coastal Act was enacted. In addition to the Oliva residence, the Gradstein residence, which is located on Pullman Ditch, was constructed in 1981. (Ex. 2.) The second house located on Pullman Ditch was constructed in 1994. (Ex. 3.)

All of this is consistent with the fact that the City has never determined that Pullman Ditch is a sensitive habitat.

E. The Project Is Consistent with the PD Policies

1. The Subdivision Was Designed to Avoid Development in the Surf Beach Tract

The project was designed to provide access through the Naples tract in order to use the existing roadway connection to Highway 1 and to avoid facilitating the development of the Surf Beach Tract to the south. The City policy is to limit the number of roadway intersections with Highway 1. Specifically, the City' General Plan states:

> To the maximum extent practical, future access along Highway 1 and Highway 92 will be limited to signalized intersections, the locations of which will be in accordance with the adopted General Plan traffic improvements… Access to existing properties will be modified and consolidated at these designated locations when possible. Additional signalization of existing intersections along Highway 1 will be considered if warranted and necessary to provide safe and convenient access to and egress from established residential neighborhoods and commercial district.

Consistent with this policy, the City conditioned the approval to cutoff direct access from the Stoloski subdivision to Highway 1.

Based on the assumption that Pullman Ditch is a sensitive habitat and that the LCP development restrictions and buffer zones apply, the Staff Report maintains that there are several feasible alternatives to providing access over Pullman Ditch. If Pullman Ditch is not a sensitive habitat under the City's LCP and the development restrictions and buffer zones do not apply (as is clearly the case), then there is no need to consider alternative means to access the subdivision.

The alternatives the Staff Report suggests all produce inferior results. While the Staff Report maintains that access could be accomplished through the Stoloski property to Highway 1, this alternative is both impractical and inconsistent with the City's policy. Mr. Stoloski provided staff with an alternative showing a roadway designed to City standards through his property to Highway 1. (Ex. 18.) As the exhibit shows, the roadway, combined with the 50 foot setback would consume most of the site and would create a new intersection at Highway 1 that would be just north of Knewing Avenue, a dedicated roadway right of way in the Surf Beach Tract that is undeveloped at this time. If and when Knewing Avenue is developed, there would be the potential of two streets in incompatibly close proximity to one another.

The other alternatives all involve developing roadways within the Surf Beach Tract. One alternative would be to develop Knewing Avenue along the northern boundary of the Surf Beach Tract. (Ex. 19.) Another option would be to develop Osborn Avenue in the middle of the Surf Beach Tract (Ex. 20.) The latter alternative would effectively end any continuing agricultural use of the Surf Beach Tract, but it is the logical intersection for the Surf Beach Tract if it was converted from this existing agricultural use to a residential development.

All of these alternatives entail developing sewer and water infrastructure that would eliminate some of the existing barriers to developing the Surf Beach Tract.

Developing the subdivision as approved by the City is clearly the superior approach. It connects to existing roads within the Naples Tract. It does not create a new intersection at Highway 1. It does not entail developing the Surf Beach Tract or facilitating the development of that tract.

2 The PD Zone Was Created to Address the Surf Beach Tract

While the Stoloski property is within the limits of the Surf Beach PD, the property is not part of the Surf Beach Tract. (Ex. 21.) In approving the subdivision, the City recognized that the Stoloski property exists as a separate 2.1 acre parcel under single ownership located between the Surf Beach Tract and the Naples Tract.

As the City noted in its findings, Policy 9.3.3 addresses the unique land use issues associated with the Surf Beach Tract. Surf Beach is one of several "paper subdivisions" in the City where there has been little, if any, development. The LCP states, "All of these subdivisions

have existed for many years and represent a large proportion of the theoretical development capacity of the City, although their lack of streets, water, and sewer services and fragmented ownership have historically prevented development. (See Ex. 22.) The LCP continues, "[D]evelopment of these areas in accordance with existing platting would conflict with a number of Coastal Act policies pertaining to scenic resources, coastal access, and recreational opportunities, habitat protection and hazard avoidance, and provision for local recreational opportunities." The LCP then states:

> In order to resolve conflicts between the future development potential of all these subdivisions and relevant Coastal Act policies, all but two of the undeveloped subdivisions are proposed to be designated Planned Development Districts for low density development. This designation will require re-planning and re-platting of the areas and substantial reductions in permitted densities to achieve reasonable patterns of development protective of coastal resources consistent with modern development standards.

This intent is reflected in Policy 9.3.2 (Specific Planned Development Policies), whose stated purpose includes to allow flexibility and innovative design and "to eliminate poorly platted and unimproved subdivisions whose development would adversely affect coastal resources."

All of this shows that the purpose of the Planned Development zone is to achieve a reduction in the density of the Surf Beach Tract and to do so before development occurs within the tract that could foreclose the ability to reconfigure the existing small lots within that tract in the future. In approving the subdivision, the City recognized that it was appropriate to plan the Stoloski subdivision as a distinct unit because it is not part of the Surf Beach Tract, it does not contain the small lots that require re-planning and reconfiguration, and it does not entail the development of that tract.

As designed and approved, the Stoloski subdivision leaves the Surf Beach Tract in tact and thereby preserves the City's ability to develop a plan that addresses the density of the Surf Beach Tract. It does so in a manner that does not hasten the conversion of the Surf Beach Tract from agriculture to residential development.

The Staff Report is interpreting the LCP Planned Development policies in a manner that is disconnected from their purpose. It serves no useful purpose to require the Stoloski project to be part of a specific plan that would facilitate the development of the Surf Beach Tract when the Stoloski project can be developed in a manner that does not entail the development of the Surf Beach Tract, as it does now. The City recognized as much in approving the subdivision.

The Staff Report claims that failing to include the Stoloski project in a Surf Beach specific plan will result in piecemeal planning, which is not the case. Piecemealing occurs when parts of a large project are approved in a manner that forecloses the ability to address a larger

issue in the project. For example, an approval of development on some of the substandard lots in the Surf Beach Tract could foreclose options to reconfigure the rest of the lots within the tract. That is not the case here because the Stoloski property is not within the Surf Beach Tract and is not proposing to develop any portion of the tract. It is not foreclosing any options the City would have to re-plan and reconfigure the Surf Beach Tract lots.

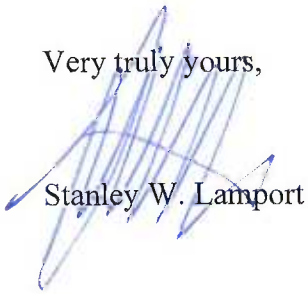
Finally, the Staff Report asserts that approving the Stoloski subdivision "would impact other property owners within the PD from developing residential parcels within their property holdings." The Staff Report says this would result because the PD district already contains 91 previously subdivided parcels and that adding four parcels on the Stoloski property would somehow limit the development opportunities on the Surf Beach Tract lots.

There are a couple of problems with this argument. First, the LCP allows for up to 100 units in the Surf Beach Tract, so it is hard to see how increasing the number to 94 (assuming the existing Stoloski parcel is counted as one of the 91 lots) would limit any other owner's development opportunity. (See Ex. 23.) Second, and more importantly, the purpose of the PD is to reduce the number of lots in the Surf Beach Tract, so that there would be far less than the 91 lots developed on the Tract.

By designing the subdivision to obtain access and utilities from the Naples tract, the Stoloski subdivision came up with an innovative way to develop the property in a manner that preserves the City's ability to plan the development of the Surf Beach Tract and avoid hastening the conversion of that tract from its present agricultural use to a residential development that the LCP seeks to avoid. The City recognized that the Stoloski project was consistent with the purpose and objective of the Planned Development zone, as should your Commission.

For all of the foregoing reasons, our clients request your favorable consideration of this matter.

Very truly yours,



Stanley W. Lamport

SWL/rsl
Enclosures
068298\6190775v1
cc: Ms. Kerry Burke
Mr. Mark Stoloski

COX CASTLE NICHOLSON

STOLOSKI HALF MOON BAY
APPEAL: A-2-HMB-12-005

ITEM 14A
MAY 15, 2014 COASTAL COMMISSION AGENDA

COX, CASTLE & NICHOLSON LLP

EXHIBIT 1

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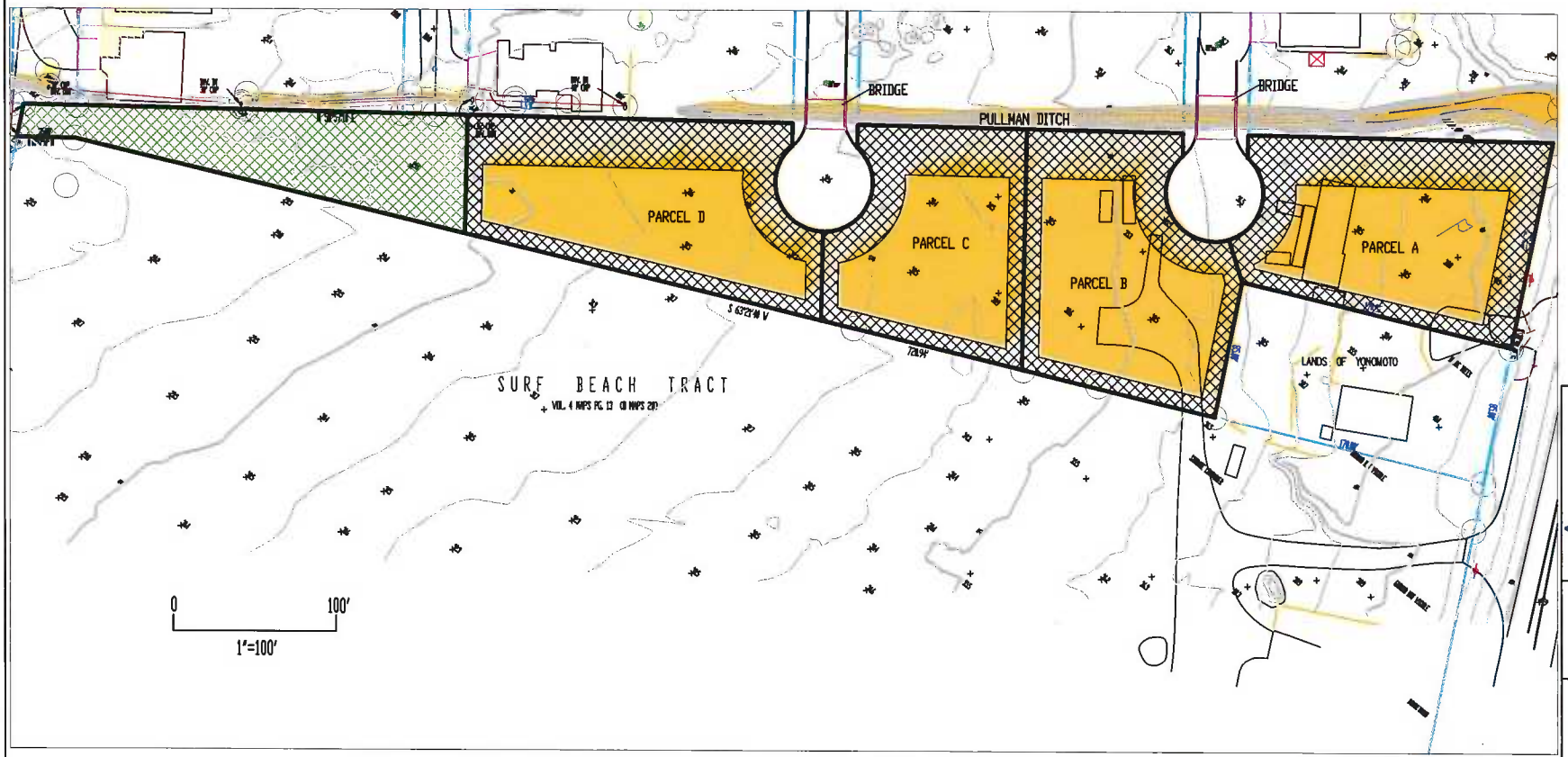
S

0 500 1,000 2,000

Feet

ENV

Date: De
Map By:



LEGEND

- EXISTING TENTATIVE MAP SETBACK LINES
- PROPOSED COMMON OPEN SPACE
- PULLMAN DITCH
- POTENTIAL BUILDING ENVELOPE

GENERAL NOTES

1. PLANS PREPARED AT THE REQUEST OF: MARK STOLOSKI, OWNER
2. BASE MAP BASED ON SURVEY BY COASTSIDE LAND SURVEYING AND VERTICAL MAPPING RESOURCES INC., 2009.
3. THIS IS NOT A BOUNDARY SURVEY.
4. PLAN WAS PREPARED IN RESPONSE TO CCC STAFF REQUEST.

REGISTERED PROFESSIONAL ENGINEER
CHARLES M. KESSICK
No. 62264
6-30-15
EXPIRES
CIVIL
STATE OF CALIFORNIA

EXISITNG SETBACK MAP: STOLOSKI PROJECT

STOLOSKI PROPERTY
APN 048-133-010

DATE: 2-5-14
DRAWN BY: CMK
CHECKED BY: AZG
REV. DATE:

Sigma Prime Geosciences, Inc.
SIGMA PRIME GEOSCIENCES, INC.
111 VASSAR STREET
HALF MOON BAY, CA 94019
(650) 728-3590
FAX 728-3593

SHEET
C-1

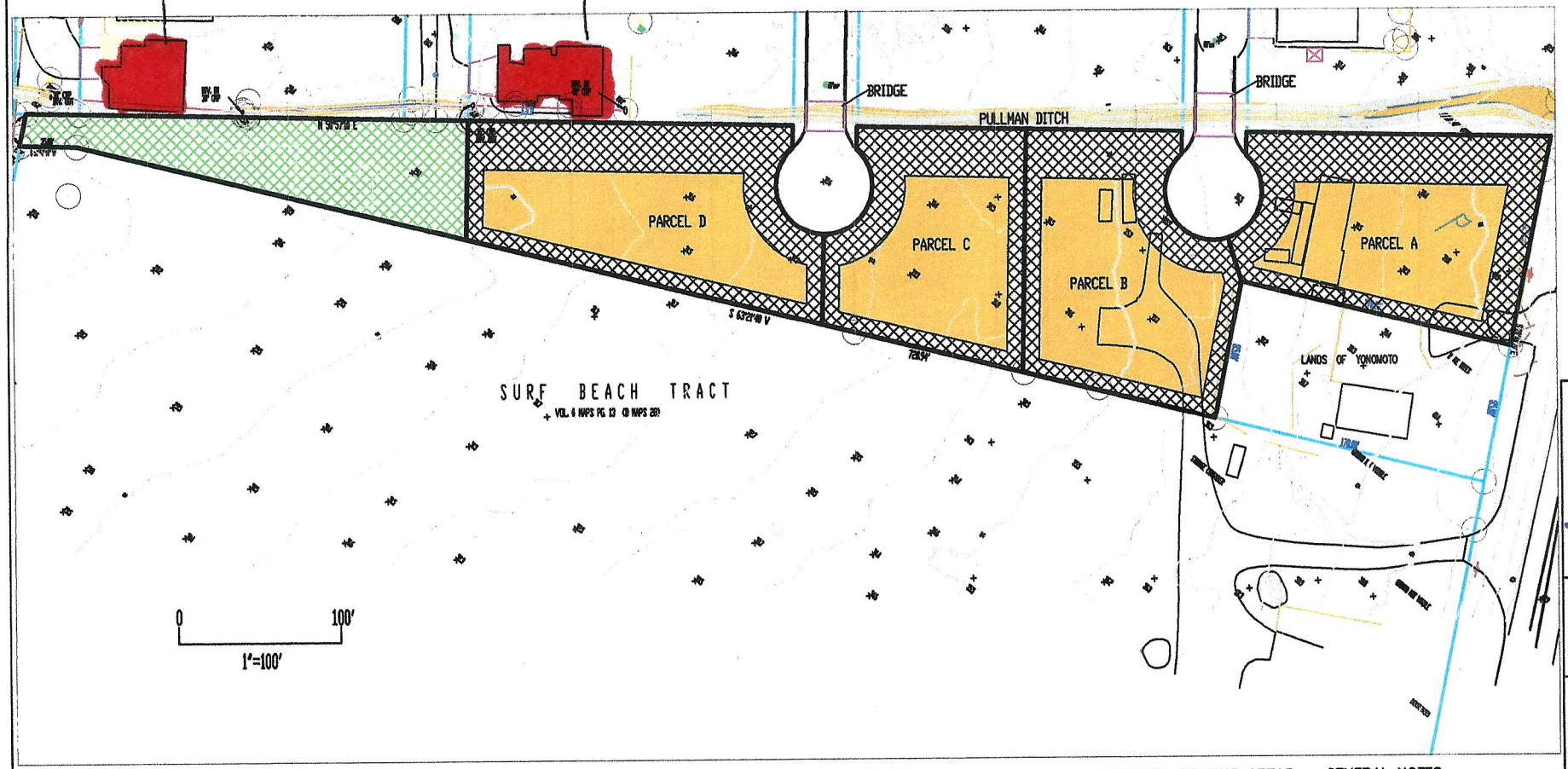
EXHIBIT 2


GRAND CHEROKEE
4X4


4/4

GRADSTEIN / GORMAN
2805 NAPLES

FARRELL
2805 ALAMEDA



LEGEND

- EXISTING TENTATIVE MAP SETBACK LINES
- ADDITIONAL 20-FOOT SETBACK LINE
- PROPOSED COMMON OPEN SPACE
- POTENTIAL BUILDING AREA*

*SUBDIVISION CONDITION NUMBER 18
MAXIMUM BUILDING AREA: THE MAXIMUM AMOUNT OF LOT COVERAGE SHALL NOT EXCEED 30% OR PROVIDE NO MORE THAN 6,000 SQUARE FEET OF BUILDING AREA, WHICHEVER IS GREATER

MAXIMUM BUILDING AREAS

PARCEL A:
TOTAL LOT AREA = 19,373 SF
30% OF TOTAL LOT AREA = 5,812 SF
BUILDING ENVELOPE AREA = 9,333 SF
MAXIMUM BUILDING AREA = 6,000 SF

PARCEL B:
TOTAL LOT AREA = 18,369 SF
30% OF TOTAL LOT AREA = 5,511 SF
BUILDING ENVELOPE AREA = 10,618 SF
MAXIMUM BUILDING AREA = 6,000 SF

PARCEL C:
TOTAL LOT AREA = 15,169 SF
30% OF TOTAL LOT AREA = 4,551 SF
BUILDING ENVELOPE AREA = 8,149 SF
MAXIMUM BUILDING AREA = 6,000 SF

PARCEL D:
TOTAL LOT AREA = 19,808 SF
30% OF TOTAL LOT AREA = 5,942 SF
BUILDING ENVELOPE AREA = 9,684 SF
MAXIMUM BUILDING AREA = 6,000 SF

GENERAL NOTES

1. PLANS PREPARED AT THE REQUEST OF: MARK STOLOSKI, OWNER
2. BASE MAP BASED ON SURVEY BY COASTSIDE LAND SURVEYING AND VERTICAL MAPPING RESOURCES INC., 2009.
3. THIS IS NOT A BOUNDARY SURVEY.
4. PLAN WAS PREPARED IN RESPONSE TO CCC STAFF REQUEST.

REGISTERED PROFESSIONAL ENGINEER
No. 62264
CIVIL
STATE OF CALIFORNIA

Sigma Prime Geosciences, Inc.
SIGMA PRIME GEOSCIENCES, INC.
111 VASSAR STREET

DATE: 1-27-14
DRAWN BY: CMK
CHECKED BY: AZG

EXISITNG SETBACK MAP:
STOLOSKI PROJECT

SHEET
C—

Roosevelt Blvd
Washington Blvd
Naples Ave
Washington Blvd
Alameda Ave

CURRENT INFORMATION

Property Use Details

SINGLE FAMILY RES (01)

Land Area (sq. ft.):	5000
Year Built:	1981
Base Area (sq. ft.):	2660
Total Rooms:	8
No. of Bedrooms:	3
No. of Bathrooms:	2

Summary of Property Details

APN:	048111010
Owner 1:	Gradstein Marc H
Owner 2:	Gorman Jane A
Care Of:	
Owner Address:	2805 Naples Ave Half Moon Bay CA 94019-
Situs Address:	2805 Naples Ave Half Moon Bay
Legal Description:	LOTS 15 16 BLOCK 17 CITY OF NAPLES
District:	2
Neighborhood:	020A

Secured Assessment Roll: 2013-1

Assessee Details

Owner 1:	GRADSTEIN MARC H
Owner 2:	GORMAN JANE A
Care Of:	
Owner Address:	2805 NAPLES AVE HALF MOON BAY, CA 94019
Document Number:	2000116359

Assessment Values

Land:	$688,307
Temp Land:	
Root:	
Min/Mineral:	
Improvements (Structure):	$688,307
Temp Improvements (Structure):	
Fixtures:	
Total Gross:	$1,376,614
Total Temp:	
Exemption - Home Owner:	$7,000
Exemption - Other:	
Net Assessed:	$1,369,614

Assessment Details

Assessment Type:	Annual
Temp Code:	
Notice Date:	
Change #:	
TRA:	017003
PUC:	01
PUC Description:	Single Family Residence

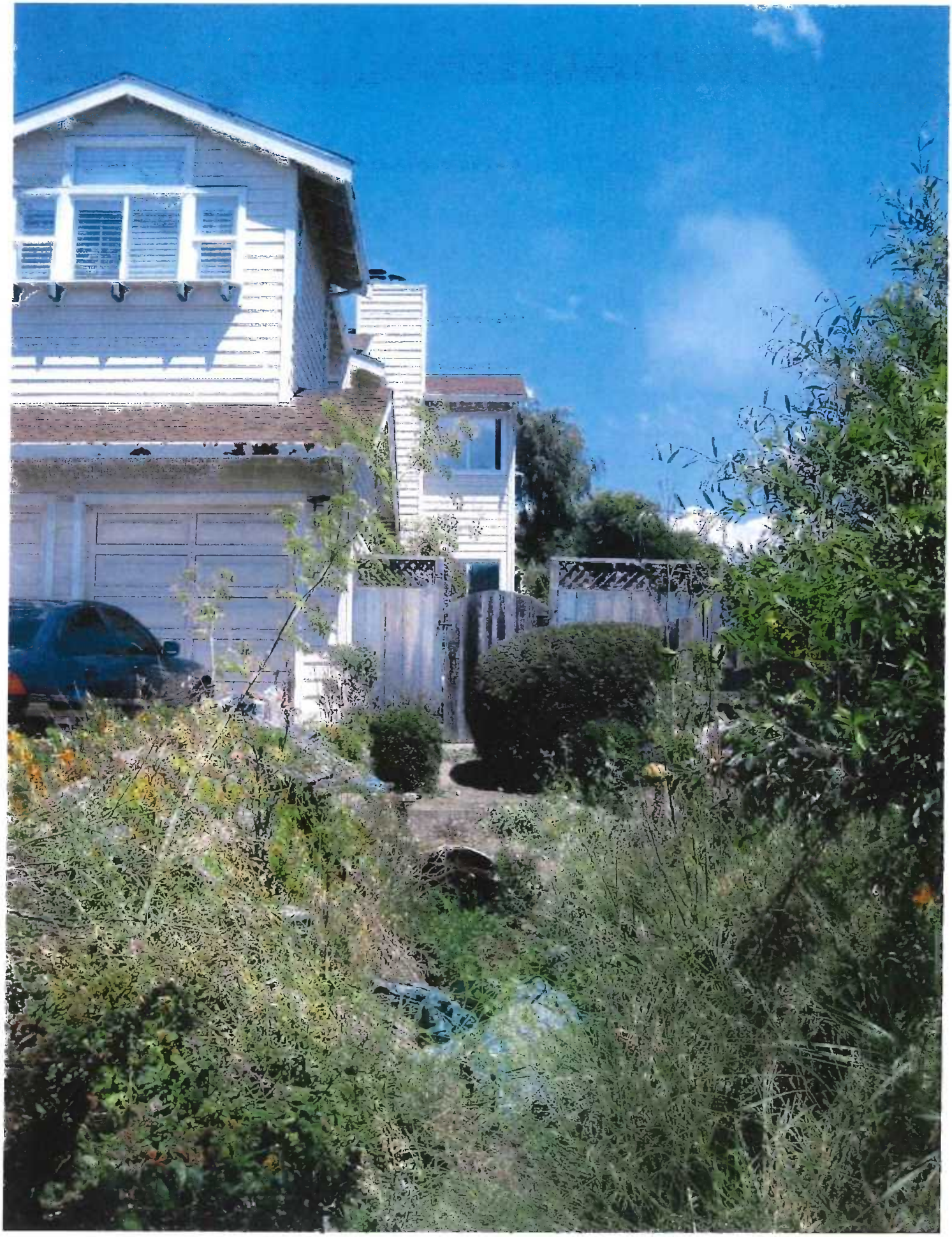
Current Jurisdictions

Supervisorial:	3
Congressional:	14
Assembly:	24
Senatorial:	13
Election Precinct:	3320
City Name:	HALF MOON BAY
Zip Code:	94019
Mitigation Fee Area:	**None Assigned**

Current Tax Rate Area #017003

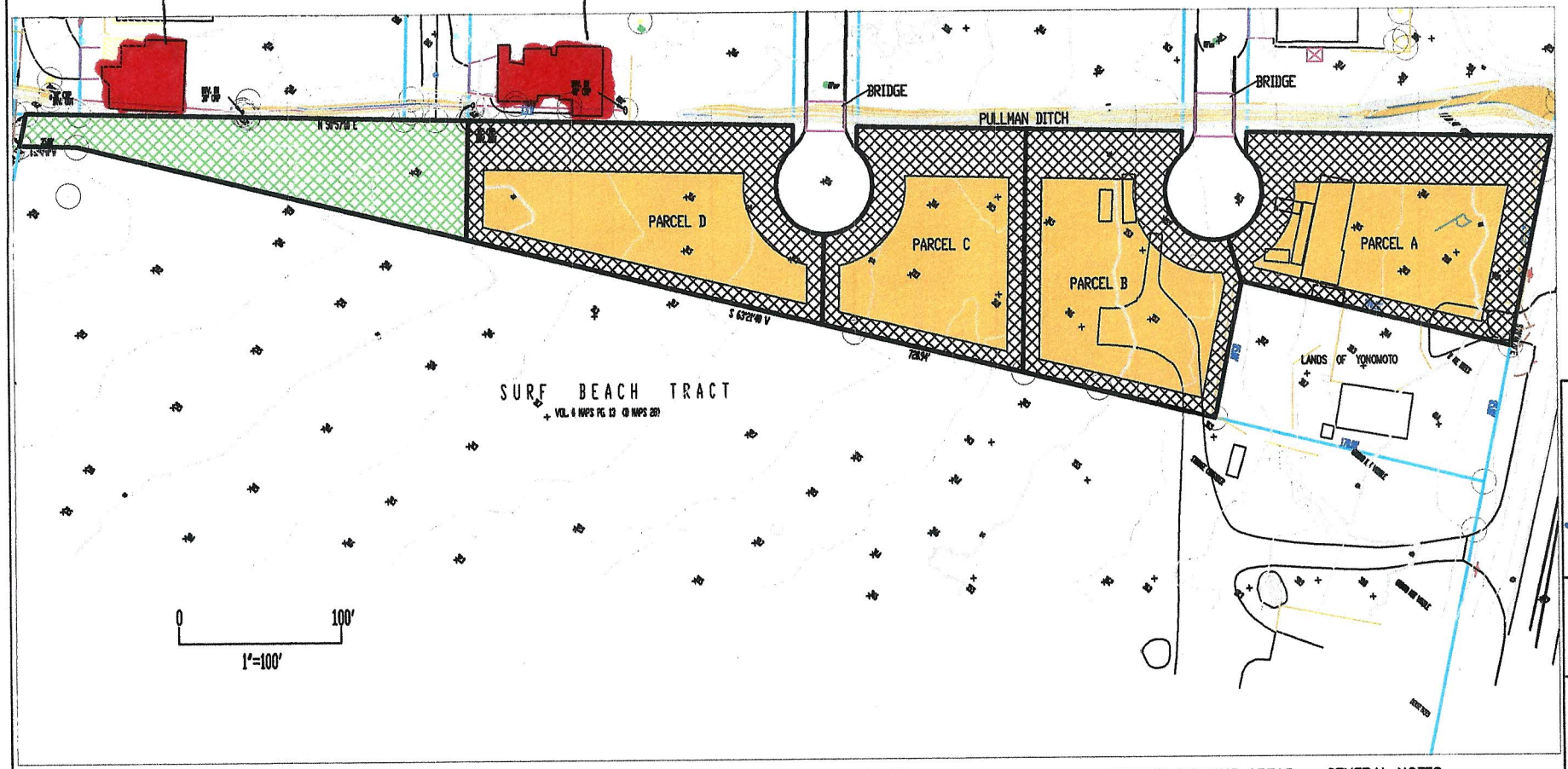
GENERAL TAX RATE	GENERAL COUNTY TAX	COUNTY DEBT SERVICES
FREE LIBRARY	CITY OF HALF MOON BAY	HALF MOON BAY DEBT SERVICES
CABRILLO UNIFIED GEN PUR	CABRILLO UNIFIED BOND	SM JR COLLEGE GEN PUR
SM JR COLLEGE BD 2002	SM JR COLL BOND SER 2005 B	SM JR COLL BOND 2001 SER C
SM JR COLL BOND 2006 SER A	SAN MATEO COMM COLL 2005 SER B	SM JR COLL BOND REF 2012
COASTSIDE FIRE PROTECTION DIST	GRANADA SANITARY DISTRICT	COASTSIDE COUNTY WATER DIST
BAY AREA AIR QUALITY MANAGEMEN	COUNTY HARBOR DISTRICT	COUNTY EDUCATION TAX

EXHIBIT 3



GRADSTEIN / GORMAN
2805 NAPLES

FARRELL
2805 ALAMEDA



LEGEND

- EXISTING TENTATIVE MAP SETBACK LINES
- ADDITIONAL 20-FOOT SETBACK LINE
- PROPOSED COMMON OPEN SPACE
- POTENTIAL BUILDING AREA*

*SUBDIVISION CONDITION NUMBER 18
MAXIMUM BUILDING AREA: THE MAXIMUM AMOUNT OF LOT COVERAGE SHALL NOT EXCEED 30% OR PROVIDE NO MORE THAN 6,000 SQUARE FEET OF BUILDING AREA, WHICHEVER IS GREATER

MAXIMUM BUILDING AREAS

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MAXIMUM BUILDING AREA = 6,000 SF

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MAXIMUM BUILDING AREA = 6,000 SF

PARCEL C:
TOTAL LOT AREA = 15,169 SF
30% OF TOTAL LOT AREA = 4,551 SF
BUILDING ENVELOPE AREA = 8,149 SF
MAXIMUM BUILDING AREA = 6,000 SF

PARCEL D:
TOTAL LOT AREA = 19,808 SF
30% OF TOTAL LOT AREA = 5,942 SF
BUILDING ENVELOPE AREA = 9,684 SF
MAXIMUM BUILDING AREA = 6,000 SF

GENERAL NOTES

1. PLANS PREPARED AT THE REQUEST OF: MARK STOLOSKI, OWNER
2. BASE MAP BASED ON SURVEY BY COASTSIDE LAND SURVEYING AND VERTICAL MAPPING RESOURCES INC., 2009.
3. THIS IS NOT A BOUNDARY SURVEY.
4. PLAN WAS PREPARED IN RESPONSE TO CCC STAFF REQUEST.

REGISTERED PROFESSIONAL ENGINEER
No. 62264
CIVIL
STATE OF CALIFORNIA

Sigma Prime Geosciences, Inc.
SIGMA PRIME GEOSCIENCES, INC.
111 VASSAR STREET

DATE: 1-27-14
DRAWN BY: CMK
CHECKED BY: AZG

EXISITNG SETBACK MAP:
STOLOSKI PROJECT

SHEET
C—

CURRENT INFORMATION

Property Use Details

SINGLE FAMILY RES (01)

Land Area (sq. ft.):	5000
Year Built:	1994
Base Area (sq. ft.):	2510
Total Rooms:	8
No. of Bedrooms:	4
No. of Bathrooms:	2.5

Summary of Property Details

APN:	048112220
Owner 1:	Farrell Joseph J & Carol A
Owner 2:	
Care Of:	
Owner Address:	2805 Alameda Ave Half Moon Bay CA 94019--1382
Situs Address:	2805 Alameda Ave Half Moon Bay
Legal Description:	LOTS 15 16 BLK 18 CITY OF NAPLES RSM 5/30
District:	2
Neighborhood:	020A

Secured Assessment Roll: 2013-1

Assessee Details

Owner 1:	FARRELL JOSEPH J & CAROL A
Owner 2:	
Care Of:	
Owner Address:	2805 ALAMEDA AVE HALF MOON BAY, CA 94019-1382
Document Number:	94103508

Assessment Values

Land:	$310,553
Temp Land:	
Root:	
Min/Mineral:	
Improvements (Structure):	$414,075
Temp Improvements (Structure):	
Fixtures:	
Total Gross:	$724,628
Total Temp:	
Exemption - Home Owner:	
Exemption - Other:	
Net Assessed:	$724,628

Assessment Details

Assessment Type:	Annual
Temp Code:	
Notice Date:	
Change #:	
TRA:	017003
PUC:	01
PUC Description:	Single Family Residence

Current Jurisdictions

Supervisorial:	3
Congressional:	14
Assembly:	24
Senatorial:	13
Election Precinct:	3320
City Name:	HALF MOON BAY
Zip Code:	94019
Mitigation Fee Area:	**None Assigned**

Current Tax Rate Area #017003

GENERAL TAX RATE	GENERAL COUNTY TAX	COUNTY DEBT SERVICES
FREE LIBRARY	CITY OF HALF MOON BAY	HALF MOON BAY DEBT SERVICES
CABRILLO UNIFIED GEN PUR	CABRILLO UNIFIED BOND	SM JR COLLEGE GEN PUR
SM JR COLLEGE BD 2002	SM JR COLL BOND SER 2005 B	SM JR COLL BOND 2001 SER C
SM JR COLL BOND 2006 SER A	SAN MATEO COMM COLL 2005 SER B	SM JR COLL BOND REF 2012
COASTSIDE FIRE PROTECTION DIST	GRANADA SANITARY DISTRICT	COASTSIDE COUNTY WATER DIST
BAY AREA AIR QUALITY MANAGEMEN	COUNTY HARBOR DISTRICT	COUNTY EDUCATION TAX

EXHIBIT 4

Kerry L. Burke
BurkeLandUse@gmail.com / 650-726-1738

Karen Giesler
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

June 28, 2012

Subject: Stoloski project: File # 2-HMB-11-010

Dear Ms. Giesler,

Please find attached the plans that include plans for access spans across the Pulman ditch at Pulman Ave and Champs Elysee Blvd. The proposed plan eliminates the previously proposed culvert on the Stoloski property that would have carried the stormwater from east of Highway One to the Pulman Ditch at Naples. The purpose of this submittal is to clarify the project description and allow the processing of this application to proceed. The bridge design avoids contact with any wetted surface of the Pulman ditch and does not change the existing drainage patterns in the ditch or the surrounding area.

The March 26, 2012 letter from the City of Half Moon Bay addressed all appeal issues raised in Marc Gradstein and Jane Gorman's appeal and the CCC appeal of the Stoloski project. A recap of that information regarding biological assessment, drainage and infrastructure is listed below.

Biological

As stated in the City's letter there have been numerous projects and biological reports approved in the vicinity of the Pullman Ditch including work by CalTrans within the Pullman Ditch and several homes adjacent to the Pullman ditch. WRA prepared the Biological Assessment for the Stoloski project and found no significant biological resources impacted by this project. The City of Half Moon Bay certified the Mitigated Negative Declaration with all appropriate mitigation measures that the property owner agreed to perform as part of this project.

Drainage

The proposed bridge design will not impact drainage in the surrounding area since it will not change the current drainage patterns and will not change the location of the current culvert outfall at the western edge of Highway One.

Infrastructure

The City of Half Moon Bay's letter states that the project is in conformance with all required infrastructure requirements. All necessary findings were made regarding this projects conformance with the General Plan and Zoning requirements for this property. The level of proposed use is consistent with the certified Local Coastal Plan for this property and there are minimal impacts from a subdivision to the surrounding area.

With the receipt of the enclosed plans and the letter from the City of Half Moon Bay, we would like you to proceed with the processing of our project. Please contact me if you have any questions.

Respectfully submitted,

Kerry Burke

Kerry Burke
c; Mark Stoloski
Robert Lanzone

EXHIBIT 5

ENVIRONMENTAL CONSULTANTS

May 6, 2014

Kerry Burke
Burke Land Use
34 Amesport Landing
Half Moon Bay, CA 94019

Re: Coastal Commission Appeal of Stoloski Subdivision, A-2-HMB-12-005 – Results of Site-Specific Surveys for Listed Species

Dear Ms. Burke,

This letter has been prepared in response to the letter dated January 07, 2014 from U.S. Fish and Wildlife regarding "Suitable Habitat for Listed Species within the Pullman Drainage, Half Moon Bay, San Mateo County, California". Based on comments from this letter and email correspondence from CDFW, that due to "the presence of suitable upland foraging and dispersal habitat" and "the lack of survey data" or "site specific surveys for CRLF and SFGS", the USFWS and CDFW concludes Pullman drainage has the potential to be occupied. In response, WRA has conducted further site-specific studies including USFWS protocol-level site surveys as dictated by the above referenced letter from USFWS. This letter presents the preliminary results of those surveys.

On March 27, 2014 WRA, Inc. initiated protocol-level surveys for California red-legged frog (CRLF) in accordance with USFWS *Revised Guidance on Site Assessment and Field Surveys for California Red-legged Frogs* (August 2005; Attachment A). Surveys were performed within the Study Area which consisted of the Pullman drainage ditch (between Cabrillo Highway and the Pacific Ocean, and all vegetation located within 50 feet from the top of bank on the north and south side of the ditch.

Methods

According to revised USFWS protocol, a total of eight field surveys (3 day and 5 night surveys) should be conducted between January and September; one day and one night survey are recommended to occur between June 30 and Sept 1. Night time surveys were conducted March 27, April 14, and May 5. Day time surveys were conducted on March 27. This report presents preliminary results as the full protocol has not been implemented. However, based on the current finding by USFWS that Pullman drainage contains suitable upland foraging and dispersal habitat, WRA concentrated survey efforts during periods when frogs would most likely be present. Such optimal conditions include moist or humid, mostly clear evenings (greater than 60% humidity without the presence of fog) following a precipitation event(s) provided temperatures exceed 50 degrees Fahrenheit, and wind speeds are below 5 mph. USFWS conclude upland and dispersal habitats are utilized by CRLF during periods of wet weather (USFWS 2005; Attachment A). Weather conditions at the time of the surveys are presented in Table 1; rainfall totals during the survey period are provided in Table 2.

In accordance with the protocol, all surveyors possessed the minimum qualification requirements stated (Attachment A). The field survey involved visually scanning aquatic features, shoreline areas and upland habitat within the Study Area during both day and night surveys. Eyeshining during the night surveys was accomplished using three-D cell mag-lites accompanied with LED headlamps. Surveyors also listened for vocalizing males calling during the night time surveys. While surveying along the bank, care was taken not to crush sheltering habitat though these areas were searched thoroughly.

Results

No CRLF or SFGS was observed during any of the surveys performed to date in the Study Area. Furthermore, no common aquatic/terrestrial amphibians were observed in the Study Area such as Pacific treefrog (*Pseudacris regilla*), California newt (*Taricha torosa*), or western toad (*Anaxyrus boreas*). No aquatic organisms were observed.

No flowing water was observed in Pullman ditch during any of the surveys despite recent precipitation. The majority of the Study Area contained no surface water whatsoever. A few shallow standing pools were observed close to culverts (apparently the result of erosional processes at the downstream end of these culverts). These pools lack emergent vegetation and cover needed to protect any frogs from predators. Numerous raccoon tracks were observed in these areas, and several feral cats were observed during the first two surveys. No CRLF calls were heard. Pacific treefrog was heard calling east of Cabrillo Highway on several night surveys, though no calls were heard within the Study Area.

All surveys were conducted during optimal conditions as depicted in Tables 1 and 2.
Table 1. Weather Conditions at the Time of Surveys

Date	Humidity (%)	Temperature (F)	Wind Speed (mph)
3/27/14 (day)	88	60 F	5 mph (occasional gusts up to 10)
3/27/14 (night)	72	54 F	1 – 3 mph
4/14/14 (night)	77	56 F	1 – 3 mph
5/5/14 (night)	65	55 F	3 - 5 mph (occasional gusts 10 to 15)

Table 2. Cumulative Rainfall* Totals During the Survey Period (March to May 2014)

Date	Rainfall (in)
3/1-3/27	0.95
3/15-3/27	0.54
3/28-4/14	1.94
4/15-5/5	0.58

*Station ID: US1CASM0007: Located approximately two miles south of Pullman Avenue

Discussion

A total of one day and three night surveys have been performed in accordance with the required guidelines outlined by USFWS for CRLF protocol-level surveys (Attachment A) with negative findings. Notably, no other amphibians were detected in the Study Area during any of the

surveys despite optimal conditions following a series of precipitation events Furthermore, the absence of available aquatic prey and presence of predators suggests that the site cannot sustain CRLF or SFGS for any prolonged period. Therefore, if occupied we would expect to see CRLF present under the most optimal conditions during a rainy period when weather conditions are best. All four surveys were conducted under such optimal conditions, and yet no amphibians were observed. Based on the results of these surveys, it is presumed that CRLF and subsequently SFGS are not present in the Study Area.

Please do not hesitate to contact me with questions or concerns regarding these findings.

Sincerely,

Dana Riggs
Principal Biologist

Attachments

U.S. Fish and Wildlife Service

Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog

August 2005

I. Introduction

The U.S. Fish and Wildlife Service (Service) issued guidance on conducting site assessments and surveys for the California red-legged frog (*Rana aurora draytonii*) (CRF) on February 18, 1997 (1997 Guidance). Since then, the Service has reviewed numerous CRF site assessments and surveys results, accompanied wildlife biologists in the field during the preparation and performance of site assessments and CRF surveys, and consulted with species experts on the effectiveness of the 1997 Guidance. Based on our review of the information, the Service has determined that the survey portion of the 1997 Guidance is less likely to accurately detect CRF than previously thought, especially in certain portions of the species range and particularly where CRF exist in low numbers. In response to the need for new guidance, the Service has prepared this *Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog* (Guidance).

Similar to the 1997 Guidance, two procedures are recommended in the new Guidance to accurately assess the likelihood of CRF presence in the vicinity of a project site: (1) an assessment of CRF locality records and potential CRF habitat in and around the project area and, (2) focused field surveys of breeding pools and other associated habitat to determine whether CRF are likely to be present.

Because CRF are known to use aquatic, riparian, and upland habitat, they may be present in any of these habitat types, depending on the time of year, on any given property. For sites with no suitable aquatic breeding habitat, but where suitable upland dispersal habitat exists, it is difficult to support a negative finding with the results of any survey guidance. Therefore, this Guidance focuses on site assessments and surveys conducted in and around aquatic and riparian habitat.

This Guidance was developed by the Service's Sacramento Fish and Wildlife Office in coordination with the Ventura Fish and Wildlife Office. Input by field biologists and scientists experienced in surveying for the CRF was also used in the development of this Guidance.

If the following Guidance is followed in its entirety, the results of the site assessments and surveys will be considered valid by the Service for two (2) years, unless determined otherwise on a case-by-case basis by the appropriate Service Fish and Wildlife Office. After two (2) years, new surveys conducted under the most current Service Guidance may be required, if deemed necessary by the appropriate Service Fish and Wildlife Office.

Modifications of this Guidance for specific projects or circumstances may be approved by the appropriate Fish and Wildlife Office; however, we strongly recommend that all modifications be reviewed and approved by the Service prior to implementation.

II. Permit Requirements

Unless otherwise authorized, individuals participating in site assessments and surveys for CRF may **NOT** take the California red-legged frog during the course of site assessments or survey activities. Take may only be authorized via section 7 or section 10 of the Endangered Species Act of 1973, as amended. Typically, take associated with survey activities is authorized via issuance of section 10(a)(1)(A) permits. For reference, an application for a section 10(a)(1)(A) permit is available through the appropriate Fish and Wildlife Office or online at: http://forms.fws.gov/3-200-55.pdf.

The site assessment and survey methods recommended in this Guidance do NOT require the surveyor to have a permit. As stated below, the surveyor must be otherwise qualified to conduct the surveys.

It is the responsibility of the surveyor to ensure all other applicable permits are obtained and valid (*e.g.,* state scientific collection permits), and that permission from private landowners or land managers is obtained prior to accessing a site and beginning site assessments and surveys.

III. Site Assessments

To prevent any unnecessary loss of time or use of resources, it is essential that completed site assessments be submitted to the appropriate Service Fish and Wildlife Office for review in order to obtain further guidance from the Service before conducting surveys.

Surveyors are encouraged to implement the decontamination guidelines provided in Appendix B before conducting a site assessment to prevent the spread of parasites and diseases to CRF and other amphibians.

Careful evaluation of the following information about CRF and their habitats in the vicinity of a project or other land use activities is important because this information indicates the likelihood of the presence of CRF. This information will help determine whether it is necessary to conduct field surveys.

To conduct a site assessment for CRF, complete the data sheet in Appendix D and return it with any necessary supporting documentation to the appropriate Service Fish and Wildlife Office for review prior to initiating surveys. The following information is critical to completing a proper site assessment:

1. Is the site within the current or historic range of the CRF?

Since knowledge of the distribution of the CRF is likely to change as new locality information becomes available, biologists are expected to contact the appropriate Fish and Wildlife Office (see section IV below) to determine if a project site is within the range of this species.

2. Are there known records of CRF at the site or within a 1.6-kilometer* (1-mile) radius of the site?

The biologist should consult the California Natural Diversity Data Base (CNDDB) maintained by the California Department of Fish and Game's (CDFG) Natural Heritage Division as a starting point to determine if there are reported localities of CRF within a 1.6-kilometer (1-mile) radius of the site. Information on the CNDDB is attached to the end of this document. Data entry into the CNDDB is not always current nor do all surveyors submit reports to the CNDDB, thus it is essential that other information sources on local occurrences of CRF be consulted. These sources may include, but are not limited to, biological consultants, local residents, amateur herpetologists, resource managers and biologists from municipal, State, and Federal agencies, environmental groups, and herpetologists at museums and universities. The biologist should report to the Service all known CRF records at the project site and within a 1.6-kilometer (1-mile) radius of the project boundaries. One-point-six (1.6) kilometers (1 mile) was selected as a proximity radius to a project site based on telemetry data collected by Bulger *et al.* (2003), rounded to the nearest whole mile. This distance may be subject to change when new data becomes available, or based on site-specific conditions, so it is advised that surveyors check with the appropriate Service Fish and Wildlife Office to ensure they are using the most up-to-date information.

* **IMPORTANT**: One-point-six (1.6) kilometers (1 mile) radius is a general guideline. The appropriate Service Fish and Wildlife Office will advise surveyors of the most appropriate distance for each specific project location on a case-by-case basis.

3. What are the habitats within the project site and within 1.6 kilometers* (1 mile) of the project boundary?

In order to properly characterize the habitat within 1.6 kilometers (1 mile) of the project site, individuals conducting site assessments must visit the project site and as much of the surrounding habitat within 1.6 kilometers (1 mile) of the project site as possible. Aerial photographs, maps, and other resources should be consulted as well to ensure all possible accessible habitats are considered. Based on this reconnaissance assessment, the surveyor shall describe the upland and aquatic habitats within the project site and within 1.6 kilometers (1 mile) of the project boundary. The aquatic habitats should be mapped and characterized (*e.g.,* ponds vs. creeks, pool vs. riffle, ephemeral vs. permanent (if ephemeral, give date it goes dry), vegetation (type, emergent, overhanging), water depth at the time of the site assessment, bank full depth, stream gradient (percent slope), substrate, and description of bank). The presence of

bullfrogs (*Rana catesbeiana*) and other aquatic predators such a centrarchid fishes (bass, perch, sunfish) should be documented even though their presence does not negate the presence of CRF. Upland habitats should be characterized by including a description of upland vegetation communities, land uses, and any potential barriers to CRF movement. The information provided in Appendix A serves as a guide to the features that will indicate possible CRF habitat.

4. Report the results of the site assessment

A site assessment report shall be provided to the appropriate Fish and Wildlife Office for review. Reports should include, but are not limited to, the following information:

1) Copies of the data sheet provided at Appendix D;

2) Copies of field notes and all other supporting documentation including:

   A. A list of all known CRF localities within 1.6 kilometers* (1 mile) of the project site boundaries;
   B. Photographs of the project site (photopoints shall be indicated on an accompanying map);
   C. A map of the site showing all of the habitat types and other important features as well as the location of any species detected during the site assessment within 1.6 kilometers (1 mile) of the project site boundaries. Maps shall be either copies of those portions of the U.S. Geological Service 7.5-minute quadrangle map(s) *or* geographic information system (GIS) data;
   D. A description of the project and/or land use that is being proposed at the site.

Based on the information provided in the site assessment report, the Service will provide guidance on how CRF issues should be addressed, including whether field surveys are appropriate, where the field surveys should be conducted, and whether incidental take authorization should be obtained through section 7 consultation or a section 10 permit pursuant to the Endangered Species Act.

IV. Field Surveys

Surveyors are encouraged to implement the decontamination guidelines provided in Appendix B before conducting surveys to prevent the spread of parasites and diseases to CRF and other amphibians.

To avoid and minimize the potential of harassment or harm to CRF, no additional surveys will be conducted in an area once occupancy has been established, unless the surveying effort is part of a Service-approved project to determine actual numbers of frogs at a site.

The Service should be notified in writing (*e.g.*, email) by the surveyor within three (3) working

days once a CRF is detected. The Service will provide guidance to the surveyor regarding the need to collect additional information such as population size, age class, habitat use, *etc.*

A. Qualifications of Surveyors

Surveyors must be familiar with the distinguishing physical characteristics of all life stages of the CRF, other anurans of California, and with introduced, exotic species such as the bullfrog and the African clawed frog (*Xenopus Laevis*) prior to conducting surveys according to this Guidance.

Surveyors must submit their qualifications to the Service along with their survey results.

A field guide should be consulted (*e.g.*, Wright and Wright 1949; Stebbins 2003) to confirm the identification of amphibians encountered during surveys. Surveyors also should be familiar with the vocalizations of the CRF and other amphibians found in California. Recordings of these vocalizations are available through various sources (*e.g.*, Davidson 1995). Surveyors that do not have experience with the species are required to obtain training on locating and identifying CRF adult, larval and egg stages before survey results are accepted. Training may include attendance at various workshops that have an emphasis on the biology of the California red-legged frog, accompanied by an appropriate level of field identification training; field work with individuals who possess valid 10(a)(1)(A) permits for the CRF; and experience working with ranids and similar taxa.

In some localities more intensive surveys (*e.g.*, dip-netting larvae and adults) may be desirable to document the presence of CRF. In order to conduct such focused surveys a valid section 10(a)(1)(A) permit is required (refer to introduction section for information on how to apply for a section 10(a)(1)(A) permit). Applicants will be considered qualified for a section 10(a)(1)(A) permit if they meet the Service's most current qualification requirements. At a minimum, prospective applicants must:

1) Possess a Baccalaureate degree in biology, ecology, a resource management-related field, or have equivalent relevant experience;
2) Have completed course work in herpetology and study-design/survey-methodology or have equivalent relevant experience;
3) Have verifiable experience in the design and implementation of amphibian surveys or research or have equivalent relevant experience;
4) Have verifiable experience handling and identifying a minimum of 10 CRF, or similar ranid species, comprised of a minimum of 5 adults and a combination of larva and juveniles;
5) Obtain a minimum of 40 hours of field experience through assisting in surveys for the CRF during which positive identification is made;
6) Have familiarity with suitable habitats for the species and be able to identify the major vegetative components of communities in which California red-legged frog surveys or

research may be conducted.

7) Have familiarity with and be able to identify native and non-native amphibians that may co-occur with the listed species.

B. Survey Periods

Surveys may begin anytime during January and should be completed by the end of September. Multiple survey visits conducted throughout the survey-year (January through September) increases the likelihood of detecting the various life stages of the CRF. For example, adult frogs are most likely to be detected at night between January 1 and June 30, somewhere in the vicinity of a breeding location, whereas, sub-adults are most easily detected during the day from July 1 through September 30.

Due to the geographic and yearly variation in egg laying dates, it is not possible to specify a range of dates that is appropriate for egg surveys throughout the range of the CRF. The following table summarizes the best approximated times to survey for CRF egg masses.

Geographic Area	Best Survey Period*
Northern California along the coast and interior to the Coast Range (north of Santa Cruz County)	January 1 and February 28
Southern California along the coast and interior through the Coast Range (south of, and including Santa Cruz County)	February 25 and April 30
Sierra Nevada Mountains and other high-elevation locations	Should not begin before April 15

Site specific conditions may warrant modifications to the timing of survey periods, modifications must be made with the Service's approval prior to conducting the surveys.

Survey Methodology

This Guidance recommends a total of **up to** eight (8) surveys to determine the presence of CRF at or near a project site. Two (2) day surveys and four (4) night surveys are recommended during the breeding season; one (1) day and one (1) night survey is recommended during the non-breeding season. Each survey must take place at least seven (7) days apart. At least one survey must be conducted prior to August 15th. The survey period must be over a minimum period of 6 weeks (*i.e.,* the time between the first and last survey must be at least 6 weeks). Throughout the species' range, the non-breeding season is defined as between July 1 and September 30.

If CRF are identified at any time during the course of surveys, no additional surveys will be conducted in the area, unless the surveying effort is part of a Service-approved project to determine actual numbers of frogs at a site.

The following methodology shall be followed unless otherwise specified, or approved by the

appropriate Service Fish and Wildlife Office:

1) Upon arrival at the survey site, surveyors should listen for a few minutes for frogs calling, prior to disturbing the survey site by walking or looking for eye shine using bright lights. If CRF calls are identified, the surveyor should note this information on the survey data sheet and note the approximate location of the call. Once the survey begins, the surveyor should pay special attention to the area where the call originated in an attempt to visually identify the frog.

2) The most common method of surveying for CRF is the visual-encounter survey. This survey is conducted either during daylight hours or at night by walking entirely around the pond or marsh or along the entire length of a creek or stream while repeatedly scanning for frogs. This procedure allows one to scan each section of shore from at least two different angles. Surveyors should begin by first working along the entire shoreline, then by entering the water (if necessary and no egg masses would be crushed or disturbed), and visually scanning all shoreline areas and all aquatic habitats identified in the site assessment. Generally, surveyors shall focus on all open water to at least 2 meters (6.5 feet) up the bank. When wading, surveyors must take maximum care to avoid disturbing sediments, vegetation, or larvae. When walking on the bank, surveyors shall take care to not crush rootballs, overhanging banks, and stream-side vegetation that might provide shelter for frogs. Surveys must cover the entire area, otherwise the remaining survey area must be surveyed the next day/night that weather conditions allow (both visits would constitute one day/night survey).

3) Day surveys may be conducted on the same day as a night survey.

   The main purpose of day surveys during the breeding season is to look for larvae, metamorphs, and egg masses; the main purpose of day surveys during the non-breeding season is to look for metamorphosing sub-adults, and non-breeding adults. Daytime surveys shall be conducted between one hour after sunrise and one hour before sunset.

4) Night surveys

   The main purpose of night surveys is to identify and locate adult and metamorphosed frogs. Conditions and requirements for conducting night surveys are as follows:

   A. Night surveys must commence no earlier than one (1) hour after sunset.
   B. Due to diminished visibility, surveys should not be conducted during heavy rains, fog, or other conditions that impair the surveyor's ability to accurately locate and identify frogs.
   C. Nighttime surveys shall be conducted with a Service-approved light such as a Wheat Lamp, Nite Light, or sealed-beam light that produces less than 100,000 candle watt. Lights that the Service does not accept for surveys are lights that are either too dim or too bright. For example, Mag-Light-type lights and other

types of flashlights that rely on 2 or 4 AA's/AAA's, 2 C's or 2 D batteries. Lights with 100,000 candle watt or greater are too bright and also would not meet Service requirements.

D. The Service approved light must be held at the surveyor's eye level so that the frog's eye shine is visible to the surveyor.
E. The use of binoculars is a must in order to effectively see the eye shine of the frogs. Surveys conducted without the use of binoculars may call in to question the validity of the survey.

5) Weather conditions.

Weather and visibility conditions must be consistent throughout the duration of the survey; if weather conditions become unsuitable, the survey must be completed at another time when conditions are better suited to positively locating and identifying frogs. Suitable conditions are as follows:

A. Air temperature at the survey site must be at least 10 degrees Celsius (50 degrees Fahrenheit). Frogs are less likely to be active when temperatures are below 10 degrees Celsius (50 degrees Fahrenheit).
B. Wind speed must not exceed 8 kilometers/hour (5 miles/hour) at the survey site. High wind speeds affect temperatures and the surveyor's ability to hear frogs calling.
C. Surveys must be conducted under clear to partly cloudy skies (high clouds are okay) but not under dense fog or during heavy rain, as stated above. Surveys may be conducted during light rains.

Surveyors should carefully consider weather conditions prior to initiating a survey. Ask yourself, "Can I collect accurate, reliable data under the existing weather conditions" prior to proceeding with the survey. Weather conditions will be taken into account when the data is reviewed by the appropriate Service Fish and Wildlife Service Office.

6) Decontamination of equipment

In an effort to minimize the spread of terrestrial and aquatic pathogens, all aquatic survey equipment including chest waders, wet suits, float tubes, kayaks, shall be decontaminated before entering potential CRF habitat using the guidelines in Appendix B. Careful attention shall be taken to remove all dirt from boots, chest waders, wetsuits, float tubes, kayaks, and other equipment before placing equipment into the water.

7) Unidentified larvae, sub-adults, and adults

If the larval life stage is the only life stage detected and the larvae are not identified to species (or similarly, if sub-adult or adult frogs are observed but not identified to

species), the surveyor must either return to the habitat to identify the frog in another life stage or obtain the appropriate permit (*e.g.*, section 10(a)(1)(A) permit) authorization allowing the surveyor to handle CRF and larvae. In order for the Service to consider a survey to be complete, all frogs encountered must be accurately identified.

8) Reporting results of the surveys

A species survey report shall be provided to the appropriate Fish and Wildlife Office for review. Reports should include, but are not limited to, the following information:

1. Copies of the data sheets provided at Appendix E;

2. Copies of field notes and all other supporting documentation including:

   A. Photographs of all CRF observed during the survey and of the habitat where each individual was located, if possible without harming or harassing the individual;
   B. A map of the site showing the location of any species detected during the survey. Maps shall be either copies of those portions of the U.S. Geological Service 7.5-minute quadrangle map(s) *or* geographic information system (GIS) data;

Based on the information provided in the site assessment report and the survey results, the Service will provide guidance on how CRF issues should be addressed through the section 7 or section 10 processes.

All information on CRF distribution resulting from field surveys shall be sent to the California Natural Diversity Database (CNDDB). CNDDB forms shall be completed, as appropriate, for each listed species identified during the survey(s) and submitted to the California Department of Fish and Game, Wildlife Habitat Data Analysis Branch, 1807 13th Street, Suite 202, Sacramento, California 95814, with copies submitted to the appropriate Service Fish and Wildlife Office. Each form sent to the CDFG shall have an accompanying 1:24,000 scale USGS map (or an exact scale photocopy of the appropriate portion(s) of the map) -or- Global Information System (GIS) data coverage of the site. Copies of the form can be obtained from the CDFG at the above address (telephone: 916-324-3812) or online at: http://www.dfg.ca.gov/whdab/html/animals.html. Additional information about the CNDDB is available in Appendix C.

The Service may not accept the results of field surveys conducted under this Guidance for any of the following reasons:

A. if the appropriate Service Fish and Wildlife Office was not contacted to review the results of the site assessment prior to field surveys being conducted;
B. if field surveys were conducted in a manner inconsistent with this Guidance or with

survey methods not previously approved by the Service;

C. if field surveys were incomplete;
D. if surveyors were not adequately qualified to conduct the surveys;
E. if the reporting requirements, including submission of CNDDB forms, were not fulfilled.

IV. Service Contacts

There are three Service Fish and Wildlife Offices within the range of the CRF (see Map 1). The appropriate office to contact regarding site assessments or survey authorization depends on the location where the surveys are to be conducted.

For project sites and land use activities in Santa Cruz, Monterey, San Benito, San Luis Obispo, Santa Barbara, and Ventura Counties, portions of Los Angeles and San Bernardino Counties outside of the Los Angeles Basin, and portions of Kern, Inyo and Mono Counties east of the Sierra Crest and south of Conway Summit, contact:

Ventura Fish and Wildlife Office,
2493 Portola Road, Suite B
Ventura, California, 93003
(805/644-1766).

For project sites and land use activities in all other areas of the State south of the Transverse Ranges, contact:

Carlsbad Fish and Wildlife Office
Attn: Recovery Permit Coordinator
6010 Hidden Valley Road
Carlsbad, California, 92009
(760/431-9440).

For project sites and land use activities in all other areas of the State, contact:

Sacramento Fish and Wildlife Office
2800 Cottage Way, Suite W-2605
Sacramento, California 95825
(916/414-6600).
(916/414-6713, fax)

For information on section 10(a)(1)(A) recovery permits, contact:

Regional Office,
Eastside Federal Complex
911 N.E., 11th Avenue
Portland, Oregon 97232-4181
(503/231-6241)

* These are independent offices overlapping with the Sacramento Fish and Wildlife Office. Their work primarily focuses on salmonid restoration, fishery monitoring and Forest Plan Implementation.

Map 1. Map of California showing jurisdictional boundaries of Service Fish and Wildlife Offices.

References

Davidson, C. 1995. Frog and toad calls of the Pacific Coast: Vanishing Voices. Library of Natural Sounds, Cornell Laboratory of Ornithology, Ithaca, New York. 27 pp. +1 cassette.

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Appendix A.
California red-legged frog identification and ecology.

1. Identification

The following information may aid surveyors in the identification of California red-legged frogs and similar species. However, all surveyors are expected to consult field guides (Wright and Wright 1949; Davidson 1995; Stebbins 2003) for further information.

General Description
The California red-legged frog (*Rana aurora draytonii*), is a relatively large aquatic frog ranging from 4 to 13 centimeters (1.5 to 5 inches) from the tip of the snout to the vent. From above, the California red-legged frog can appear brown, gray, olive, red or orange, often with a pattern of dark flecks or spots. The skin usually does not look rough or warty. The back of the California red-legged frog is bordered on either side by an often prominent dorsolateral fold of skin running from the eye to the hip. The hindlegs are well-developed with large webbed feet. A cream, white, or orange stripe usually extends along the upper lip from beneath the eye to the rear of the jaw. The undersides of adult California red-legged frogs are white, usually with patches of bright red or orange on the abdomen and hindlegs. The groin area can show a bold black mottling with a white or yellow background.

Adults
Positive diagnostic marks should be used to accurately distinguish California red-legged frogs from other species of frogs that may be observed. A positive diagnostic mark is an attribute of the animal that will not be found on any other animal likely to be encountered at the same locality. The following features are positive diagnostic marks that, if observed, will distinguish California red-legged frogs from foothill yellow-legged frogs (*Rana boylii)* and bullfrogs *(Rana catesbeiana)*:

a. Prominent dorsolateral folds (thick upraised fold of skin running from eye to hip) on any frog greater than 5 centimeters (2 inches) long from snout to vent. Young yellow-legged frogs can show reddish folds; these usually fade as the frogs mature.

b. Bright red dorsum.

c. Well defined stripe as described above running along upper lip.

Since California red-legged frogs are often confused with bullfrogs, surveyors should note those features that might be found on bullfrogs that will rarely be observed on California red-legged frogs. These features are:

a. Absence of the dorsolateral fold.
b. Bright yellow on throat.
c. Uniform bright green snout.
d. Tympanum (ear disc) distinct and much larger than eye.

Please note that some frogs may lack all of the above characteristics given for both California red-legged frogs and bullfrogs. Surveyors should regard such frogs as unidentified, unless it is clearly identified as another species.

California red-legged frogs are cryptic because their coloration tends to help them blend in with their surroundings, and they can remain immobile for great lengths of time. When an individual California red-legged frog is disturbed, it may jump into the water with a distinct "plop." The California red-legged frog may do this either when the surveyor is still distant or when a surveyor is very near. Bullfrogs exhibit similar behavior but will often emit a "squawk" as they dive into the water. Because a California red-legged frog is unlikely to make such a sound, a "squawk" from a fleeing frog will be considered sufficient to positively identify the frog as a bullfrog.

Larvae
Tadpoles may be trapped and handled only by those with a valid 10(a)1(A) permit. California red-legged frog larvae range from 14 to 80 millimeters (0.5 to 3.25 inches) in length. They are greenish to generally brownish color with darker marbling and lack distinct black or white spotting or speckling. Large California red-legged frog larvae often have a wash of red coloration on their undersides and a very small single row of evenly spaced whitish or gold flecks along the side where the dorsolateral fold will develop. Other features to look for to identify California red-legged frog larvae include: eyes set well in from the outline of the head (contrasts with treefrogs (*Hyla* spp.)), oral papillae on both the sides of the mouth and the bottom of the mouth (contrasts with *Bufo* spp.), well developed oral papillae on the sides of the mouth (contrasts with other subspecies of red-legged frogs (*Rana aurora* spp.) and spadefoot toads (*Scaphiopus* spp.)), generally mottled body and tail with few or no distinct black spots on tail fins (contrasts with bullfrogs), and two to three tooth rows on the top and bottom (contrasts with foothill yellow-legged frogs).

Eggs
California red-legged frogs breed during the winter and early spring from as early as late November through April and May. Adults engage in courtship behaviors that result in the female depositing from 2,000 to 6,000 eggs, each measuring between 2 and 3 millimeter (0.1 inches). California red-legged frog eggs are typically laid in a mass attached to emergent vegetation near the surface of the water, where they can be easily dislodged. However, egg masses have been detected lying on the bottom of ponds. The egg mass is well defined and

about the size of a softball. Eggs hatch within 6 to 14 days after deposition at which time the newly hatched larvae are delicate and easily injured or killed. California red-legged frog larvae transform into juvenile frogs in 3.5 to 7 months.

During the time that red-legged frog egg surveys are conducted, other amphibian eggs may be found including those of Pacific treefrogs, spadefoot toads, California tiger salamanders, and newts. Bullfrogs and foothill yellow-legged frogs lay their eggs later in the season. Field guides should be consulted for additional information on egg identification.

2. Habitat

California red-legged frogs occur in different habitats depending on their life stage, the season, and weather conditions. Rangewide, and even within local populations, there is much variation in how frogs use their environment; in some cases, they may complete their entire life cycle in a particular habitat (*i.e.,* a pond is suitable for all life stages), and in other cases, they may seek multiple habitat types (U.S. Fish and Wildlife Service 2002).

Breeding habitat
All life history stages are most likely to be encountered in and around breeding sites, which are known to include coastal lagoons, marshes, springs, permanent and semi-permanent natural ponds, ponded and backwater portions of streams, as well as artificial impoundments such as stock ponds, irrigation ponds, and siltation ponds. California red-legged frog eggs are usually found in ponds or in backwater pools in creeks attached to emergent vegetation such as *Typha* and *Scirpus*. However, they have been found in areas completely denuded of vegetation. Creeks and ponds where California red-legged frogs are found most often have dense growths of woody riparian vegetation, especially willows (*Salix* spp.) (Hayes and Jennings 1988). The absence of *Typha, Scirpus,* and *Salix* at an aquatic site does not rule out the possibility that the site provides habitat for California red-legged frogs, for example stock ponds often are lacking emergent vegetation yet they provide suitable breeding habitat. California red-legged frog larvae remain in these habitats until metamorphosis in the summer months (Storer 1925; Wright and Wright 1949). Young California red-legged frogs can occur in slow moving, shallow riffle zones in creeks or along the margins of ponds.

Summer habitat
California red-legged frogs often disperse from their breeding habitat to forage and seek summer habitat if water is not available. In the summer, California red-legged frogs are often found close to a pond or a deep pool in a creek where emergent vegetation, undercut banks, or semi-submerged rootballs afford shelter from predators. California red-legged frogs may also take shelter in small mammal burrows and other refugia on the banks up to 100 meters from the water any time of the year and can be encountered in smaller, even ephemeral bodies of water in a variety of upland settings (Jennings and Hayes 1994; U.S. Fish and Wildlife Service 2002).

Upland habitat
California red-legged frogs are frequently encountered in open grasslands occupying seeps and

springs. Such bodies may not be suitable for breeding but may function as foraging habitat or refugia for dispersing frogs. During periods of wet weather, starting with the first rains of fall, some individuals make overland excursions through upland habitats (U.S. Fish and Wildlife Service 2002).

3. Movement

California red-legged frogs may move up to 3 kilometers (1.88 miles) up or down drainages and are known to wander throughout riparian woodlands up to several dozen meters from the water (Rathbun *et al.* 1993). Dispersing frogs have been recorded to cover distances from 0.40 kilometer (0.25 mile) to more than 3.2 kilometers (2 miles) without apparent regard to topography, vegetation type, or riparian corridors (Bulger 1998). California red-legged frogs have been observed to make long-distance movements that are straight-line, point to point migrations rather than using corridors for moving in between habitats. Dispersal distances are considered to be dependent on habitat availability and environmental conditions. On rainy nights California red-legged frogs may roam away from aquatic sites as much as 1.6 kilometers (1 mile). California red-legged frogs will often move away from the water after the first winter rains, causing sites where California red-legged frogs were easily observed in the summer months to appear devoid of this species. Additionally, California red-legged frogs will sometimes disperse in response to receding water which often occurs during the driest time of the year.

References for Appendix A

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Appendix B.
Recommended Equipment Decontamination Procedures

In an effort to minimize the spread of pathogens that may be transferred as result of activities, surveyors should follow the guidance outlined below for disinfecting equipment and clothing after entering a pond and before entering a new pond, unless the wetlands are hydrologically connected to one another:

i. All organic matter should be removed from nets, traps, boots, vehicle tires and all other surfaces that have come into contact with water or potentially contaminated sediments. Cleaned items should be rinsed with clean water before leaving each study site.

ii. Boots, nets, traps, hands, *etc.* should be scrubbed with either a 75% ethanol solution, a bleach solution (0.5 to 1.0 cup per 1.0 gallon of water), Quat-128™ (1:60), or a 6% sodium hypochlorite 3 solution. Equipment should be rinsed clean with water between study sites. Cleaning equipment in the immediate vicinity of a pond or wetland should be avoided (*e.g.,* clean in an area at least 100 feet from aquatic features). Care should be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.

iii. Used cleaning materials (liquids, *etc.*) should be disposed of safely, and if necessary, taken back to the lab for proper disposal. Used disposable gloves should be retained for safe disposal in sealed bags.

iv. Additionally, the surveyors shall implement the following when working at sites with known or suspected disease problems: disposable gloves should be worn and changed between handling each animal. Gloves should be wetted with water from the site or distilled water prior to handling any amphibians. Gloves should be removed by turning inside out to minimize cross-contamination.

Appendix C.
General instructions for filling out CNDDB field survey forms

The Natural Diversity Data Base (NDDB) is the largest, most comprehensive database of its type in the world. It presently contains more than 33,000 site specific records on California's rarest plants, animals, and natural communities. The majority of the data collection effort for this has been provided by an exceptional assemblage of biologists throughout the state and the west. The backbone of this effort is the field survey form. We are enclosing copies of Natural Diversity Data Base (NDDB) field survey forms for species and natural communities. We would greatly appreciate you recording your field observations of rare, threatened, endangered, or sensitive species and natural communities
(elements) and sending them to us on these forms.

We are interested in receiving forms on elements of concern to us; refer to our free publications: *Special Plants List, Special Animals List,* and *Natural Communities List* for lists of which elements these include. Reports on multiple visits to sites that already exist in the NDDB are as important as new site information as it helps us track trends in population/stand size and condition. Naturally, we also want information on new sites. We have enclosed an example of a field survey form that includes the information we like to see. It is especially important to include a xeroxed portion of a USGS topographic quad with the population/stand outlined or marked (see back of enclosed example).

Without the map, your information will be mapped less accurately, as written descriptions of locations are frequently hard to interpret. Do not worry about filling in every box on the form; only fill out what seems most relevant to your site visit. Remember that your name and telephone number are very important in case we have any questions about the form.

If you are concerned about the sensitivity of the site, remember that the NDDB can label your element occurrence "Sensitive" in the computer, thus restricting access to that information. The NDDB is only as good as the information in it, and we depend on people like you as the source of that information. Thank you for your help in improving the NDDB.

Copies of the NDDB form can be obtained from the CDFG at the above address (telephone: 916-324-3812) *or* online at: http://www.dfg.ca.gov/whdab/html/animals.html.

Appendix D.
California Red-legged Frog Habitat Site Assessment Data Sheet

This data sheet is to assist in the data collection of California red-legged frog habitat in the vicinity of projects or other land use activities, following the August 2005, *Revised Guidance on Site Assessment and Field Surveys for California Red-legged Frogs* (Guidance), issued by the U.S. Fish and Wildlife Service. Prior to collecting the data requested on this form, the biologist should be familiar with and understand the Guidance.

The "Site Assessments" section of the Guidance details the data needed to complete a site assessment. When submitting a complete site assessment to the Service (one that has been done following the Guidance), one data sheet should be included for each aquatic habitat identified. If multiple aquatic habitats are identified within the project site, then multiple data sheets should be completed. A narrative description of the aquatic, riparian, and upland habitats should be provided to characterize the breeding habitat within the project site and the breeding and dispersal habitat within 1.6 kilometers (1 mile) of the project site. In addition to completing this data sheet, field notes, photographs, and maps should be provided to the appropriate Fish and Wildlife Service Office, as requested in the "Site Assessments" section of the Guidance.

Appendix D.
California Red-legged Frog Habitat Site Assessment Data Sheet

Site Assessment reviewed by _____ _____ _____
(FWS Field Office) **(date)** **(biologist)**

Date of Site Assessment: _____
(mm/dd/yyyy)

Site Assessment Biologists: _____ _____
(Last name) **(first name)** **(Last name)** **(first name)**

_____ _____
(Last name) **(first name)** **(Last name)** **(first name)**

Site Location: _____
(County, General location name, UTM Coordinates or Lat./Long. or T-R-S).

****ATTACH A MAP** (include habitat types, important features, and species locations)**

Proposed project name: _____
Brief description of proposed action:

1) Is this site within the current or historic range of the CRF (circle one)? YES NO

2) Are there known records of CRF within 1.6 km (1 mi) of the site (circle one)? YES NO
If yes, attach a list of all known CRF records with a map showing all locations.

GENERAL AQUATIC HABITAT CHARACTERIZATION

(if multiple ponds or streams are within the proposed action area, fill out one data sheet for each)

POND:

Size: _____ Maximum depth: _____

Vegetation: emergent, overhanging, dominant species: _____
_____
_____

Substrate: _____
_____

Perennial or Ephemeral *(circle one).* If ephemeral, date it goes dry: _____

Appendix D.
California Red-legged Frog Habitat Site Assessment Data Sheet

STREAM:

Bank full width: _____
Depth at bank full: _____
Stream gradient: _____

Are there pools (circle one)? YES NO
If yes,
Size of stream pools: _____
Maximum depth of stream pools: _____

Characterize non-pool habitat: run, riffle, glide, other: _____
_____
_____
Vegetation: emergent, overhanging, dominant species: _____
_____
_____
Substrate: _____
_____
Bank description: _____
_____
_____

Perennial or Ephemeral *(circle one).* If ephemeral, date it goes dry: _____

Other aquatic habitat characteristics, species observations, drawings, or comments:

Necessary Attachments:

1. All field notes and other supporting documents
2. Site photographs
3. Maps with important habitat features and species location

Appendix E.
California Red-legged Frog Survey Data Sheet

This data sheet is to assist in the data collection during surveys for California red-legged frogs in areas with potential habitat. This data sheet is intended to assist in the preparation of a final report on the field surveys as detailed in the August 2005, *Revised Guidance on Site Assessment and Field Surveys for California Red-legged Frogs* (Guidance) issued by the U.S. Fish and Wildlife Service (Service). Before completing this data sheet, a site assessment should have been conducted using the Guidance and the Service should have been contacted to determine whether surveys are required. Prior to collecting the data requested on this form, the biologist should be familiar with and understand the Guidance. To avoid and minimize the potential of harassment to California red-legged frogs, all survey activities shall cease once an individual California red-legged frog has been identified in the survey area, unless prior approval has been received from the appropriate Service Fish and Wildlife Office. The Service shall be notified within three (3) working days by the surveyor once a California red-legged frog is detected, at which point the Service will provide further guidance. Surveys should take place in consecutive breeding/non-breeding seasons (*i.e.,* the entire survey period, including breeding and non-breeding surveys should not exceed 9 months). It is important that both the breeding and non-breeding survey be conducted during the time period specified in the Guidance. Site specific conditions may warrant modifications to the timing of survey periods, modifications must be made with the Service's approval. The survey consists of two (2) day and four (4) night surveys during the breeding season and one (1) day and one (1) night surveys during the non-breeding season.

All California red-legged frog life stages should be surveyed for. Surveyors may detect larvae but not be able to identify this life stage to species as handling any life stage of the California red-legged frog necessitates a valid 10(a)(1)(A) permit. If the larval life stage is the only life stage detected and the larvae are not identified to species, the surveyor must either return to the habitat to identify the frog in another life stage or have a valid 10(a)(1)(A) permit allowing the surveyor to handle California red-legged frogs and larvae. In order for the Service to consider a survey to be complete, all frogs encountered must be accurately identified.

Appendix E.
California Red-legged Frog Survey Data Sheet

Survey results reviewed by _____ _____ _____
(FWS Field Office) (date) (biologist)

Date of Survey: _____ (mm/dd/yyyy)

Survey Biologist: _____ (Last name) (first name)

Survey Biologist: _____ (Last name) (first name)

Site Location: _____
(County, General location name, UTM Coordinates or Lat./Long. or T-R-S).

****ATTACH A MAP** (include habitat types, important features, and species locations)**

Proposed project name: _____
Brief description of proposed action:

Type of Survey (circle one): **DAY NIGHT BREEDING NON-BREEDING**

Survey number (circle one): **1 2 3 4 5 6 7 8**

Begin Time: _____ **End Time:** _____

Cloud cover: _____ **Precipitation:** _____

Air Temperature: _____ **Water Temperature:** _____

Wind Speed: _____ **Visibility Conditions:** _____

Moon phase: _____ **Humidity:** _____

Description of weather conditions: _____

_____

Brand name and model of light used to conduct surveys: _____

Were binoculars used for the surveys (circle one)? **YES NO**
Brand, model, and power of binoculars: _____

Appendix E.
California Red-legged Frog Survey Data Sheet

AMPHIBIAN OBSERVATIONS

Species	# of indiv.	Observed (O) Heard (H)	Life Stages	Size Class	Certainty of Identification

Describe potential threats to California red-legged frogs observed, including non-native and native predators such as fish, bullfrogs, and raccoons: _____

_____

_____

_____

_____

Other notes, observations, comments, *etc.*

Necessary Attachments:

4. All field notes and other supporting documents
5. Site photographs
6. Maps with important habitat features and species locations

EXHIBIT 6

North Cabrillo Highway Subdivision Biological Resource Assessment

Half Moon Bay, California

Prepared For:

City of Half Moon Bay
501 Main Street
Half Moon Bay, California 94019
Attn: Steve Flint

Contact:

Dana Riggs
riggs@wra-ca.com

Date:

January 2010

wra
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1.0 INTRODUCTION

On November 11, 2010 WRA, Inc. (WRA) conducted a biological reconnaissance of the Stoloski Property (APN 048-133-010; hereinafter, "Project Area"); and the surrounding 200-foot-wide Study Area required by section 18.38.035. Mapping of Coastal Resources, around the Project Area including the off-site Pullman Ditch located on North Cabrillo Highway (Highway 1) in the City of Half Moon Bay, San Mateo County, California (Figure 1).

The purpose of this reconnaissance and report is to identify, describe, and map any potential existing wild strawberry habitat, sensitive habitats including riparian and wetland areas or other Environmentally Sensitive Habitat Area (ESHA), and "rare, threatened, or endangered" species which may occur in the Project Area and the surrounding 200-foot-wide Study Area (Figure 1). Additionally, this report includes an analysis of potential impacts associated with an application for a Coastal Development Permit (CDP) (hereinafter, the "proposed project"). The proposed project consists of an application for a CDP and Tentative Parcel Map to divide approximately 2.1 acres of existing farmed lands into four lots, and to construct a new on-site storm drain system to replace an existing open channel (Pullman Ditch), located along the northern boundary of the proposed Project Area. The proposed project would not include development other than infrastructure including the installation of streets, storm drains, and utilities.

WRA performed the biological reconnaissance in accordance with the City of Half Moon Bay (City) Local Coastal Program (LCP), including the Section 18.38.035 of the Zoning Code LCP Implementation Plan, and Chapter 3 of the Land Use Plan. This assessment is based on site conditions observed on the date of the site visit, related information available at the time of the study, and from past reports completed for properties located on or adjacent to Pullman Ditch. This report also contains an evaluation of potential impacts to special status species or ESHAs that may occur as a result of the proposed project and potential mitigation measures to compensate for those impacts.

As part of this study, WRA also performed a habitat assessment for rare, endangered, or unique species listed in the LCP that typically occur in habitats similar to those of the Project and Study Areas including: the California Red-legged Frog (CRLF, *Rana draytonii*), San Francisco Garter Snake (SFGS, *Thamnophis sirtalis tetrataenia*), and Raptors, to determine if the Project Area or Study Area provides "habitats containing or supporting rare and endangered species," as that term is used in the City LCP.

1.1 Setting

The Stoloski Property (Project Area) is located at 37° 29' 19.40" N latitude, 122° 27' 07.84" W, longitude, approximately ±20 feet west of Highway 1 and 600 feet landward of the Pacific Ocean, ±9,300 feet northwest (2.0 miles, up coast) from the intersection of Highways 1 and 92. (Figure 1). The nearest streams mapped by the California Coastal Commission (CCC) (2004) are: Frenchman's Creek, approximately 2,500 feet to the south; Naples Ditch (aka "Naples Creek"), 875 feet to the north; and Arroyo de en Medio, 2600 feet to the north of the Project Area.

The LCP designates the Project Area as Planned Development (PD). The Zoning Map designates the site Planned Unit Development (PUD). The Project Area is bordered by residential development to the north, a commercial nursery to the east, agricultural fields to the south, and the Half Moon Bay State Beach and Pacific Ocean to the west. The western boundary of the Project Area is 225 feet east of Balboa Boulevard (part of the Half Moon Bay State Beach park road and bike trail).

Present Pullman Ditch[1] (top of bank) is located on the northern boundary outside of the Project Area; culverts extend underneath existing residential structures for a length of +80 feet. Waters enter Pullman Ditch through a box culvert located adjacent to the northwest corner of the Project Area, but is located in Caltrans right-of-way. The box culvert drains various properties including the nursery located on the east side of Highway One.

Pullman Ditch, where it traverses the Study Area north of the Project Area, consists of a man-made, mechanically excavated one to two feet deep and one to two feet wide, geometrical channel, with earthen bed and banks. At the time of the site visit, water was flowing through the ditch. (See Appendix B for photographs). The western most extent of Pullman Ditch within the Study Area is daylighted and bounded by a concrete retaining wall to the north and straw bale swales to the south for a length of ±90 feet, as shown in Appendix B. The eastern extent of the ditch is a narrow (approximately 5 feet wide) deeply incised channel dominated by non-native vegetation. Pullman ditch trends southwesterly north of the Project Area boundary and drains into the Pacific Ocean through a box culvert at the westernmost extent of the Study Area.

1.1.1. Project Area

The approximately 2.1-acres (91,476 square feet) Project Area consists of existing agricultural and ruderal field bordered by Pullman Ditch to the north, Cabrillo Highway to the east, the Half Moon Bay State Beach and Pacific Ocean to the west, and additional row crop fields to the south (Figure 1). Portions of the Project Area are used for equipment and material storage and dominated by ornamental shrubs and compacted gravel. Additionally, at the time of the site visit, the eastern portion of the Project Area was used as a pumpkin patch.

[1] Pullman Ditch was dug by hand in or about 1912 as an agricultural drain, +2 feet wide and +1.5 feet deep, south of its present location. Pullman Ditch consists of an open ditch with culverts, located in the side yards of or partly underneath, homes approved and constructed after 1976 on Champs Elysee, Alameda, Pullman, and Naples Avenues. In addition, Pullman Ditch discharges to the gully and beach at the State Park unit through a culvert underneath the paved park road and trail.

Figure 1. Location Map

North Cabrillo Highway Subdivision
Half Moon Bay, California

N
W E
S

0 500 1,000 2,000
Feet

wra
ENVIRONMENTAL CONSULTANTS

Date: December 2010
Map By: Michael Rochelle

Path: L:\Acad 2000 Files\20000\20206\gis\arcmap\Location.mxd

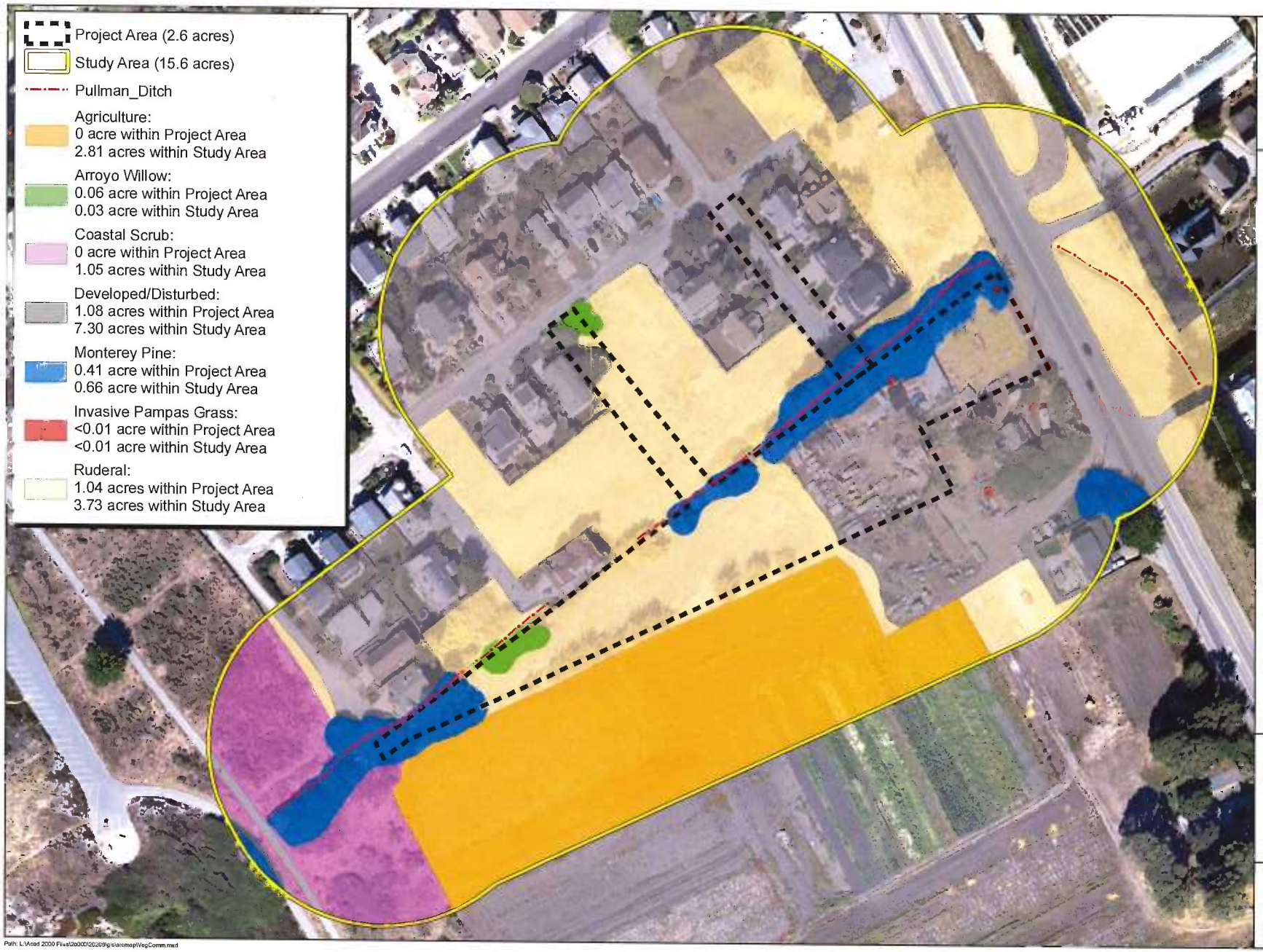
1.1.2 Study Area

Non-native ruderal herbaceous grassland exists within the surrounding 200-foot-wide Study Area on the adjacent vacant lots immediately to the north of the Project Area. Land use to the south of the Project Area is dominated by agricultural row crops. Horticultural landscaping associated with the adjacent homes also occurs within the Study Area to the north. Coastal scrub is present in the western portion of the Study Area; this vegetation community is highly disturbed likely due to adjacent agricultural and recreational land uses. Additionally, a commercial nursery is located east of Highway 1 and the Project Area within the Study Area.

1.2 Project Description

The proposed project consists of an application for a CDP and Tentative Parcel Map to divide approximately 2.1 acres of existing farmed lands and coastal scrub into four lots, and to construct a new on-site storm drain system to replace an existing open channel (Pullman Ditch), located on adjoining properties along the northern boundary of the Project Area (Figure 2). Local Coastal Program (LCP) Land Use Plan designates the Project Area as Planned Development (PD). The Project Area is located in a Planned Unit Development zoning district, which is consistent with the LCP. The existing parcel would be subdivided into four parcels with a portion of Parcel D designated Reserve (open space). The proposed project would not include development other than infrastructure including the installation of streets, sidewalks, storm drains, and utilities.

Access to the proposed project would be from extensions of Pullman Avenue and Champs Elysee Boulevard. Pullman Avenue would be extended 60 feet with a cul-de-sac and the extension of Champs Elysee Boulevard would be constructed in the existing right of way from Washington Boulevard to the Project Area with a cul-de-sac. Cul-de-sacs are located on the Project Area. Sidewalks, gutters, and culverts would be added to bring these streets to city standards. A storm drain culvert would be constructed from Cabrillo Highway westerly to Naples Avenue as a replacement facility for the existing Pullman Ditch. Sewers would be constructed from Naples Avenue easterly to Champs Elysee Boulevard and Pullman Avenue. According to information provided by the Applicant, the existing sewer grades conflict with the proposed storm drain culvert, thus precluding a southerly extension of the sewer line to the site. The existing water mains in Champs Elysee Boulevard and Pullman Avenue would be extended to the Project Area. Total earthwork for street and infrastructure improvements would include less than 200 cubic yards of soil (Ashley 2010). Earthwork related to infrastructure was not included in the tentative parcel map. Generally these impacts are temporary as storm drains and culverts are underground and soils are balanced on-site.



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North Cabrillo Highway Subdivision

Half Moon Bay, California

Figure 2.

Vegetation Communities

N
W E
S

0 50 100 200

Feet

Map Date: December 2010
Map By: Michael Rochelle

Path: L:\Acad 2000 Files\2b00020209\gis\arcmap\VegComm.mxd

2.0 REGULATORY SETTING

2.1 The California Coastal Act

The CCC, in partnership with coastal cities and counties, plans and regulates the use of land and water in the coastal zone under the California Coastal Act (CCA). On land the coastal zone varies in width from several hundred feet in highly urbanized areas up to five miles in certain rural areas, and offshore the coastal zone includes a three-mile-wide band of ocean. Development activities, which are broadly defined by the CCA to include (among others) construction of buildings, divisions of land, and activities that change the intensity of use of land or public access to coastal waters, generally require a CDP from the CCC. The CCA includes goals and policies that constitute the statutory standards applied to planning and regulatory decisions made by the CCC and by local governments.

2.2 City of Half Moon Bay Local Coastal Program Land Use Plan and Coastal Resource Conservation Standards

The Half Moon Bay Land Use Policies and Map constitute the Land Use Plan of the LCP. The Zoning Code (Title 18 of the Municipal Code, including Chapter 18.20, which regulates Coastal Development Permits) together with the Zoning District Map constitutes the Implementation Plan of the LCP. The primary goal of the LCP is to ensure that the local government's land use plans, zoning ordinances, zoning maps, and implemented actions meet the requirements of the provisions and polices of the Coastal Act at the local level. Coastal Resource Conservation Standards are described in Chapter 18.38 of the LCP and define sensitive habitat and coastal resource areas for conservation to include: sand dunes; marine habitats; sea cliffs; riparian areas; wetland, coastal tidelands and marshes, lakes, ponds, and adjacent shore habitats; coastal or off-shore migratory bird nesting sites; areas used for scientific study, refuges, and reserves; habitats containing unique or rare and endangered species; rocky intertidal zones; coastal scrub communities; wild strawberry habitat; and archaeological resources. Marine and water resources (including riparian habitats) are further defined in Chapter 3 of the Land Use Plan.

3.0 METHODS

On November 11, 2010, WRA biologists traversed both the Project Area and the Study Area on foot to determine (1) the presence of sensitive coastal resources or habitat areas (ESHAs); and (2) if existing conditions provided suitable habitat for any rare, endangered, or unique plant or wildlife species (special status species), including a detailed habitat assessment specifically for endangered CRLF and SFGS known to occur in the vicinity of the Project Area. All plant and wildlife species encountered were recorded, and are summarized in Appendix A.

3.1 Sensitive Biological Communities

The Project and Study Areas were surveyed to describe biological communities present and whether any sensitive habitats as defined in the LCP were present. A preliminary wetland assessment was conducted and findings were based primarily on the presence of wetland plant indicators or hydric soils. Biological communities present in the Project and Study Areas were classified based on existing plant community descriptions described in *Terrestrial Vegetation of California, Third Edition* (Barbour, Keeler-Wolf, and Schoenherr, 2007). In addition, the presence

of any unvegetated, ponded areas or flowing water, or evidence indicating their presence such as a high water mark or a defined drainage course, was investigated. The banks of Pullman Ditch, were also examined for hydrophytic or stream-dependent woody plant species (riparian species) other than those listed in the LCP.

3.2 Special Status Species

Potential occurrence of special status species in the Project and Study areas was evaluated by first determining which special status species occur in the vicinity of the Project and Study areas through a literature and database search. Database searches for known occurrences of special status species included the Half Moon Bay 7.5 minute U.S. Geological Survey (USGS 1997) quadrangle and the seven surrounding USGS quadrangles. The following sources were reviewed to determine which special status plant and wildlife species have been documented to occur in the vicinity of the Project and Study Areas:

- California Natural Diversity Database(CNDDB) records California Department of Fish and Game (CDFG 2010)
- California Native Plant Society (CNPS) Electronic Inventory records (CNPS 2010)
- CDFG publication "California's Wildlife, Volumes I-III" (Zeiner et al. 1990)
- CDFG publication "Amphibians and Reptile Species of Special Concern in California" (Jennings and Hayes 1994)
- A Field Guide to Western Reptiles and Amphibians (Stebbins 2003)

A site visit was conducted to search for suitable habitats within the Project and Study Areas for those species identified as occurring within the vicinity. Potential for special status species to occur in the Project and Study Areas was then evaluated according to the following criteria:

(1) No Potential. Habitat on and adjacent to the site is clearly unsuitable for the species requirements (foraging, breeding, cover, substrate, elevation, hydrology, plant community, site history, disturbance regime).

(2) Unlikely. Few of the habitat components meeting the species requirements are present, and/or the majority of habitat on and adjacent to the site is unsuitable or of very poor quality. The species is not likely to be found on the site.

(3) Moderate Potential. Some of the habitat components meeting the species requirements are present, and/or only some of the habitat on or adjacent to the site is unsuitable. The species has a moderate probability of being found on the site.

(4) High Potential. All of the habitat components meeting the species requirements are present and/or most of the habitat on or adjacent to the site is highly suitable. The species has a high probability of being found on the site.

(5) Present. Species is observed on the site or has been recorded (i.e. CNDDB, other reports) on the site recently.

Appendix C presents the special status plant and wildlife species with a potential to occur within the Project Area, their habitat requirements, and a rating of potential for occurrence.

A site visit is intended to identify suitable habitat for special status species known to occur in the vicinity in order to determine their potential to occur within the Project or Study Areas. The site visit

does not constitute a protocol-level survey and is not intended to determine the actual presence or absence of a species; however, if a special status species is observed during the site visit, its presence will be recorded and discussed.

3.3 Rare, Endangered, and Unique Species Habitat Assessment

A WRA wildlife biologist conducted the habitat assessment on the entirety of the Project Area and all physically accessible portions of the Study Area to determine whether habitats containing or supporting rare and endangered species or unique species are present in the Project Area or Study Area. All potential aquatic and wetland habitats were located and examined for the presence of potential CRLF or SFGS habitat per the habitat requirements of each species as described in the literature. Any potential breeding and estivation sites were noted. Upland habitats, trees, and shrubs were evaluated for their potential to support breeding raptors common to the San Mateo County coastal zone.

4.0 RESULTS AND DISCUSSION

No coastal resources or sensitive habitats were found in the Project Area or Study Area. Biological communities in the Project Area include Monterey pine stands, arroyo willow stands, ruderal herbaceous grassland, and developed areas. Expanding outward from the Stoloski lot the Study Area includes Monterey pine stands, ruderal herbaceous grassland, northern coastal scrub, agricultural and developed areas. The site is bordered to the east by a Highway One and to the west by a public access recreation area along the Pacific Ocean. Residential development is present to the north, and actively farmed agricultural areas are present to the south. A description of the biological communities within the Project and Study Areas is provided below and illustrated in Figure 2.

4.1 Biological Communities

4.1.1 Non-sensitive Biological Communities

Monterey Pine

Monterey pine is one of the most widely planted conifers in the world, but in its native habitat it is restricted to five locations: the Monterey Peninsula, Cambria, Año Nuevo, and two locations on Mexican islands off the Pacific coast of Baja California. It is listed as a rare CNPS 1B taxon, but is also considered an invasive species where planted outside of its native range (Cal-IPC 2010). Half Moon Bay is not within the native range of Monterey pine, and stands in the Project and Study areas appear to have originated as linear plantings. Approximately 0.41 acre of Monterey pine stands are present in the Project Area, primarily along Pullman Ditch. An additional 0.66 acre of Monterey Pine is present in the Study Area along Pullman Ditch and in an isolated stand adjacent to Highway One. Although Monterey pines are considered a unique species by the City of Half Moon Bay (LCP page 59), the management restrictions outlined in the LCP only apply to forestry practices. Monterey Pine provides suitable nesting habitat for many migratory avian species, and may provide roosting habitat for Monarch butterfly.

Arroyo Willow

Arroyo Willow typically occurs in an open to dense broadleaved winter-deciduous thicket typically <10 m in height and tolerant of frequent flooding and sustained inundation. The Project Area contains approximately 0.06 acre of arroyo willow comprising of approximately three to four trees. Although arroyo willow is a riparian species, conditions within the Project Area do not meet the requirements of a riparian habitat per the LCP guidelines. Chapter 3 of the LCP defines riparian vegetation as "at least 50 percent of the cover in an area made up of riparian species" (Riparian Habitats, page 42, of the LCP). The total 0.09 acre (0.06 acre within the Project Area) of arroyo willow present in the Study Area comprises less than 50 percent of the total vegetative cover along Pullman Ditch; Pullman Ditch itself is not a riparian area per the definition provided in the LCP due to its ephemeral nature. Arroyo willow provides suitable nesting habitat for many migratory avian species.

Ruderal herbaceous grassland

Ruderal herbaceous grassland refers to weedy, non-forested areas that have been partially developed or have been used in the past for agriculture. The Project Area is composed of approximately 1.04 acres of ruderal herbaceous grassland. Plant species observed in ruderal herbaceous grassland in the Project Area include Italian thistle, bristly ox-tongue, and broadleaved pepperweed. Dominant plant species consist of ornamental plants including red passionflower (*Passiflora* aff. *manicata*) and garden nasturtium. A linear stand of Monterey cypress (*Callitropsis macrocarpa*) was presumably planted as a windbreak as they are sited along the southern boundary of the Project Area within the ruderal grassland habitat.

There is a small field at the extreme western edge of the Project Area where pumpkins and other winter vegetable crops are cultivated. During the November 11, 2010 site visit, these areas included pumpkins and other non-native species such as wild radish (*Raphanus sativus*) and black mustard (*Brassica nigra*), as well as non-native annual grasses.

In addition, approximately 3.73 acres of ruderal herbaceous grassland is also present in the Study Area in between areas of urban and commercial development. A small patch of ruderal grassland is present at the western edge of the Study Area just east of the coastal scrub. Dominant plant species in this area include California aster (*Aster chilensis*), bristly ox-tongue, broadleaved pepperweed and Italian ryegrass. Ruderal herbaceous grassland provides habitat for a number of common wildlife species adapted to disturbed conditions including Deer Mouse (*Peromyscus maniculatus*) and Striped Skunk (*Mephitis mephitis*).

Pullman Ditch

Within the ruderal herbaceous grassland habitat, Pullman Ditch, which trends along the northern boundary of the Project Area, is a man-made ephemeral drainage for an upslope highway corridor segment. In 1947, the California Division of Highways installed two parallel 24-inch diameter pipes underneath and perpendicular to Highway 1 that, in conjunction with earthen and concrete-lined ditches to the east, apparently discharged to the head of a westerly-trending ditch located immediately adjacent to, the Stoloski parcel. In recent years, the nurseries east of Highway 1 discharged irrigation runoff to Pullman Ditch, in addition to seasonal episodic stormwater runoff from the sub-watershed (WRA 2007). Currently, the nurseries' water management program is designed and constructed to capture irrigation water runoff for on-site storage and reuse, but stormwater runoff associated with measurable precipitation from the sub-watershed, including the impervious greenhouse complex surfaces, continues to be discharged in typically high velocity,

short period flows to Pullman Ditch that are observed to flow rapidly to the ocean (WRA 2007).

Pullman Ditch consists of culverts, located in the side yards of or partly underneath, homes approved and constructed after 1976 on Champs Elysee, Alameda, and Naples Avenues. In addition, Pullman Ditch discharges to the gully and beach at the State Park unit through a culvert underneath the paved park road and trail.

Pullman Ditch is not mapped or designed as a blue-line (intermittent or perennial) stream by the City, CCC (2004) or USGS (1997), nor as a "riparian habitat" by the City. By contrast, Naples Drainage (Creek) is mapped as a "Riparian Habitat-Intermittent Stream" by the City (i.e., Habitat Areas and Water Resources Overlay map, page 223, of the LCP) and is shown as a jurisdictional stream by CCC (2004). Per the LCP Land Use Plan Chapter 3, Pullman Ditch neither qualified as a "riparian area" due to its ephemeral nature, nor does it support riparian vegetation.

According to the LCP, the definition of a riparian corridor is "the limit of riparian vegetation"(i.e. a line determined by the association of plant and animal species normally found near streams, lakes, or other bodies of fresh water: The LCP further defines a riparian corridor as a corridor must contain at least a 50 percent cover of some combination of [riparian] plants listed" (Riparian Corridors, page 66, of the LCP). Of these species, only arroyo willow is present in Pullman Ditch in and adjacent to the Project Area, and provides less than 50 percent cover along the length of Pullman Ditch. Greater than 50 percent of the vegetation along the ditch within the Project Area and Study Area is non-native ornamental passion flower and garden nasturtium with only a few willow trees. The remaining area consists of Himalayan blackberry (*Rubus discolor*), native California blackberry (*R. ursinus*), ruderal species, Monterey pine, and planted ornamental trees. The majority of the eastern portion of the ditch (approximately 1000 feet extending from Highway 1 to the State Park walking path) is shaded by a semi-contiguous canopy of Monterey cypress and Monterey pine.

Developed

Developed areas within the Project Area include residential housing, roads, and ornamental landscaping, including a few arroyo willows, garden nasturtium, and other ornamental shrubs and trees. The Project Area is composed of approximately 1.08 acres of developed/disturbed areas. The Study Area is composed of approximately 7.30 acres. These areas provide limited opportunities for wildlife species, but can be utilized by opportunistic species such as raccoon (*Procyon lotor*).

Agricultural Areas

The agricultural lands located in the southern portion of the Study Area consist of ruderal grassland and row-crop species. Approximately 2.81 acres of agricultural crops are present in the Study Area. Agricultural areas provide foraging habitat for many raptor species.

Northern Coastal Scrub

Northern coastal scrub usually occurs at <500 m elevation in the coolest and most mesic habitats of any of the coastal scrub types. The Study Area includes approximately 1.05 acres of Northern coastal scrub. Dominant species include coyote brush (*Baccharis pilurais*), poison oak (*Toxicodendron diversilobum*), sticky monkeyflower (*Mimulus auranticus*), black mustard (*Brassica nigra*), and fennel (*Foeniculum vulgare*). This biological community is relatively disturbed particularly along the edges of recreational trails and adjacent agricultural areas.

4.2 Special Status Species within the Project and Study Areas

No special status plant or wildlife species or "unique" species, per the CDFG or City of Half Moon Bay LCP, were observed during the November 11, 2010 site visit. All of the plant and wildlife species observed in the Project Area are common species (Appendix A).

4.2.1 Plants

Based upon a review of the resources listed in Section 3.2, 65 special status plant species and two special status mosses are known to occur in nine USGS-quad area surrounding the Project and Study areas (CDFG 2010; CNPS 2010). Twenty-two (22) special status plant species are documented in the CNDDB within five miles of the Project and Study areas (CDFG 2010; Figure 3). Appendix C summarizes the potential for occurrence for these species in the Project Area. Forty-eight (48) of these plant species were considered to be unlikely to occur or have no potential to occur onsite due to lack of suitable habitat, such as species dependent on serpentine soils, chaparral, wetlands, or inland conditions. One species, Monterey pine, is planted onsite, and the Project and Study areas are not in the native range where this species is considered rare.

Nineteen (19) species, including 17 plants and two mosses, were determined to have a moderate potential to occur in the Study Area. However, these species are unlikely to occur in the Project Area due to higher levels of disturbance and a lack of coastal scrub habitat. No special status plant species were considered to have a high potential to occur in the Project or Study areas due to limited native habitat and levels of disturbance onsite. Species with a moderate potential to occur in the Study Area are discussed below.

Blasdale's bent grass (*Agrostis blasdalei*). CNPS List 1B. Blasdale's bent grass is a perennial grass in the family Poaceae that is rhizomatous but usually grows in compact cespitose-like clumps. This species occurs at coastal bluff edges in coastal dune, coastal bluff scrub, and coastal prairie communities. It is found in sandy or gravelly soil close to rocks, often in nutrient poor soil with sparse vegetation. It is known from 5 to 150 meters in elevation in Marin, Mendocino, San Mateo, Santa Cruz, and Sonoma counties, and blooms from May through July.

San Francisco Bay spineflower (*Chorizanthe cuspidata var. cuspidata*). CNPS List 1B. San Francisco Bay spineflower is an annual herbaceous species in the family Polygonaceae. It occurs in coastal bluff scrub, coastal dunes, coastal prairie, coastal scrub, often on sandy soils. It is recorded from 3 to 215 meters in elevation in Alameda, Marin, San Francisco, San Mateo, and possibly Sonoma counties, and blooms between April and August.

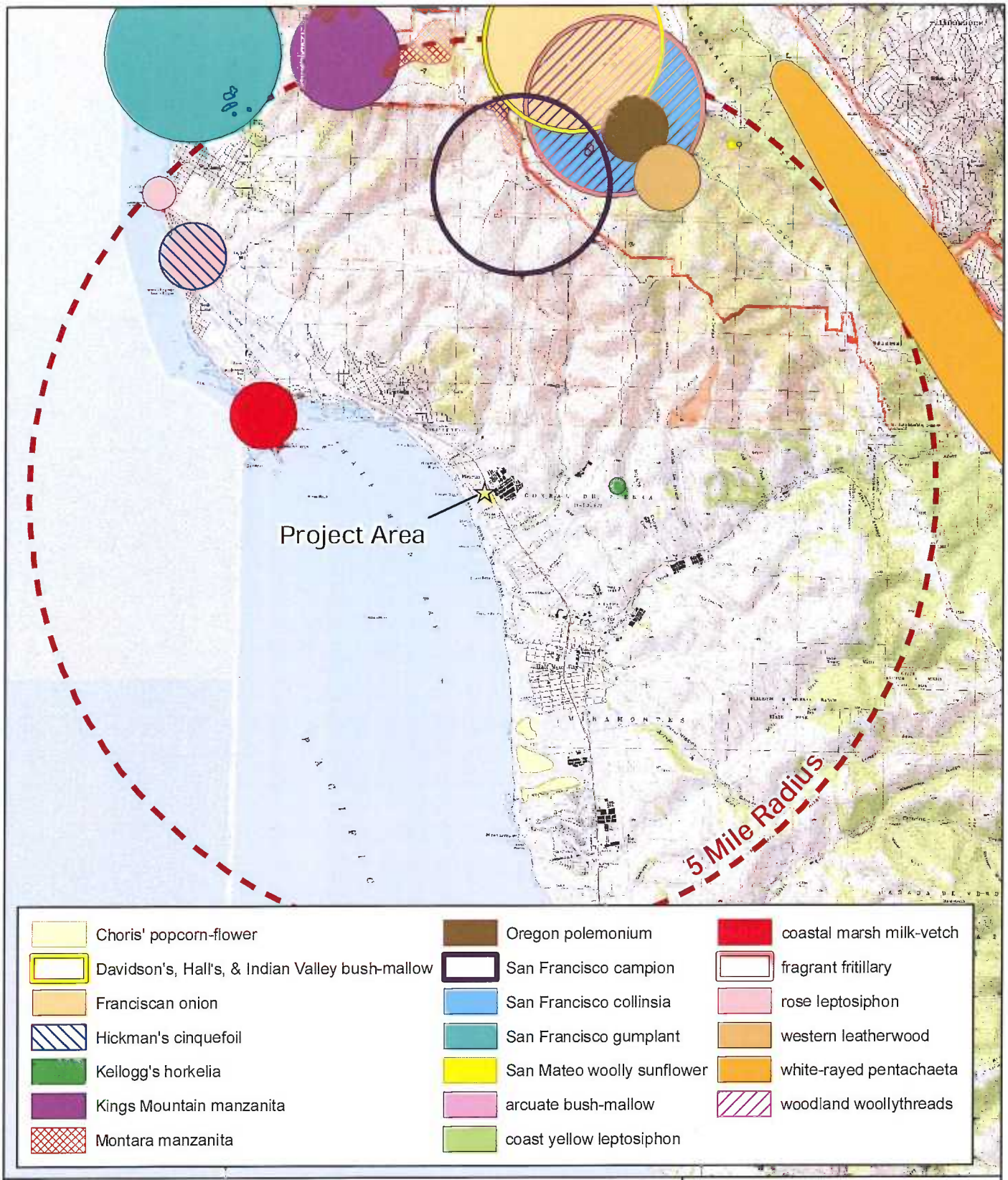

Figure 3. CNDDB Plants

North Cabrillo Highway Subdivision
Half Moon Bay, California

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ENVIRONMENTAL CONSULTANTS

Date: December 2010
Basemap: USGS Topo Quad
Map By: Michael Rochelle

Path: L:\Acad 2000 Files\20000\20206\gis\arcmap\CNDDB_Plants.mxd

Robust spineflower (*Chorizanthe robusta* var. *robusta*). Federal Endangered, CNPS List 1B. Robust spineflower is an annual herb in the family Polygonaceae. It occurs in openings in cismontane woodland, coastal dunes, coastal scrub, and maritime chaparral. It is typically found on sandy terraces and bluffs or in loose sand. It is recorded from 3 to 120 meters in elevation in Monterey, Santa Cruz, San Francisco, and possibly Marin counties, and is presumed extirpated from Alameda, Santa Clara, and San Mateo counties. It blooms between April and September.

Franciscan thistle (*Cirsium andrewsii*). CNPS List 1B. Franciscan thistle is a perennial herb in the family Asteraceae. It occurs mesic areas, and sometimes serpentine soils, in broadleafed upland forest, coastal bluff scrub, coastal prairie, and coastal scrub. It is recorded from 0 to 135 meters in elevation in Contra Costa, Main, San Francisco, San Mateo, and Sonoma counties, and blooms between March and July.

Compact cobwebby thistle (*Cirsium occidentale* var. *compactum*). CNPS List 1B. Compact cobwebby thistle is a perennial herb in the family Asteraceae. It occurs in both sand and clay soils in chaparral, coastal dunes, coastal prairie, and coastal scrub. It is recorded from 5 to 155 meters in elevation in San Luis Obispo and possibly Monterey counties, and is believed to be extirpated from San Francisco County. It blooms between April and June.

San Francisco collinsia *(Collinsia multicolor*), CNPS List 1B. San Francisco collinsia is an annual herb in the family Scrophulariaceae. It occurs in closed-cone coniferous forest and coastal scrub, and is sometimes found on serpentine soils. It is recorded from 30 to 250 meters in elevation in Monterey, Marin, Santa Clara, Santa Cruz, San Francisco, and San Mateo counties, and blooms between March and May.

Coast (or "sand-loving") wallflower (*Erysimum ammophilum*). CNPS List 1B. Coast wallflower is a perennial herb in the family Brassicaceae. It occurs in sandy openings in maritime chaparral, coastal dunes, and coastal scrub. It is recorded from 0 to 130 meters in elevation in Monterey, San Mateo, Santa Cruz, and Santa Barbara counties as well as Santa Rosa Island. It blooms between February and June.

Marin checker lily (*Fritillaria lanceolata* var. *tristulis*). CNPS List 1B. Marin checker lily is a perennial bulb in the family Liliaceae. It occurs in coastal bluff scrub, coastal prairie, and coastal scrub. It is recorded from 15 to 150 meters in elevation in Marin and San Mateo counties, and it blooms between February and May.

Dune (or "blue coast") gilia (*Gilia capitata* ssp. *chamissonis*). CNPS List 1B. Dune gilia is an annual herb in the family Polemoniaceae. It occurs in coastal dunes and coastal scrub. It is recorded from 2 to 200 meters in elevation in Marin, San Francisco, and Sonoma counties, and it blooms between April and July.

San Francisco gumplant (*Grindelia hirsutula* var. *maritima*). CNPS List 1B. San Francisco gumplant is a perennial herb in the family Asteraceae. It occurs on bluffs or in sandy or serpentine soils in coastal scrub, coastal bluff scrub, and valley and foothill grassland communities. It is recorded from 15 to 400 meters in elevation in Marin, San Francisco, San Luis Obispo, and San Mateo counties, with possible additional occurrences in Monterey and Santa Cruz counties. It blooms between June and September.

Short-leaved evax (*Hesperevax sparsiflora* var. *brevifolia*). CNPS List 1B. Short-leaved evax is a small annual herb in the family Asteraceae. It occurs in sandy or rocky bluffs and flats in coastal bluff scrub and coastal dunes. It is recorded from 0 to 200 meters in elevation in all coastal counties from Del Norte to Santa Cruz County, but is presumed extirpated from San Francisco. It blooms between March and June.

Kellogg's horkelia (*Horkelia cuneata ssp. sericea*). CNPS List 1B. Kellogg's horkelia is a perennial herb in the family Rosaceae. It occurs on gravelly or sandy soils in closed-cone coniferous forest, maritime chaparral, and openings in coastal scrub habitat. It is recorded from 10 to 200 meters in elevation in Alameda, Monterey, Santa Barbara, Santa Cruz, San Mateo, and San Luis Obispo counties, and is presumed extirpated from Marin and San Francisco counties. It blooms between April and September.

Point Reyes horkelia (*Horkelia marinensis*). CNPS List 1B. Point Reyes horkelia is a perennial herb in the family Rosaceae. It occurs in sandy flats and dune in coastal dunes, coastal prairie, and coastal scrub. It is recorded from 5 to 30 meters in elevation in Mendocino, Marin, Santa Cruz, San Mateo, and Sonoma counties. It blooms between May and September.

Perennial goldfields (*Lasthenia californica* spp. *macrantha*). CNPS List 1B. Perennial goldfields is a perennial herb in the family Asteraceae. It occurs in coastal bluff scrub, coastal dunes, and coastal scrub. It is recorded from 5 to 520 meters in elevation in Mendocino, Sonoma, Marin, San Mateo, and San Luis Obispo counties. It blooms between January and November.

Marsh microseris (*Microseris paludosa*). CNPS List 1B. Marsh microseris is a perennial herb in the family Asteraceae. It occurs in closed-cone coniferous forest, cismontane woodland, coastal scrub, and valley and foothill grassland, often where grasses are low-growing. It is recorded from 5 to 300 meters in elevation in Mendocino, Monterey, Marin, San Benito, Santa Cruz, San Luis Obispo, and Sonoma counties, and is presumed extirpated from San Francisco and San Mateo counties. It blooms between April and June.

Oregon polemonium (*Polemonium carneum*). CNPS List 2. Oregon polemonium is a perennial herb in the family Polemoniaceae. It occurs in coastal prairie, coastal scrub, and lower montane coniferous forest. It is recorded from 0 to 1830 meters in elevation in Del Norte, Siskiyou, Humboldt, Sonoma, Marin, Alameda, San Francisco, and San Mateo counties. It blooms between April and September.

San Francisco campion (*Silene verecunda ssp. verecunda*). CNPS List 1B. San Francisco campion is a perennial herb in the family Caryophyllaceae. It occurs in sandy soils in coastal bluff scrub, chaparral, coastal prairie, coastal scrub, and valley and foothill grassland. It is recorded from 30 to 645 meters in elevation in San Francisco, San Mateo, Santa Cruz, and Sutter counties. It blooms between March and August.

Coastal triquetrella (*Triquetrella californica*). CNPS List 1B. Coastal triquetrella is a moss in the family Pottiaceae. It grows on soil in coastal bluff scrub or coastal scrub communities. It is recorded in fewer than ten small coastal occurrences in California, between 10 and 100 meters in elevation, as well as one occurrence in Oregon. California occurrences are in Del Norte, Mendocino, Sonoma, Marin, San Francisco, San Mateo, Contra Costa, and San Diego counties.

4.2.2 Wildlife

A total of 61 special status wildlife species are known to occur in the general vicinity of the Project Area and Study Area; nine of these species are documented to occur within five miles of the Project and Study Area by CNDDB (CDFG 2010; Figure 4). Appendix C summarizes the potential for occurrence for these species in the Project and Study Areas. Those with a moderate or high potential to occur in the Project Area or Study Area are discussed below.

Mammals

Hoary Bat (*Lasiurus cinereus*). WBWG Medium Priority. This species is most abundant in the forests and croplands of the plains states and in forests of the Pacific Northwest, and is also found in the forests of the eastern United States and the arid deserts of the Southwest (TPWD 2007). Diverse woodland habitats with a mixture of forest and small open areas that provide edges seem ideal for this species (TPWD 2007). This species has been found in Spanish moss, squirrel nests, woodpecker holes, and out in the open on the trunks of trees. Summer tree roosts are typically located along edge habitats close to feeding grounds. Most females rear young in deciduous trees, while males prefer to roost in conifers. Both sexes appear to prefer older trees as roosts, which they use for up to five weeks, and apparently provide greater safety (TPWD 2007). Mature trees and snags may provide suitable roost habitat for this species in the Project Area, as well as in the Study Area.

Pallid Bat (*Antrozous pallidus*). CDFG Species of Special Concern, WBWG High Priority. The Pallid Bat is found in a variety of low elevation habitats throughout California. It selects a variety of day roosts including rock outcrops, mines, caves, hollow trees, buildings, and bridges. Night roosts are usually found under bridges, but also in caves, mines, and buildings. Pallid Bat are sensitive to roost disturbance. Unlike most bats, Pallid Bat primarily feed on large ground-dwelling arthropods, and many prey are taken on the ground (Zeiner, et al. 1990). Mature trees and snags may provide suitable roost habitat for this species in the Project Area, as well as in the Study Area.

Western Red Bat (*Lasiurus blossevillii*). WBWG High Priority. This species is considered highly migratory, and broadly distributed, reaching from southern Canada, through much of the western United States. They are typically solitary, roosting primarily in the foliage of trees or shrubs. Day roosts are commonly in edge habitats adjacent to streams or open fields, in orchards, and sometimes in urban areas possibly an association with riparian habitat (particularly willows, cottonwoods, and sycamores). Mature trees and snags may provide suitable roost habitat for this species in the Project Area as well as in the Study Area.

San Francisco Dusky-footed Woodrat (*Neotoma fuscipes annectens*). CDFG Species of Special Concern. This species inhabits hardwood forests of moderate canopy with a moderate to dense understory. The subspecies occurs in Coast Ranges between San Francisco Bay and the Salinas River (Matocq, 2003). It prefers brushy riparian habitats, coast live oak woodland, and dense scrub communities. Prominent stick houses typically provide evidence of its presence. Nests are constructed out of leaves, shredded grass, and other material. Habitat for this species exists in the shrubs of the Project and Study areas.

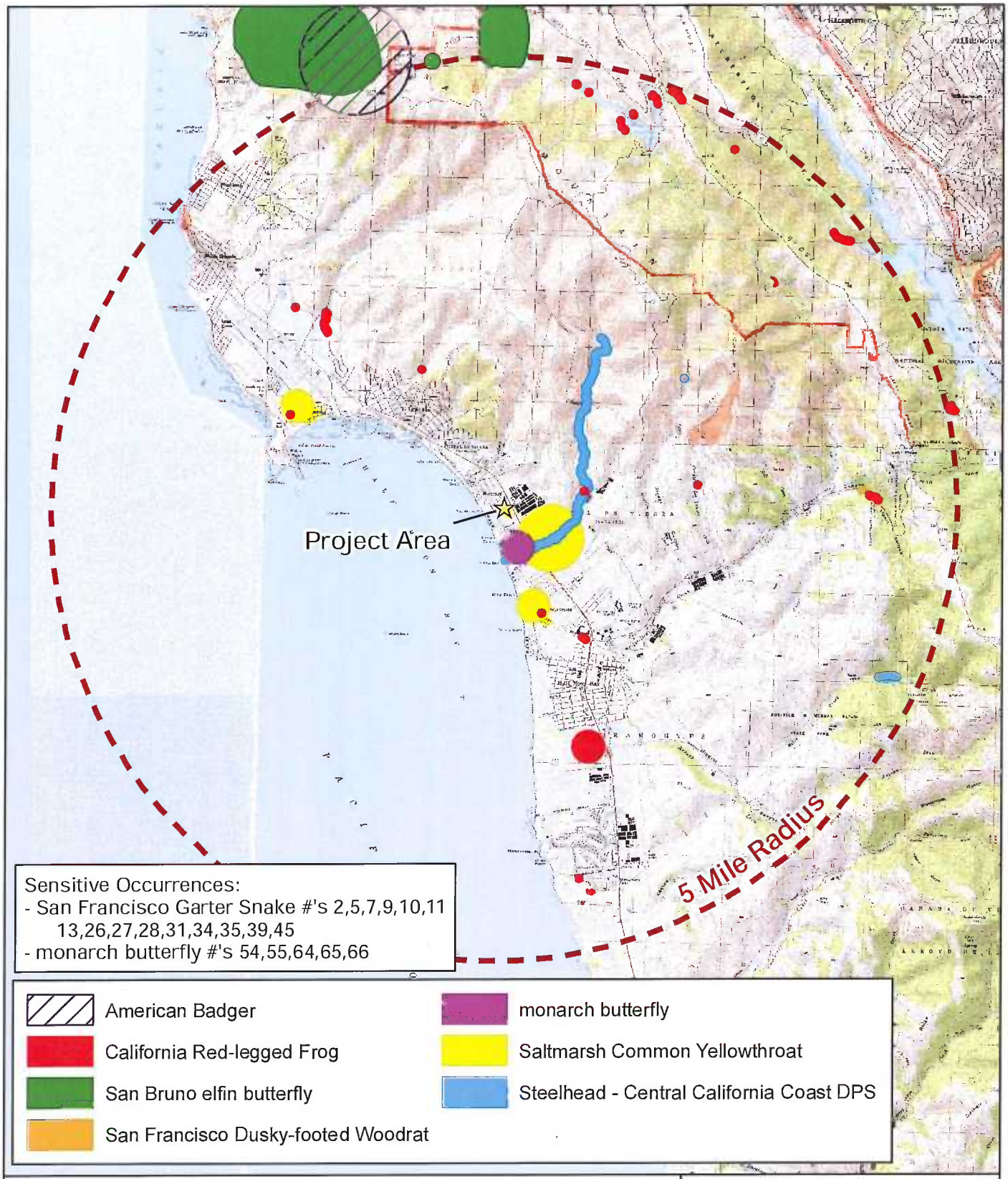

Figure 4. CNDDB Wildlife

North Cabrillo Highway Subdivision
Half Moon Bay, California

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ENVIRONMENTAL CONSULTANTS

Date: December 2010
Basemap: USGS Topo Quad
Map By: Michael Rocheile

Path: L:\Acad 2000 Files\20000\20206\gis\arcmap\CNDDB_Wildlife.mxd

Birds

White-tailed Kite (*Elanus leucurus*). CDFG Fully Protected Species. Kite occur in low elevation grassland, agricultural, wetland, oak woodland, and savannah habitats. Riparian zones adjacent to open areas are also used. Vegetative structure and prey availability seem to be more important than specific associations with plant species or vegetative communities. Lightly grazed or ungrazed fields generally support large prey populations and are often preferred to other habitats. Kite primarily feed on small mammals, although, birds, reptiles, amphibians, and insects are also taken. Nest trees range from single isolated trees to trees within large contiguous forests. Preferred nest trees are extremely variable, ranging from small shrubs (less than 10 ft. tall), to large trees (greater than 150 ft. tall) (Dunk 1995). Suitable foraging habitat is present and suitable nesting habitat may be present in trees and/or large shrubs within the Project Area, as well as in the Study Area.

Olive-sided Flycatcher (*Contopus cooperi*). CDFG Species of Special Concern, USFWS Bird of Conservation Concern. Within the coniferous forest biome, this species is most often associated with forest openings, forest edges near natural openings (e.g., meadows, canyons, rivers) or human-made openings (e.g., harvest units), or open to semi-open forest stands (Altman, 2000). Suitable foraging habitat is present and suitable nesting habitat may be present in trees and/or large shrubs within the Project Area, as well as in the Study Area.

Loggerhead Shrike (*Lanius ludovicianus*). CDFG Species of Special Concern, USFWS Bird of Conservation Concern. Loggerhead Shrike is a common resident and winter visitor in lowlands and foothills throughout California. It prefers open habitats with scattered trees, shrubs, posts, fences, utility lines or other perches. Nests are usually built on a stable branch in a densely-foliaged shrub or small tree and are usually well-concealed. The highest densities occur in open-canopied valley foothill hardwood, valley foothill hardwood-conifer, valley foothill, riparian, pinyon-juniper, juniper, and desert riparian habitats. While this species eats mostly Arthropods, they also take amphibians, small to medium-sized reptiles, small mammals and birds. They are also known to scavenge on carrion. Suitable foraging habitat is present and suitable nesting habitat may be present in trees and/or large shrubs within the Project, as well as in the Study Area.

San Francisco Yellowthroat (*Geothlypis trichas sinuosa*). USFWS Bird of Conservation Concern, CDFG Species of Special Concern. This subspecies of the Common Yellowthroat is found in freshwater marshes, coastal swales, riparian thickets, brackish marshes, and saltwater marshes. Their breeding range extends from Tomales Bay in the north, Carquinez Strait to the east, and Santa Cruz County to the south. This species requires thick, continuous cover such as tall grasses, tule patches, or riparian vegetation down to the water surface for foraging and prefers willows for nesting. Suitable foraging habitat is present in the Project and Study Areas and suitable nesting habitat may be present in Pullman Ditch downstream of the Project Area and the bike path. Typical nesting habitat is not present in the Project Area.

Bryant's Savannah Sparrow (*Passerculus sandwichensis alaudinus*). CDFG Species of Special Concern. The Bryant's is a Savannah Sparrow subspecies and California endemic whose range extends along the fog belt from Monterey County north to Del Norte County. It is most often associated with salt marsh habitat, but will also use grasslands. Suitable foraging habitat is present in the Project and Study Areas and suitable nesting habitat may be present in the undisturbed grassland and northern coastal scrub habitat within the Study Area. Typical nesting habitat is not present in the Project Area.

Invertebrates

Monarch Butterfly (*Danaus plexippus*). CDFG Roost Protected. Winter roost sites extend along the coast from northern Mendocino to Baja California, Mexico. Roosts are located in wind protected tree groves, with nectar and water sources nearby. A documented roost site is located approximately 0.4 miles south of the Project Area. Suitable winter roost habitat may exist for this species in the Monterey pine trees located in the Project Area.

A focused discussion on the potential occurrence of rare, endangered, or unique species: CRLF, SFGS, and raptors is provided below.

4.3 Rare, Endangered, and Unique Species Habitat Assessment

4.3.1 California Red-legged Frog

Primary Constituent Elements (PCEs), as defined by the Fish and Wildlife Service (Service), are those physical and biological features of a landscape that a species needs to survive and reproduce. For CRLF, the Service has determined the PCEs to be 1) aquatic breeding habitat, 2) aquatic non-breeding habitat, 3) upland habitat and 4) dispersal habitat. Each of these elements is discussed in greater detail below with relation to the Project and Study Areas. The Project and Study Areas are not within U.S. Fish and Wildlife Service (USFWS) designated Critical Habitat (USFWS 2010).

Aquatic Breeding Habitat

According to USFWS (2010), *Aquatic Breeding Habitat* includes standing bodies of fresh water (with salinities less than 4.5 ppt), including natural and manmade (e.g., stock) ponds, slow-moving streams or pools within streams, and other ephemeral or permanent water bodies that typically become inundated during winter rains and hold water for a minimum of 20 weeks in all but the driest of years.

Pullman Ditch is an ephemeral man-made ditch that is fully channelized, or culverted, between Highway 1 and Naples Avenue, including where it traverses immediately above and below the Project Area. Even under normal rainfall conditions, this reach of Pullman Ditch does not provide inundation at a sufficient depth or length of time during the breeding season to support CRLF breeding. In addition, high winter flows would likely preclude egg deposition attempts.

Aquatic Non-breeding Habitat

According to USFWS (2010), *Aquatic Non-Breeding Habitat* includes freshwater pond and stream habitats, as described above, that may not hold water long enough for the species to complete its aquatic life cycle but which provide for shelter, foraging, predator avoidance, and aquatic dispersal of juvenile and adult CRLF. Other wetland habitats considered to meet these criteria include, but are not limited to: plunge pools within intermittent creeks, seeps, quiet water refugia within streams during high water flows, and springs of sufficient flow to withstand short-term dry periods.

Pullman Ditch may provide aquatic non-breeding habitat, however, barriers between the Project Area and nearby occurrences and nearby suitable habitat likely prevent this species from occurring in this feature. Potential barriers are discussed in greater detail below in the dispersal section.

Upland Habitat

According to USFWS (2010), *Upland Habitat* includes areas adjacent to or surrounding breeding and on-breeding aquatic and riparian habitat up to a distance of one mile (1.6 km) in most cases (i.e., depending on surrounding landscape and dispersal barriers) including various vegetational types such as grassland, woodland, forest, wetland, or riparian areas that provide shelter, forage, and predator avoidance for CRLF.

Vegetation adjacent to the ditch is limited to primarily non-native and ornamental species, with a few arroyo willows, and does not extend more than a few feet, nor is this habitat contiguous between Pullman Ditch and other suitable aquatic habitats. Other sources of refugia such as ground squirrel burrows are not present. The Project Area may provide suitable upland Habitat for CRLF, however, barriers from nearby occurrences and nearby suitable habitat likely prevent this species from occurring on site. Potential barriers are discussed in greater detail below in the dispersal section.

Dispersal Habitat

According to USFWS, *Dispersal Habitat* includes accessible upland or riparian habitat within and between occupied or previously occupied sites that are located within one mile (1.6 km) of each other, and that support movement between such sites. Dispersal habitat includes various natural habitats, and altered habitats such as agricultural fields, that do not contain barriers (e.g., heavily traveled roads without bridges or culverts) to dispersal. Dispersal habitat does not include moderate- to high-density urban or industrial developments with large expanses of asphalt or concrete, nor does it include large lakes or reservoirs over 50 acres (20 ha) in size, or other areas that do not contain those features identified in PCEs as essential to the conservation of the species.

According to CNDDB, the nearest documented CRLF population is 0.75 miles east of the Project Area, in the headwaters of Frenchman's Creek (CDFG 2010; Figures 4 and 5). An additional occurrence is located approximately 1.2 miles to the south adjacent to Pilarcitos Creek (Figures 4 and 5). The Project Area is within the dispersal capabilities of the CRLF occurrence in Frenchman's Creek, however, Highway 1 and a large nursery complex to the east of the Project Area compromise a substantial and possibly insurmountable barrier. As mentioned in the PCE definition above, dispersal habitat does not include industrial developments with large expanses of asphalt or concrete, which the nursery complex contains. The development of Miramar is a substantial barrier to the north and the Pacific Ocean is to the west of the Project Area. If CRLF were to migrate from the mouth of Frenchman's Creek along the State Beach unit to the area where Pullman Ditch discharges into the incised gully, the frog's travel up-ditch would be impeded by culverts, including a four-foot drop culvert located approximately 200 feet to the west. In addition, active agricultural fields, horse stables, residential development and public beach access make it unlikely a CRLF would disperse to the Project Area from this direction.

Due to the lack of connectivity with other suitable habitats, high channelization and potentially high velocity flows during the rainy season in Pullman Ditch, CRLF are not expected to be present in the Project Area or in the surrounding 200-foot-wide Study Area.

Figure 5. Nearby CRLF Occurrence Information
(SFGS Locations are Sensitive)

North Cabrillo Highway Subdivision
Half Moon Bay, California

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ENVIRONMENTAL CONSULTANTS

Date: December 2010
Map By: Michael Rochelle

Path: L:\Acad 2000 Files\20000\20206\gis\arcmap\CRLF_SFGS.mxd

4.3.2 San Francisco Garter Snake

The SFGS requires seasonal or permanent water bodies as a basic habitat requirement. In addition to the basic requirement of a water source, Barry (2005) listed four critical habitat components for the SFGS:

1. "vegetative cover extending a minimum of three feet upland from the water's edge;
2. basking sites upland of the water;
3. food sources for all life stages of the snake; and
4. water depth of less than three-feet within three feet of the water's edge, providing access to food sources."

During the summer, snakes may disperse from the typical vegetated aquatic-edge habitat into adjacent areas to feed on amphibians or hibernate in rodent burrows. Typically, SFGS utilize upland rodent burrows within several hundred feet of their aquatic habitat (McGinnis 2001). Literature suggests that lowland rodent burrows are not utilized for hibernation due to the potential for flooding (McGinnis 2001).

During periods of heavy rain or shortly after, SFGS may make long-distance movements of up to 2 km along drainages within the dense riparian cover, and are not documented to travel over open terrain (McGinnis 2001).

The nearest documented SFGS occurrence is located approximately two miles from the Project Area (CDFG 2010). The location of the SFGS occurrence is characterized by dense riparian habitat, gradual banks, and the presence of CRLF. In contrast, Pullman Ditch lacks the typical vegetative cover and food sources (CRLF). Some vegetative cover does extend a minimum of three feet from the water's edge along portions of Pullman Ditch, however, water flow in this portion of the ditch travels at a relatively high velocity and therefore, does not provide suitable foraging habitat. Upland basking sites are not present in most places adjacent to Pullman Ditch due to heavy vegetation, development and agricultural practices. Culverts are also located immediately above and below the Project Area. Furthermore, food sources for all life stages are most likely not present. Sierran Treefrog (*Pseudacris sierra*) may be present in Pullman Ditch; however, based on the habitat assessment for CRLF, ranid frogs (the primary prey of SFGS, e.g. CRLF) are unlikely to be present.

No suitable aquatic habitat is located within the vicinity of the Project Area and residential housing and heavily farmed areas preclude most of the Study Area as potential upland habitat.

There are no streams that connect the Project Area and the nearest SFGS location, and dense riparian vegetation between the two is therefore lacking. Pullman Ditch has limited vegetative cover. The cover is not contiguous and SFGS would have to travel over open terrain or through culverts within the ditch to reach the Project Area from the nearest occurrences. SFGS would have to navigate through active agricultural fields and active horse stables in order reach the Study Area and Pullman Ditch. These barriers are not insurmountable, but because SFGS are not documented to travel over open terrain and habitat in the Study Area is suboptimal, it is unlikely SFGS would disperse to Pullman Ditch from the south. In terms of potential SFGS dispersal from the east, Highway 1 (a highly traveled route), the 50+ foot long culverts under the highway, truck and other vehicle parking along the easterly highway right-of-way, and the nursery complex to the east of the Highway all constitute barriers to SFGS movement to or from potential breeding habitat to the east. Furthermore, the lack of connectivity between documented SFGS occurrences, and the absence

of continuous vegetative cover along Pullman Ditch indicate Pullman Ditch does not provide suitable dispersal habitat. SFGS are unlikely to occur in the Project and Study Areas.

4.3.3 Raptor Assessment

The Project Area and Study Area do not provide suitable breeding habitat for ground nesting raptors such as Northern Harrier (*Circus cyaneus*). Agricultural activities, residential development and disturbance from the public and their pets along the Half Moon Bay Coastal Trail likely prevent nesting attempts from ground nesting raptors. Suitable breeding habitat, however, is available for many raptor species in the mature trees within and adjacent to the Project Area. Some raptor species that could potentially utilize these trees as breeding habitat include: Red-tailed Hawk (*Buteo jamaicensis*), American Kestrel (*Falco sparverius*) and White-tailed Kite (*Elanus leucurus*). In addition, the agricultural fields and adjacent open space provide suitable foraging habitat for a number of resident and migratory raptor species.

5.0 IMPACTS AND MITIGATION

The conclusions of this biological resources report and impact analysis reflect conditions observed at the time of the field visit and the biologist's interpretation of those conditions.

5.1 Biological Communities

According to Chapter 18.38.020A of the City of Half Moon Bay's Zoning Code, sensitive habitat areas are defined as areas in which plant or animal life or their habitats are either rare or especially valuable, and/or as designated on the Habitat Areas and Water Resources Overlay Map. Areas considered by the City to be sensitive include sand dunes, marine habitat, sea cliffs, riparian areas, and wetlands, among others. No sensitive habitat areas were observed in the Project Area or within the surrounding 200-foot-wide Study Area. Furthermore, no habitat for rare, endangered, or unique species is present in the Project Area; northern coastal scrub habitat in the Study Area provides marginal habitat for a few special status plant and wildlife species. However measures discussed below are prescribed to avoid potential impacts to such species. Therefore, impacts to these resources are not anticipated from the proposed project, and no additional mitigation measures are required or recommended.

The Project Area is a vacant lot with ruderal vegetation. The Study Area consists of residential areas, heavily farmed areas, and ruderal habitat. Pullman Ditch, between Highway 1 and the State Beach, and specifically where it traverses the Project Area, is a man-made ditch that in segments (reaches) functions through pipes, and culverts.

Pullman Ditch does not provide habitat for, or contain, plant or animal life that is either rare, unique, or especially valuable, as defined by CDFG; is not a perennial or intermittent (blue-line) stream as defined or mapped by the City's LCP, the CCC updated post-LCP certification map, or the USGS; does not contain, front on, or connect to coastal tidelands or marshes; does not support migratory waterfowl; is not a fish and wildlife biological scientific research and study area; contains neither lakes nor ponds, nor their adjacent shore habitat; is not part of a CDFG or USFWS refuge or reserve; and does not include or consist of sand dunes. (LCP Land Use Policy 3.5 (3-1(a)), definition of sensitive habitat areas.) Because of its ephemeral nature it is not considered a "riparian area' by LCP definition, nor does it contain "riparian vegetation". Based on these findings, Pullman Ditch is not considered an ESHA under the definitions of the LCP.

No riparian vegetation was identified in the Project Area, pursuant to the definition of riparian vegetation provided in the LCP. The willow and blackberry plants present on the property are not growing within Pullman Ditch. Although these species are listed as potential wetland and riparian plants, they can also grow in areas where the groundwater is relatively high; though not within the upper 12 inches normally associated with wetland habitats. It is assumed that these plants are tapping deeper groundwater sources; not the surface water within the ditch itself. Furthermore, vegetation within the Project Area contains less than 50 percent riparian species, and is therefore not considered "riparian habitat" according to the LCP or a "riparian corridor" (LCP pages 42 and 66). Culverts extending more than 50 feet located under residential homes immediately north of the Project Area reduce connectivity for riparian plant and animals. Based on this analysis, we do not consider this willow patch to meet the definition of ESHA under the City's LCP, and no Riparian Habitat or Riparian Corridor is present in the Project Area. No other ESHA is present within the Project Area or the surrounding 200-foot-wide Study Area.

The proposed project is located in a Planned Unit Development (PUD) Zoning District. According the City's Zoning Code Chapter 18.15.010, a PUD district is intended to provide for a variety of land uses, such as attached and detached single-family residential development, multiple-family housing development, professional and administrative areas, commercial and industrial uses, institutional uses, and public and private open space and recreation opportunities through the adoption of a comprehensive development plan as set forth in the city general plan and Chapter 18 of the Zoning Code. The proposed project would be consistent with the development requirements as defined in Chapter 18.15.010 of the City of Half Moon Bay's Zoning Code. Approval of the proposed project is pursuant to City review. Further phased development of the Project Area would be investigated under separate review processes. There are no adopted Habitat Conservation Plans for the Project Area.

5.2 Special Status Plants and Wildlife

5.2.1 Special Status Plants

There is moderate potential for the special status plants described in Section 4.3 to occur in the Study Area, particularly in the coastal scrub community. Due to potential disturbance, special status plant species are unlikely to occur in the Project Area. Therefore, seasonally-appropriate protocol-level plant surveys in the Study Area are recommended. These surveys should cover the blooming periods of all species listed in Section 4.3, or be conducted at an appropriate time to rule out presence of the species.

Since special status plants are unlikely to occur within the Project Area, but may be found within the Study Area, the proposed project has potential to impact the buffers of special status plant ESHAs. If any special status plant species are identified in the Study Area or Project Area, development activities should avoid these areas and appropriate buffer areas established around such species. The size and location of any buffer shall be determined by a qualified biologist. If a suitable protective ESHA buffer cannot be preserved, mitigation should include restoration and improvement of habitat within the remaining buffer area or other suitable areas on the property. Restoration would include removal of invasive species that threaten the continuance of the special status species and its habitat. Fencing or other barriers should be installed to prevent disturbance of the special status species ESHA and buffer area during and following project construction.

Direct impacts to special status plant species are not expected from the project as currently proposed. However, if the results of protocol-level surveys indicate the presence of special status species in proposed work areas, additional mitigation measures should be developed by a qualified biologist.

5.2.2 Special Status Wildlife

Potential impacts to special status wildlife species in the Project Area and Study Area, if present, could occur as a result of the proposed project and can be summarized as follows:

- Bats, including some special status bats, may be impacted by construction activity during critical life stages if disturbance occurs near potential bat roosts (trees, snags, undisturbed buildings).
- Construction activities have the potential to impact the San Francisco Dusky-footed Woodrat if the stick houses of this species are observed within or near areas where disturbance is to take place.
- Nesting birds, including a number of special status birds, may be impacted if construction activities occur in or near potential breeding habitat during the breeding season from February through August.
- The monarch butterfly may be impacted if construction activities disturb occupied over wintering roost habitat in the Study Area.

Bats

Habitats that support large, mature trees, snags and abandoned buildings have the potential to support roosting habitat for common and special status bats. Bat roosts are protected by CDFG and removal of occupied roosts would be considered a significant impact. WRA recommends the following measures be implemented to avoid take of roosting or special status bats.

Trees and snags may be removed outside of the maternity roosting season without performing preconstruction bat surveys, September through March. Preconstruction surveys for bats should take place during the maternity roosting season (defined as: April 1 through August 31) if trees, snags or unused buildings are to be removed during this time frame. Additionally, unused buildings may provide winter roost habitat and should be surveyed for roosts if removed between November and March.

If special status bat species are detected during surveys, appropriate, species and roost specific mitigation measures will be developed. Such measures may include postponing removal of trees, snags or structures until the end of the maternity roosting season or construction of species appropriate roosting habitat within, or adjacent to the Study Area. Consultation with CDFG may be warranted to determine appropriate mitigation measures if roosts are disturbed or destroyed.

Woodrat

The shrub areas in the Study Area have the potential to support the San Francisco Dusky-footed Woodrat. If stick houses are observed, they should be avoided if possible. If avoidance is not feasible, the houses will be dismantled by hand under the supervision of a biologist. If young are encountered during the dismantling process, the material should be placed back on the house and the house should remain unmolested for two to three weeks in order to give the young enough time to mature and leave the house. After two to three weeks, the nest dismantling process may begin again. Nest material will be moved to suitable adjacent areas that will not be impacted.

Birds

Nesting birds protected by the Migratory Bird Treaty Act and other regulations may be impacted by construction during the bird breeding season from February through August. Ideally, the clearing of vegetation, removal of buildings and the initiation of construction can be done in the non-breeding season from September through January. If these activities cannot be done in the non-breeding season, a qualified biologist shall perform pre-construction breeding bird surveys within 14 days of the onset of construction or clearing of vegetation. The survey area should encompass the Project Area and the entirety of the Study Area. If nesting birds are discovered in the vicinity of planned activities, a buffer area around the nest should be established until the nest is vacated. The size of the buffer would be dependent on the habitat, level of disturbance and the particular species of nesting bird.

Monarch Butterfly

Monarch butterflies have known winter roosts just to the south of the Study Area. No impacts would be expected if tree removal is scheduled between March and September. If construction activities or vegetation removal is scheduled during the winter from October through February, then a monarch winter roost survey would be recommended. Detection of a roost may require consultation with CDFG.

EXHIBIT 7

wra
ENVIRONMENTAL CONSULTANTS

August 8, 2013

Kerry Burke
Burke Land Use
34 Amesport Landing
Half Moon Bay, CA 94019

Re: Coastal Commission Appeal of Stoloski Subdivision, A-2-HMB-12-005

Dear Ms. Burke,

This letter responds to the biological contentions in the August 1, 2013 Coastal Commission Staff Report for the appeal of the City of Half Moon Bay approval of the Stoloski Subdivision ("Staff Report").

WRA, Inc. (WRA) has been employed by the City of Half Moon Bay to conduct and oversee the biological resources assessment, surveys, and reporting on the Pullman Ditch and on surrounding properties since 2000. This work was performed in connection with proposed development on a number of parcels surrounding the Pullman Ditch, including the proposed subdivision now before the Coastal Commission. In connection with this work, we have visited Pullman Ditch and the surrounding area on numerous occasions. WRA biologists are highly trained in the identification of both California red-legged frog (CRLF) and San Francisco garter snake (SFGS) and their habitats; our biologists carry USFWS federal recovery 10(a)(1)(A) permits for both species, have worked on numerous projects in the region, and are very familiar with documented breeding and dispersal habitats throughout Half Moon Bay and the greater San Mateo County coastal area.

WRA disagrees with the contentions in the Staff Report that Pullman Ditch is either a riparian habitat or an environmentally sensitive habitat area. No riparian habitat is present in the Pullman Ditch areas proposed for development. Neither the California Red Legged Frog (CRLF) nor the San Francisco Garter Snake (SFGS) have been found in the Pullman Ditch and it is highly unlikely that either species would ever be found in the Pullman Ditch. According to Title 18.38.050 of the City of Half Moon Bay Zoning Code, development is permitted within sensitive habitat areas if they will not have any significant adverse environmental impact.

Absence of Riparian Habitat in the Project Development Area

Vegetation alongside Pullman Ditch in the proposed project development area consists primarily of the following upland species: Monterey pine, Monterey cypress, California blackberry (aka dewberry), poison hemlock, and ruderal non-native herbaceous species such as bristly ox-tongue. As stated in the Staff Report, riparian corridors by definition in the LCP are defined by the "limit of riparian vegetation" including: red alder, jaumea, pickleweed, big leaf maple, narrowleaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder. "Such a corridor must contain at least a 50% cover of some combination of the

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plants listed." Chapter 3 of the LCP further states that "vegetation shall be considered riparian if at least 50% of the cover in an area is made up of riparian species". Because no riparian species are present in the Pullman Ditch, no riparian vegetation will be removed and thus, the Appellants' claim that such vegetation will be eliminated is unfounded.

Attachment A includes a map showing the location of dominant vegetation types adjacent to Pullman Ditch, photographs of these communities taken at the location of each crossing, and a list of all botanical species found within the proposed development area located along Pullman Ditch.

No Significant Adverse Impacts to ESHAs

WRA concluded in our biological resource assessment report dated January 2010 for the City of Half Moon Bay regarding the Stoloski Subdivision that both CRLF and SFGS are unlikely to occur in the proposed development area. These findings are based on extensive site assessments and surveys over many years by WRA biologists of the Pullman Ditch and the surrounding areas to assess the suitability of the site to support a breeding population of either CRLF or SFGS and to assess connectivity between nearby documented breeding sites to Pullman Ditch for foraging. WRA concluded based on these findings that the project would not likely impact either species due to the very low likelihood that either species is present in Pullman Ditch.

Pullman Ditch does not provide breeding habitat for CRLF or SFGS. Based on numerous visits to the Pullman Ditch over many years, WRA found that high flows (as evidenced by steeply incised channels lacking vegetation), preclude CRLF egg deposition throughout most of Pullman Ditch. In the few areas where pools occur, those pools either do not hold water long enough for CRLF to metamorphose or do not provide sufficient cover from predators; both CRLF larvae and adult SFGS require dense emergent vegetation or undercut banks and woody debris not found in Pullman Ditch to escape or hide from predators – particularly in or near residential areas where predators such as raccoon and feral cat are more abundant. Extensive investigations of Pullman Ditch and upland areas surrounding the ditch revealed small mammal burrows used by both species are predominantly absent – likely due to mowing and discing of surrounding fields. SFGS depend on small mammal burrows both for cover as well as to bear young in. Small mammal burrows may be present in denser vegetation adjacent to the ditch; however burrows in these areas do not receive enough sunlight to maintain thermoregulation for SFGS adults and young during winter months. The absence of rodent burrows alone likely precludes SFGS from occupying Pullman Ditch, however other factors were also found to indicate both CRLF and SFGS absence.

The lack of connectivity between documented occurrences and Pullman Ditch support the conclusion that CRLF and SFGS are unlikely to be present. Pullman Ditch does not lie along any logical dispersal corridor between known sites (see Attachment B). Heavy residential development to the north is a significant barrier due to fencing and lack of cover. To the east, Pullman Ditch ends at the large nursery complex east of Highway 1, where water is captured from measurable sheet flow runoff from the surrounding greenhouses and impervious lots. The nursery itself forms a substantial barrier to dispersing CRLF or SFGS from the foothills located to the east; impervious lots and buildings largely preclude movement. If frogs were to make it through the greenhouse complex they would then face several underground culverts measuring several hundred feet in length or they would have to cross a very large parking lot and then Highway 1. To the south, open grassland subject to frequent mowing and discing is present,

thereby eliminating rodent burrows and other forms of cover. WRA surveyed this area extensively to determine if any irrigation or similar man-made ditches are present that might connect Pullman Ditch to Frenchman's Creek located one half mile to the south. No such features were found and little to no cover (shrubs, rodent burrows, tall grasses) needed for SFGS dispersal is present in this area. The nearest SFGS occurrence is in Pilarcitos Creek, located south of Frenchman's Creek. No recorded observations of SFGS in Frenchman's Creek are present in the literature or CDFW database. However, Frenchman's Creek like Pilarcitos Creek provides optimal conditions for SFGS including adequate cover, perennial water and food sources, and an abundance of rodent burrows in uplands close to the creek. Therefore, it is presumed SFGS likely occur in Frenchman's Creek.

While CRLF could conceivably disperse across open areas lacking cover such as the area to the south of the site; though it seems unlikely for them to do so given the more optimal conditions present in Frenchman's Creek. The USFWS concluded in their final designation of critical habitat that CRLF are unlikely to disperse into uplands away from their breeding sites unless aquatic habitat is not available (2010). Fellers and Kleeman (2007) found that most CRLF dispersal events are within 500 meters of their breeding habitat, and longer overland journeys tend to be rare occurring only when aquatic breeding sites dry out. Because the nearest documented occurrence of CRLF is located in Frenchman's Creek more than 500 meters to the south, it seems highly unlikely based on USFWS conclusions that CRLF would leave Frenchman's Creek – a perennial water source containing optimal cover both in and adjacent to the creek for both larvae and adults for the more marginal quality habitat in Pullman Ditch. The same holds true for SFGS – SFGS are unlikely to leave optimal foraging habitat for the more marginal habitat present in Pullman Ditch.

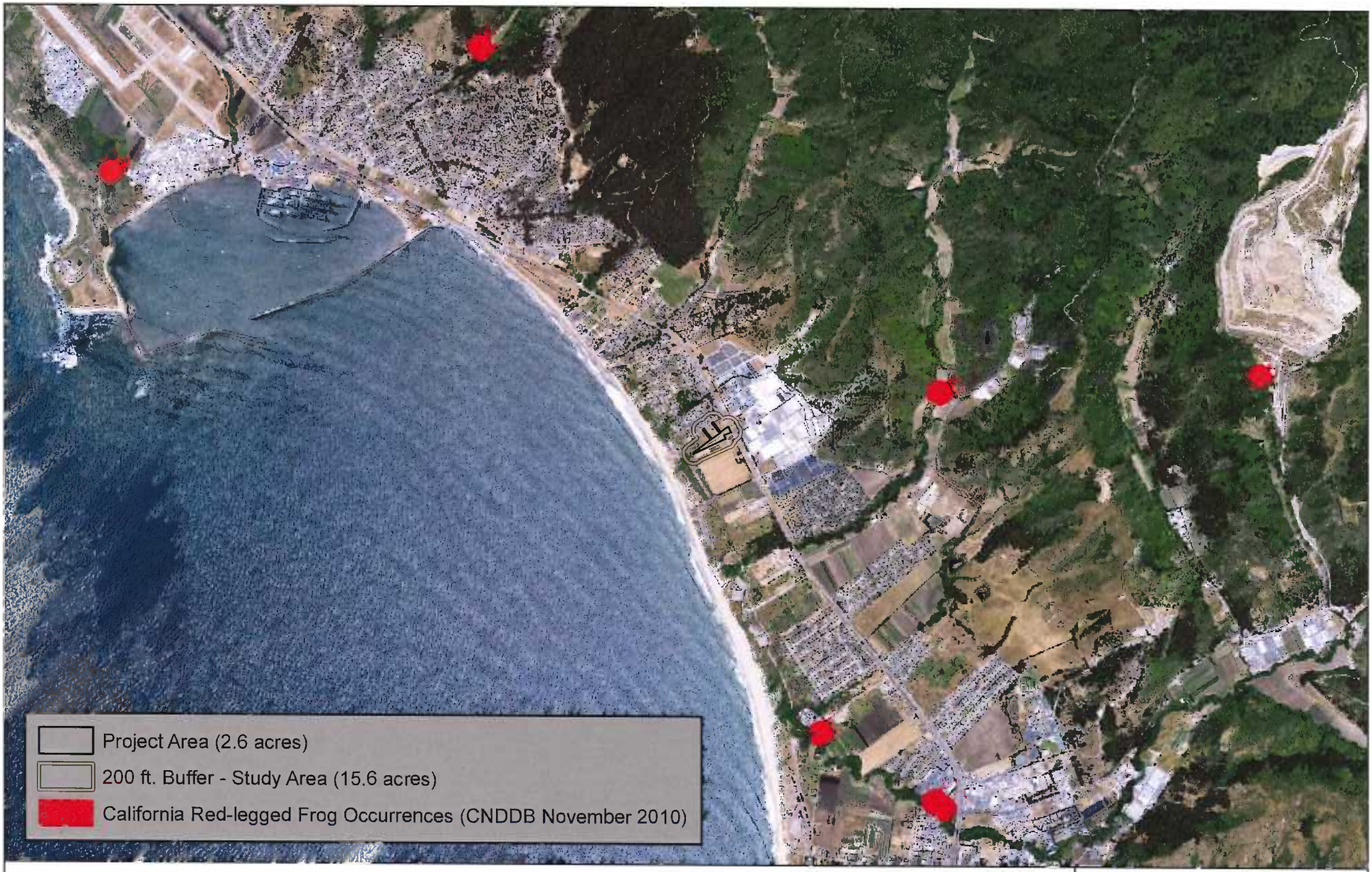
The proposed subdivision and crossings create no new barriers to dispersal and are wholly located outside of Pullman Ditch and any riparian habitat. Because of the absence of suitable breeding habitat for CRLF and SFGS and the lack of connectivity to more optimal habitats in the vicinity, both species are highly unlikely to be present in Pullman Ditch and therefore are unlikely to be significantly impacted by the proposed project.

Please do not hesitate to contact me with questions or concerns regarding these findings.

Sincerely,

Dana Riggs
Associate Principal Biologist

Attachments



Attachment B. Nearby CRLF Occurrence Information
(SFGS Locations are Sensitive and not aurthorized to be shown on public documents)

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wra
ENVIRONMENTAL CONSULTANTS

Stoloski Subdivision
Half Moon Bay, California

Date: December 2010
Map By: Michael Rochelle

Path: L:\Acad 2000 Files\20000\20206-2\GIS\ArcMap\AttachB_CRLF_SFGS.mxd

EXHIBIT 8

RANA RESOURCES
P.O. Box 2185
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#16,931
February 09, 2014

Ms. Jeannine Manna
District Supervisor
North Central Coast District
California Coastal Commission

Dear Ms. Manna:

Since 1986, I have been engaged in extensive field work and study of the California red-legged frog (*Rana draytonii*; CRLF) and the San Francisco gartersnake (*Thamnophis sirtalis tetrataenia*; SFGS). During the past 25 years, I have conducted research on CRLF movement and habitats ranging from San Luis Obispo County (Rathbun et al. 1993) to the north in Santa Cruz and San Mateo Counties (e.g., Jennings 2005, Jennings and Hayes 1990). Much of the current knowledge regarding the habitats and movement of CRLF has resulted from this initial work which was extensively used for the U.S. Fish and Wildlife Service (USFWS) recovery plan for the species (U.S. Fish and Wildlife Service 2002).

I've now had a chance to review all the materials regarding the Stoloski Subdivision, A-2-HMB-12-005 Project (which includes Pullman Ditch) in Half Moon Bay as it relates to the possibility of potential habitat for the California red-legged frog (*Rana draytonii*; CRLF) and the San Francisco gartersnake (*Thamnophis sirtalis tetrataenia*; SFGS). Specifically, the reviewed documents included the following:

- North Cabrillo Highway Subdivision Biological Resource Assessment (WRA 2010).
- Pullman Ditch Biological Resources Assessment (H.T. Harvey and Associates 2005).
- North Cabrillo Highway Tentative Parcel Map.
- Various agency correspondence from the California Department of Fish and Wildlife [CDFW] (Formerly California Department of Fish and Game) and USFWS (Triffleman 2006, 2007; DeLeon 2012, 2013; Tattersall 2014).
- WRA letter prepared in response to Coastal Commission Appeal of Stoloski Subdivision (Riggs 2013).

I visited Pullman Ditch and the surrounding area on November 10, 2013 in order get a first-hand assessment of the issues in question. My site assessment included walking the length of Pullman Ditch from Hwy 1 to its terminus at the beach. I additionally viewed the site and adjacent open space along the Half Moon Bay Coastal Trail for the Primary Constituent Elements (PCEs) that comprise the necessary habitat components required for occupancy by CRLF and SFGS. I also investigated the upland areas in the vicinity of the proposed free-span bridge crossings.

Based on my site visit and review of materials, I am in agreement with 2006 and 2007 CDFW and USFWS assessments and with the WRA and H.T. Harvey assessments that the vegetation structure and species composition is not the kind of habitat used by CRLF and SFGS along this part of the Central Coast. The vegetation along the ditch is largely dominated by non-native species and according to WRA (Riggs 2013), does not meet the definition of a "riparian habitat" and does not constitute a "riparian habitat' as defined by the Local Coastal Plan (LCP).

Pullman Ditch only contains fast flowing surface water during periods of rainfall runoff and is thus dry for most of the year. In fact, it was completely dry during my visit. Lack of a continuous presence of surface water is important because it is a critical PCE for CRLF (and hence SFGS) habitat. There is currently no coastal lagoon present at the mouth of Pullman Ditch, only patches of damp sand and several large redwood (*Sequoia sempervirens*) logs were observed. Before Pullman Ditch became deeply incised and downcut, a brackish water lagoon and associated freshwater marsh/riparian zone may have been present. However, current conditions show the mouth of the ditch to have completely filled in with soil and woody debris and thus there is no chance for a lagoon to form.

The above aspect is important. Based on our field work since 1990, we have found that CRLF presence and habitat suitability are closely tied to such lagoon habitats in areas that exhibit the characteristics of Pullman Ditch, where stream systems consistently dry up during the late spring and summer months. Based on previous radio tracking studies of CRLF I have conducted along the coastal lagoons of San Simeon Creek and Pico Creek in extreme northern San Luis Obispo County, we found that juvenile and adult frogs need to hydrate in fresh water every couple of days in order to survive (Rathbun et al. 1993). This means that although CRLF may forage some distance away from riparian zones during periods of rainfall or foggy weather, there must be an established pool of surface water present in the area for them to hydrate.

For the Pullman Ditch location, the closest surface water present that potentially contains CRLF is 875 feet to the north in Naples Ditch [aka "Naples Creek"] and 2,500 feet to the south in Frenchman's Creek. The only potential movement corridor between these two creeks and the Pullman Ditch is a very narrow strip of coastal scrub and large patches of introduced crystalline iceplant (*Mesembryanthemum crystallinum*) along the paved coastal access trail behind the beach. As pointed out in previous WRA correspondence, the rest of the area to the east and north is blocked by urban development, agricultural fields, Hwy 1, and an extensive nursery.

Based on my long-term familiarity with this species along the Central Coast (Jennings and Hayes 1990; Rathbun et al. 1993; and Jennings 1998, 2005), and my experience with known occupied CRLF habitats in Half Moon Bay (e.g., Kehoe Ditch, Belleville Road, and Wavecrest Village), I find it impossible that CRLF would be able to move over 3,300 feet between these two creeks (and to and from the Pullman Ditch) given the absence of sustained surface water, narrow strip

of land available for frog overland movement, and the presence of so much urbanization nearby (with the resulting large population of domestic cats (*Felis catus*) and raccoons (*Procyon lotor*)). I have observed locals to regularly leave pet food at specific outdoor locations in Half Moon Bay for feral cats, raccoons, and other wild animals. Such activities certainly have increased the population of these known predators of CRLF and SFGS (Jennings 2000a, 200b) to artificially high levels. With the only potential movement corridor for CRLF adjacent to the Half Moon Bay Coastal Trail, which would certainly be regularly used by domestic cats and raccoons, no CRLF would be able to move overland without a high probably of being predated.

In light of the above conditions it's just too far of a distance for CRLF to successfully move overland under suitable wet conditions to the Pullman Ditch location from suitable occupied CRLF habitats to the north and south.

Given that CRLF would not be present in the vicinity of Pullman Ditch, then it is also my conclusion that SFGS would also not be present. As stated in Jennings and Hayes (1994) and confirmed by others (e.g., Barry 1994), SFGS populations can only survive in aquatic habitats that contain a ranid frog. This requirement of a large amphibian food base has also been extended to other gartersnake (*Thamnophis* spp.) taxa in parts of California (Jennings et al. 1993). Thus, if there are no CRLF in the immediate area, then SFGS are therefore not present. Further, the negative effect of predation pressures of domestic cats, raccoons, and urbanization would also preclude the presence of SFGS attempting to reach the Pullman Ditch locality for foraging activities.

As noted by Jennings (1992), Barry (1994), and others, SFGS are a rare component of the snake fauna in any habitats they occupy. Invariably, Santa Cruz gartersnakes (*Thamnophis atratus atratus*) and coast gartersnakes (*T. elegans terrestris*) are considerably more abundant (in orders of magnitude) where SFGS are known to be present. This is true at the locations where I have surveyed for SFGS in Half Moon Bay. Thus, any habitats lacking PCEs (such as required food resources) for SFGS, will ensure that the snake is not present because of its very specific habitat requirements for the survival of even a small number of adult snakes.

In summary it is my professional opinion that the Pullman Ditch is not suitable for (or inhabited by) CRLF and SFGS due to the lack of sustained surface water conditions, the proximity and extent of urbanization (with documented frog and snake predators), and the great distance to the nearest suitable CRLF and SFGS habitat via an extremely narrow coastal scrub/iceplant corridor that is regularly patrolled by domestic cats and raccoons.

Agency (CDFW and USFWS) documents maintain that the site is within the known dispersal distance for CRLF and SFGS and, as a result, they hypothesize that Pullman Ditch could be occupied by CRLF and SFGS (Triffleman 2006, 2007; DeLeon 2012; Tattersall 2014).

However, the agencies' hypotheses have not been validated in the biological assessments conducted since 2005 by myself and other biologists who have examined the site and surrounding area in detail, and are familiar with CRLF and SFGS in Half Moon Bay, and have reviewed all of the known information (H.T. Harvey and Associates 2005, WRA 2010, Riggs 2013).

There are many sites within the Half Moon Bay city limits that have suitable PCEs for the presence of CRLF and SFGS. However, a close examination of many individual sites within the City and surrounding area has demonstrated to me that CRLF and SFGS are not found throughout the City and that every drainage within the City is not a potential habitat either for resident populations or for dispersal or foraging. These locations lack one or more PCEs for these species and therefore they are not present. The Pullman Ditch Project falls into the latter category and thus the development of the Stoloski Subdivision including the two proposed, free-spanning bridge crossings of Pullman Ditch would not have any negative effect on CRLF and SFGS populations in the vicinity of Half Moon Bay.

Thank you for allowing me to comment on this project. Please feel free to contact me if you have any questions on the above.

Sincerely,

Mark R. Jennings
Herpetologist and Fisheries Biologist

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EXHIBIT 9

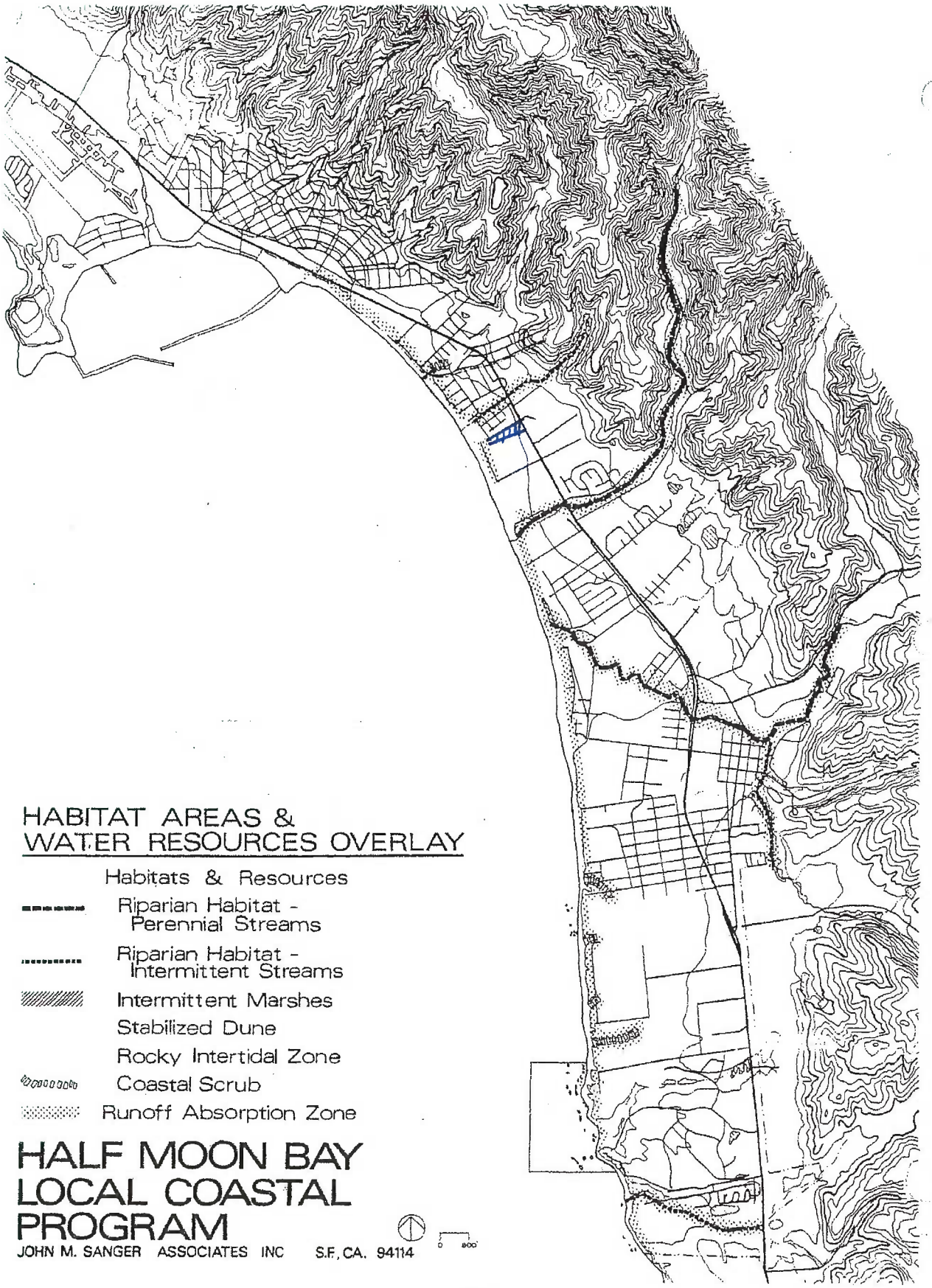
HABITAT AREAS &
WATER RESOURCES OVERLAY
Habitats & Resources
Riparian Habitat - Perennial Streams
Riparian Habitat - Intermittent Streams
Intermittent Marshes
Stabilized Dune
Rocky Intertidal Zone
Coastal Scrub
Runoff Absorption Zone
HALF MOON BAY
LOCAL COASTAL
PROGRAM
JOHN M. SANGER ASSOCIATES INC S.F, CA. 94114
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EXHIBIT 10

However, stronger policies are needed to: (1) ensure effective administration and more focused protection by specifying permitt uses and performance criteria for different types of habitats, (2, restore damaged sensitive habitats, and (3) balance Coastal Act requirements for protection of fragile resources with requirements for the provision of shoreline access while keeping in mind that the protection of environmentally sensitive habitats has highest priority.

Since most sensitive habitats in Half Moon Bay are related to streams and the coastal bluff and foredune area, problems associated with maintenance and restoration are closely linked with hazard and water resource issues. Existing public ownerships and General Plan policies offer major opportunities for protection of habitats, along with the accomplishment of other objectives.

RIPARIAN HABITATS

Background Information

Definitions

Riparian Area

The Local Coastal Plan defines "riparian area" as any area of lar bordering a stream or lake, including its banks. It includes lar at least up to the highest point (in cross section) of an obvious channel or enclosure of a body of water. Such areas extend to the outer edge of appropriate indicator plant species (see Riparian Vegetation).

Although water rights law considers riparian rights only on natural watercourses, the definition included here extends riparian area to all bodies of water, intermittent or perennial, man-made or natural. Vernal pools or vernally wet areas are excluded except when accompanied by riparian vegetation.

Riparian Vegetation

Riparian vegetation requires or tolerates soil moisture levels in excess of that available in adjacent terrestrial areas, and is typically associated with the banks, edges, or terrestrial limits of freshwater bodies, watercourses, and surface emergent aquifers. Riparian vegetation can be distinguished from adjacent upland vegetation as it forms a visually distinct and structurally separate linear plant assemblage along the shoreline of waterways. Vegetation shall be considered to be riparian if at least 50% of the cover in an area is made up of riparian species.

3. Brooms

There are many "brooms." French (Cytisus monspesulanus) and Scotch brooms (Cytisus scoparius), are the primary invasive ones located often along the inland roadways in prolific yellow bloom. The condemnation of these brooms does not, however, condemn the use necessarily of all brooms, many of which are highly ornamental and are not as invasive.

4. Weedy Thistles

Weedy thistles are particularly offensive and common to heavily grazed areas. These thistles are host to the plume moth larva, a pest which is very devastating to artichoke production.

Existing Regulations

At neither the Federal, State, or local levels are there any regulations controlling the particular weeds mentioned in this section. There are numerous regulations regarding the use of herbicides.

Issues

The control on private lands of weedy or undesirable plants is not easily handled unless such plants are declared highly noxious weeds by the State Department of Food and Agriculture. Also, it is virtually impossible to ban the sale in nurseries of plants which are common nursery items without adequate policing control.

On public lands, it is possible, given funds and manpower, to control or eradicate plants which are not desirable.

Still, natural seeding and lack of care by residents having the undesirable plants can continue to menace the natural habitat and provide a continual resource for reinfestation.

The blue gum, pampas grass, French and Scotch brooms are all sold by the various nurseries on the Coastside, the Bayside, or elsewhere. Presumably a ban on selling these plants in the Coastal Zone (or in the County as a whole) would create a policing problem, but it would be hoped that retail nurseries would understand the problem and voluntarily take such plants off the market.

3.4 Habitat Areas and Water Resources Overlay Designation

The Land Use Plan proposes Habitat Areas and Water Resources Overlay designation to address the deficiencies in existing

regulatory procedures. The overlay designation symbolically indicates the locations of habitat areas in Half Moon Bay. T policies set forth within this Plan and particularly this secti of the Plan are to serve as guidelines for development on or adjacent to the areas illustrated on the Habitat Areas and Water Resources Overlay Map.

The following habitat areas and water resources are designated on the Habitat Areas and Water Resources Overlay Map:[1]

Riparian habitats along perennial streams

Riparian habitats along intermittent streams

Intermittent marshes

Stabilized dunes

Rocky intertidal zone

Coastal scrub community associated with coastal bluffs and gullies

The following criteria were used in determining which habitats and resources warranted the overlay designation:

1. Unique, rare, or fragile communities which should be preserv to ensure their survival in the future, i.e. dune vegetation, riparian vegetation, and biological life in intertidal pools and marine terraces.

2. Areas that are structurally important in protecting natural land-forms and species, i.e. dunes which protect inland areas, riparian corridors that protect stream banks from erosion, provide shade and surface water supply and promote groundwater recharge, rocky intertidal pools which provide cover for many species.

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[1]While the designations reflected on the Habitat Areas and Water Resources Overlay Map represent the best available information, these designations are not definitive and may need modification in the future. The scale of the map precludes complete accuracy in the mapping of habitat areas, and in some cases, the precise location of habitat areas is not known. In addition, migration of species or discovery of new habitats would result in the need for designation for a new areas. Therefore, the boundaries of the designations would be updated periodically in order to incorporate new data. Changes in the overlay designations may be initiated b the City or by landowners.

No threatened and endangered species have been documented in Half Moon Bay.

3.5 Policies

The City will:

3-1 Definition of Sensitive Habitats

(a) Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and as those areas which meet one of the following criteria: (1) habitats containing or supporting "rare and endangered" species as defined by the State Fish and Game Commission, (2) all perennial and intermittent streams and their tributaries, (3) coastal tidelands and marshes, (4) coastal and offshore areas containing breeding and/or nesting sites and coastal areas used by migratory and resident water-associated birds for resting and feeding, (5) areas used for scientific study and research concerning fish and wildlife, (6) lakes and ponds and adjacent shore habitat, (7) existing game and wildlife refuges and reserves, and (8) sand dunes.

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

3-2 Designation of Sensitive Habitats

(a) Designate sensitive habitats as those, including but not limited to, shown on the Habitat Areas and Water Resources Overlay.

3-3 Protection of Sensitive Habitats

(a) Prohibit any land use and/or development which would have significant adverse impacts on sensitive habitat areas.

(b) Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the environmentally sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of such areas.

3-4 Permitted Uses

(a) Permit only resource-dependent or other uses which will not have a significant adverse impact in sensitive habitats.

(b) In all sensitive habitats, require that all permitted uses comply with U. S. Fish and Wildlife and State Department Fish and Game regulations.

3-5 Permit Conditions

(a) Require all applicants to prepare a biologic report by a qualified professional selected jointly by the applicant and the City to be submitted prior to development review. The report will determine if significant impacts on the sensitive habitats may occur, and recommend the most feasible mitigation measures if impacts may occur.

The report shall consider both any identified sensitive habitats and areas adjacent. Recommended uses and intensities within the habitat area shall be dependent on such resources, and shall be sited and designed to prevent impacts which would significantly degrade areas adjacent to the habitats. The City and the applicant shall jointly develop an appropriate program to evaluate the adequacy of any mitigation measures imposed.

(b) When applicable, require as a condition of permit approval the restoration of damaged habitat(s) when, in the judgment of the Planning Director, restoration is partially or wholly feasible.

3-6 Allocation of Public Funds

(a) In setting priorities for allocating limited local, State, or Federal public funds for preservation or restoration, use the following criteria: (1) biological and scientific significance of the habitat, (2) degree of endangerment from development or other activities, and (3) accessibility for educational and scientific uses and vulnerability to overuse.

RIPARIAN CORRIDORS

The City will:

3-7 Definition of Riparian Corridors

(a) Define riparian corridors by the "limit of riparian vegetation" (i.e. a line determined by the association of plant and animal species normally found near streams, lakes, and other bodies of fresh water: red alder, jaumea, pickleweed, big leaf maple, narrowleaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder). Such a corridor must contain at least a 50% cover of some combination of the plants listed.

.8 Designation of Riparian Corridors

(a) Establish riparian corridors for all perennial and intermittent streams and lakes and other bodies of fresh water in the Coastal Zone. Designate those corridors shown on the Habitat Areas and Water Resources Overlay and any other riparian area as sensitive habitats requiring protection, except for manmade irrigation ponds over 2,500 square feet surface area.

3-9 Permitted Uses in Riparian Corridors

(a) Within corridors, permit only the following uses: (1) education and research, (2) consumptive uses as provided for in the Fish and Game Code and Title 14 of the California Administrative Code, (3) fish and wildlife management activities, (4) trails and scenic overlooks on public land(s), and (5) necessary water supply projects.

(b) When no feasible or practicable alternative exists, permit the following uses: (1) stream-dependent aquaculture provided that non-stream-dependent facilities locate outside of corridor, (2) flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development, (3) bridges when supports are not in significant conflict with corridor resources, (4) pipelines and storm water runoff facilities, (5) improvement, repair or maintenance of roadways or road crossings, (6) agricultural uses, provided no existing riparian vegetation is removed, and no soil is allowed to enter stream channels.

3-10 Performance Standard in Riparian Corridors

(a) Require development permitted in corridors to: (1) minimize removal of vegetation, (2) minimize land exposure during construction and use temporary vegetation or mulching to protect critical areas, (3) minimize erosion, sedimentation, and runoff by appropriately grading and replanting modified areas, (4) use only adapted native or non-invasive exotic plant species when replanting, (5) provide sufficient passage for native and anadromous fish as specified by the State Department of Fish and Game, (6) minimize adverse effects of waste water discharges and entrainment, (7) prevent depletion of groundwater supplies and substantial interference with surface and subsurface waterflows, (8) encourage waste water reclamation, (9) maintain natural vegetation buffer areas that protect riparian habitats, and (10) minimize alteration of natural streams.

3-11 Establishment of Buffer Zones

(a) On both sides of riparian corridors, from the "limit of riparian vegetation," extend buffer zones 50 feet outward for perennial streams and 30 feet outward for intermittent streams.

(b) Where no riparian vegetation exists along both sides of riparian corridors, extend buffer zones 50 feet from the bank edge for perennial streams and 30 feet from the midpoint of intermittent streams.

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

3-12 Permitted Uses in Buffer Zones

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

3-13 Performance Standards in Buffer Zone

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

SEA CLIFFS

3-19 Permitted Uses

(a) Where nesting or roosting exists, permit only education and research activities.

(b) Where nesting or roosting do not exist, permit only the following uses: (1) education and research, (2) limited foot paths, (3) limited recreational rock climbing, (4) road and underground utility construction where no feasible alternative exists, and (5) intake or outfall lines provided that the habitat is not threatened.

3-20 Development Standards

(a) Restrict pedestrian traffic in bluff and cliff areas and on faces to a limited number of well-defined trails which avoid seabird nesting and roosting sites.

(b) Post signs informing recreational users not to disturb natural vegetation or nesting and roosting sites.

RARE AND ENDANGERED SPECIES

The City will:

3-21 Designation of Habitats of Rare and Endangered Species

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

3-22 Permitted Uses

(a) Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species.

(b) If the critical habitat has been identified by the Federal Office of Endangered Species, permit only those uses deemed compatible by the U.S. Fish and Wildlife Service in accordance with the provisions of the Endangered Species Act of 1973, as amended.

23 Permit Conditions

(a) Require, prior to permit issuance, that a qualified biologist prepare a report which defines the requirements of rare and endangered organisms. At minimum, require the report to discuss: (1) animal food, water, nesting or denning sites and reproduction, predation and migration requirements, (2) plants' life histories and soils, climate, and geographic requirements, (3) a map depicting the locations of plants or animals and/or their habitats, (4) any development must not impact the functional capacity of the habitat, and (5) recommend mitigation if development is permitted within or adjacent to identified habitats.

3-24 Preservation of Critical Habitats

(a) Require preservation of all habitats of rare and endangered species using the policies of this Plan and other implementing ordinances of the City.

3-25 San Francisco Garter Snake

(a) Prevent any development where there is known to be a riparian location for the San Francisco garter snake with the following exception: (1) existing man-made impoundments smaller than 1/2-acre in surface, and (2) existing man-made impoundments greater than 1/2-acre in surface, providing mitigation measures are taken to prevent disruption of not more than one-half of the snake's known habitat in that location in accordance with recommendations from the State Department of Fish and Game.

(b) Require developers to make sufficiently detailed analyses of any construction which could impair the potential or existing migration routes of the San Francisco garter snake. Such analyses will determine appropriate mitigation measures to be taken to provide for appropriate migration corridors.

3-26 San Francisco Tree Lupine Moth

(a) Prevent the loss of any large populations (more than 100 plants in a 1/10 acre area) of tree lupine within 1 mile of the coastline.

3-27 Brackish Water Snail

(a) Prevent any development which can have a deleterious effect on the California brackish water snail, including any dredging of its known or potential habitat.

(b) Encourage the State Department of Parks and Recreation to manage their lands in such a manner as to enhance the habi t for the California brackish water snail.

3-28 Sea Otter

(a) Encourage the appropriate agency to protect, monitor, and enhance sea otter habitats. In the development of mariculture facilities, encourage appropriate State and Federal agencies to seek measures to protect them from predation by the sea otter.

3-29 Globose Dune Beetle

(a) Assess, monitor, and contain the spread of dune grass.

(b) Provide roped-off trails for public access to the beach with the explanation of the dune beetle and its surrounding habitat.

3-30 Rare Plant Search

(a) Encourage a continued search for any rare plants known to have occurred in the San Mateo County Coastal Zone but not recently seen. Such search can be done by various persons or groups concerned with such matters.

3-31 Development Standards

(a) Prevent any development on or within 50 feet of any rare plant population. When no feasible alternative exists, permit development if: (1) the site or a significant portion thereof is returned to a natural state to allow for the re-establishment of the plant, or (2) a new site is made available for the plant to inhabit.

UNIQUE SPECIES

The City will:

3-32 Designation of Habitats of Unique Species

(a) In the event the habitat of a unique species is found to exist within the City, revise the Habitat Areas and Water Resources Overlay to show the location of such habitat. Any habitat so designated shall be subject to Policies 3-33 through 3-36.

3-33 Permitted Uses

(a) Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to the degree specified by existing governmental regulations.

3-34 Permit Conditions

(a) Require, as a condition of permit approval, that a qualified biologist prepare a report which defines the requirements of a unique organism. At minimum, require the report to discuss: (1) animal food, water, nesting or denning sites and reproduction, predation, and migration requirements, and (2) plants' life histories and soils, climate, and geographic requirements.

3-35 Preservation of Habitats

(a) Require preservation of all rare and endangered species habitats using the policies of this Plan and implementing ordinances of the City.

3-36 California Wild Strawberry

(a) Require any development within 1/2-mile of the coast to mitigate against the destruction of any California wild strawberry in one of the following ways:

1. Prevent any development, trampling, or other destructive activity which would destroy the plant, or

2. After determining specifically if the plants involved are of particular value, successfully transplant them or have them successfully transplanted to some other suitable site. Determination of the importance of the plants can only be made by a professional doing work in strawberry breeding.

WEEDY, UNDESIRABLE PLANTS

The City will:

3-37 Voluntary Cooperation

(a) Encourage the voluntary cooperation of private landowners to remove from their lands the undesirable pampas grass, French, Scotch, and over-invasive brooms. Similarly, encourage

EXHIBIT 11

6. Isolated hills and knolls. (1996 zoning code (part)).

18.38.025 Amendments to coastal resource area maps.
Amendments to coastal resource area maps shall be made as prescribed for amendments to zoning district boundaries in this title. (1996 zoning code (part)).

18.38.030 Required reports.
Biological, archeological and geological reports shall be required as set forth in Sections 18.38.035, 18.38.040, and 18.38.045. Required reports shall be prepared by a qualified professional selected by the city in accordance with established city procedures. Unless otherwise specified herein, all required biological, archaeological, and geological reports shall be performed by a consultant selected by the city and paid for by the applicant.

A. Report Requirements. The following requirements apply to reports.

1. Reports shall identify significant impacts on identified coastal resources on the project site that would result from development of the proposed project.

2. Reports shall recommend feasible measures to mitigate any significant impacts and to protect the identified coastal resource. The adequacy of these measures shall be evaluated under a program developed jointly by the applicant and the planning director. These measures may include, but are not limited to:

a. Changes in development intensity;

b. Siting of buildings, structures or paving; and

c. Limitations on the timing and location of construction.

3. Reports shall contain a proposed monitoring and reporting program to ensure that development conditions imposed are adequately being carried out and that significant impacts on the coastal resources have not occurred.

4. Reports shall be reviewed by the city for consistency with this title and with the California Environmental Quality Act.

5. Reports shall be completed to the satisfaction of the planning director prior to the determination that a required development permit application is considered complete.

B. Exceptions. The planning director may grant exceptions to the requirements of this chapter if he or she finds that existing studies adequately fulfill the requirements of this chapter, provided such studies were prepared by a qualified professional as a part of a previously certified final EIR in accordance with the provisions of this chapter. (1996 zoning code (part)).

18.38.035 Biological report.
A. When Required. The planning director shall require the applicant to submit a biological report, prior to development review, prepared by a qualified biologist for any project located in or within one hundred feet of any sensitive habitat area, riparian corridor, bluffs and sea-cliff areas, and any wetland.

1. Exception. The development of one single-family dwelling within a designated wild strawberry habitat area and not within any other designated coastal resource area shall not be subject to this requirement.

B. Report Contents. In addition to meeting the requirements of Section 18.35.030, the biological report shall contain the following components:

1. Mapping of Coastal Resources. The biological report shall describe and map

ARTICLE I. GENERAL PROVISIONS

Chapter 18.01
ZONING ORDINANCE--GENERAL PROVISIONS

Sections:

Sections: (Continued)

18.01.010 Intent and purpose.

The overall intent and purpose of this title is to protect and promote the public health, safety and general welfare, to implement the policies of the general plan, as provided in the California Government Code, Title 7, Chapters 3 and 4, and in the California Constitution, Chapter 11, Section 7, and to put the goals and policies of the land use plan and the Coastal Act of 1976 into effect. More specifically the zoning ordinance is intended to:

A. Guide, control and regulate the future growth of the city;

B. Prevent excessive population densities and overcrowding of land and buildings;

C. Protect the character and social and economic stability of agricultural, residential, commercial, industrial and other public and private areas within the city;

D. Provide adequate light, air, privacy and access to property;

E. Ensure that service demands associated with new development not exceed the capacity of existing streets, utilities or other public services;

F. Conserve and enhance the city's architectural, historical and cultural resources;

G. Conserve and enhance important visual resources within the city, including views from Highway 1 of the Pacific Ocean and coastal beaches and bluffs, the visual character of the old downtown area, and views of the inland hillsides at the eastern edge of the city; and

H. Protect, conserve and, where possible, restore natural environmental resources within the city. (1996 zoning code (part)).

18.01.015 Designation of districts.

The districts established by this title are as follows:

District	Use
R-1	Single-family residential
R-2	Two-family residential
R-3	Multiple-family residential

C-D	Commercial--Downtown
C-R	Commercial--Residential
C-G	Commercial--General
C-VS	Commercial--Visitor serving
PS	Public service
IND	Industrial
U-R	Urban reserve
OS-R	Open space reserve
0S-A	Open space--Active
OS-P	Open space--Passive
OS-C	Open space--Conservation
A-1	Agriculture--Exclusive floriculture
A-2	Agriculture and agriculture reserve
PUD	Planned unit development
MHP	Mobile home park

(Ord. C-6-07 §2, 2007; 1996 zoning code (part)).

18.01.020 Compliance required.
No land shall be used and no structure shall be constructed, enlarged, altered, moved, or used in any district as shown on the zoning district map except in conformance with the regulations established by this title. (1996 zoning code (part)).

18.01.025 Adoption of zoning district map.
The zoning district map described in this title is on file with the city clerk and is adopted as a part of this title and is incorporated in this title by reference. The designations, locations and boundaries of the districts are as set forth in the map. (1996 zoning code (part)).

18.01.030 District boundaries.
Wherever any uncertainty exists as to the boundary of a district as shown on the zoning district map, the following regulations shall apply:

A. Where a district boundary line is indicated as following a street or alley, it shall be construed as following the right-of-way line thereof.

B. Where a district boundary line follows or coincides approximately with a lot line or a property ownership line, it shall be construed as following the lot line or property ownership line.

C. Where a district boundary line is not indicated as following a street or alley, and does not follow or coincides approximately with a lot line or property ownership line, the boundary line shall be determined by the use of the scale shown on the zoning district map.

D. Where further uncertainty exists, the planning commission, upon written application or upon its own motion, shall determine the boundary of the district in question, giving due consideration to the location indicated on the zoning district map, the objectives of this title, and the purposes set forth in the district regulations. (1996 zoning code (part)).

18.01.035 Amendments to the zoning district map.

All changes in boundaries or reclassification of territory from one district to another shall be by ordinance adopted pursuant to the provisions of this title. Upon adoption of an ordinance amending the zoning district map, the planning director shall make the appropriate changes to the map, with a notation of the date and the number of the ordinance amending the map. The failure of any such notation of change to be placed on the map shall not effect the validity of the amendment or change. (1996 zoning code (part)).

EXHIBIT 12

Chapter 18.24
AMENDMENTS

Sections:

18.24.010 Resolution of intention--Application.

This title may be amended by changing the boundaries of districts or by changing any other provisions hereof whenever the public necessity and convenience and the general welfare require such amendment, by following the procedure specified in this chapter. Amendments may be proposed by:

A. Resolution of intention of the city council; or by

B. Resolution of intention of the planning commission;

C. Property owners, their duly authorized agents, or a plaintiff in an action in eminent domain, by filing a verified application with the planning commission for amendments to this title involving their property or property to be acquired by the plaintiff in an action in eminent domain;

D. Any application made pursuant to subsection C of this section shall be in writing and signed and verified by the owner of the land involved or by his authorized agent. If the application is made by a person other than the owner, written authorization to act on behalf of the owner shall be submitted with such application. The application shall show or be accompanied by the legal description of the property for which the amendment is requested, and the street address or addresses, if any, or other common description of the premises. The planning commission may also require that the application be accompanied by a map drawn to scale showing the location of the property concerned and the location of all highways, streets and alleys, and all lots and parcels of land within a distance of five hundred feet from the exterior boundaries of the property involved. The accuracy of such map shall be the responsibility of the applicant. (1996 zoning code (part)).

18.24.020 Application--Hearing--Notice.

Upon the receipt of such an application, the planning commission shall consider the requested amendment and may, if it so determines, adopt its resolution of intention to propose an amendment as requested, or in its discretion, different from that petitioned for. Upon the adoption of such resolution of intention by the planning commission, it shall set a hearing thereon and give notice thereof by at least one publication in a newspaper of general circulation in the city at least ten days before the hearing and may give additional notice by either one or both of the following means when the amendment involves reclassification of property:

A. Posting public notices of the proposed amendment not less than ten days prior to the date of the first of such hearings. Such notices shall be placed not more than three hundred feet apart along each and every street upon which the property proposed to be reclassified abuts and such posting shall extend along the said street or street a distance of not less than three hundred feet from the exterior limits of such property or properties as are proposed for reclassification. Such notice shall consist of the words, "Notice of Proposed Change of Land Use District," printed or lettered in plain type or letters not less than one inch in height, and in addition thereto, there shall be a statement in smaller type setting forth a description of the property involved in the proposed change of district, the time and place at which the public hearings on the proposed change will be held, and other information which the planning commission deems necessary;

B. Mailing a postal card notice not less than ten days prior to the date of such hearing to the owner or owners of all property within three hundred feet of the exterior boundaries of the property proposed to be reclassified, as said owners are shown on the last equalized assessment roll of the city;

C. Any failure to post public notices or to mail postal card notices as aforesaid shall not invalidate any proceedings taken for the amendment of this title;

D. The planning commission may hold such additional hearings as it may deem necessary. (1996 zoning code (part)).

18.24.030 Recommendation by planning commission.

Following the aforesaid hearing or hearings, the planning commission shall make a report of its findings, summaries or hearings, and recommendations with respect to the proposed amendment and shall file such reports with the city council within thirty days from the final hearing thereon. If the planning commission proposes to recommend adoption of the proposed amendment, such recommendation shall be by resolution of the commission carried by the affirmative votes of not less than two-thirds of its total voting members and shall likewise be filed with the city council within thirty days from the final hearing thereon. (1996 zoning code (part)).

18.24.040 Council hearing--Notice.

The city council may hold one or more public hearings upon the proposed amendment and before adopting the proposed amendment shall hold at least one public hearing thereon, notice of which shall be published at least once in a newspaper of general circulation in the city at least ten days before the hearing. At the conclusion of such hearing, the city council, if it so determines, may adopt an ordinance amending this title in accordance with the proposal of the planning commission. The city council may not make a change in any amendment proposed by the planning commission until the proposed change has been referred to the planning commission for a report and such report received. (1996 zoning code (part)).

18.24.050 Resolution of intention by city council.

The city council may adopt its own resolution of intention to amend this title when it deems it to be for the public interest, but shall not adopt an amendatory ordinance until it shall have first referred such proposal to the planning commission for a report. Before making a report, the planning commission shall hold at least one public hearing in the same manner as heretofore prescribed. The failure of the planning commission to make such report within forty days after the reference to it shall be deemed an approval of the proposed change. Upon receipt of such report or the expiration of time above mentioned, the city council may proceed to hold a hearing as provided in Section 18.24.040, at the conclusion of which it may adopt an ordinance

amendment this title. (1996 zoning code (part)).

18.24.060 Decision by city council.
The decision of the, city council shall be rendered within ninety days after the receipt of a report and recommendation from the planning commission. (1996 zoning code (part)).

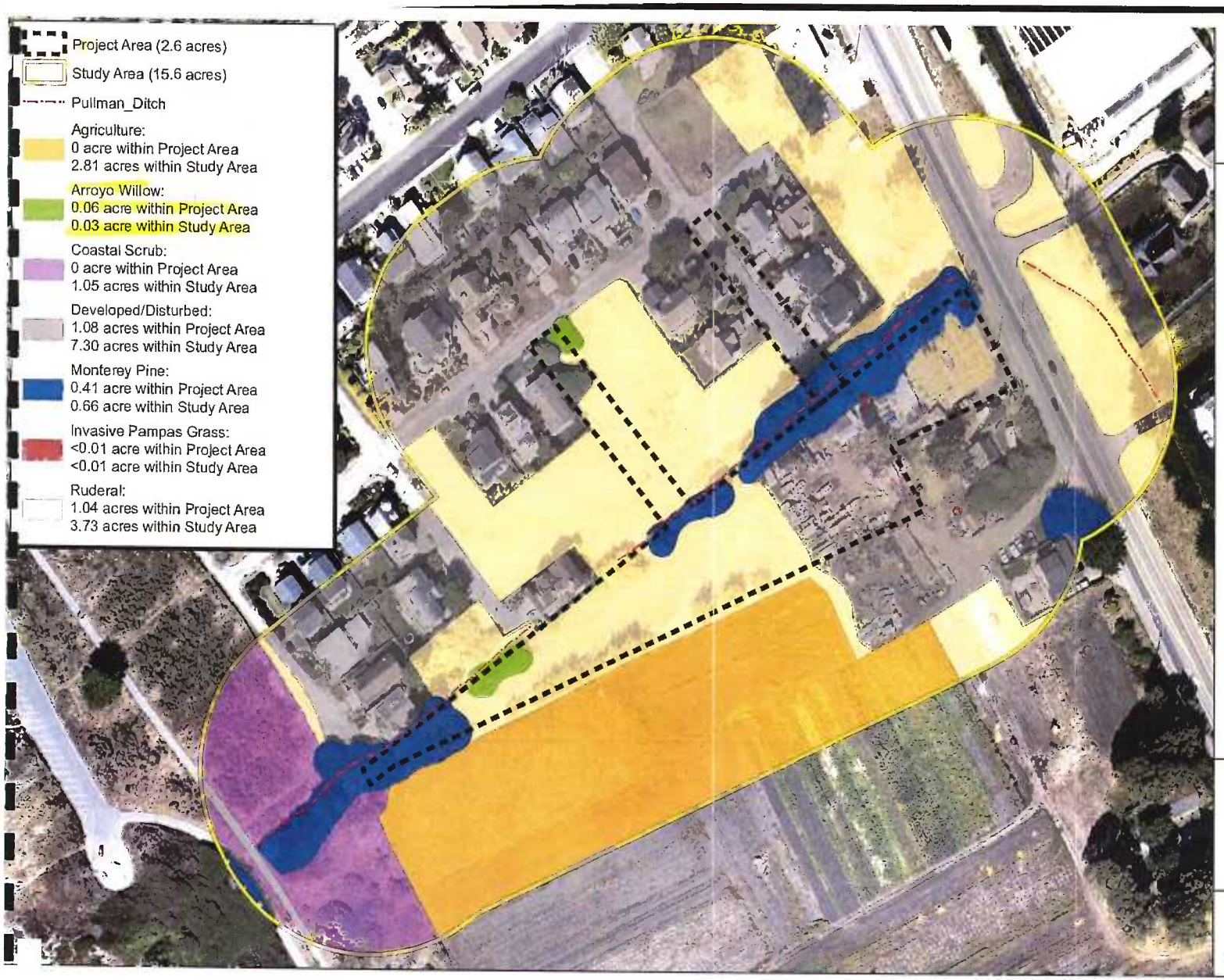
18.24.070 Withdrawal of petition.
Upon the consent of the planning commission, any petition for an amendment may be withdrawn upon the written application of a majority of all the persons who signed such petition. The city council or the planning commission, as the case may be, may by resolution abandon any proceedings for an amendment initiated by its own resolution of intention; provided, that such abandonment may be made only when such proceedings are before such body for consideration and provided that any hearing of which public notice has been given shall be held. (1996 zoning code (part)).

18.24.080 Hearing--Notice--When not required.
No notice of hearing as prescribed by this chapter need be given with respect to any hearing before either the planning commission or the city council where the proposed amendment does not involve the changing of district boundaries or the changing of property from one district to another. (1996 zoning code (part)).

18.24.090 Application--Resubmittal after final disapproval.
An application for an amendment to this title which has been finally disapproved may not be resubmitted for a period of one year from final disapproval, unless the application has been substantially changed. Nothing herein shall preclude the city council or planning commission from initiating proceedings for amendments to this zoning ordinance or zoning map at any time. (1996 zoning code (part)).

18.24.100 Certification of local coastal program amendments.
Any proposed amendment to the local coastal program shall not take effect until it has been certified by the Coastal Commission. Any amendment approved by the city shall be submitted to the Coastal Commission in accordance with Sections 30512 and 30513 of the Public Resources Code. An amendment to this local coastal plan as certified by the Coastal Commission shall not become effective after city council adoption until the amendment is submitted pursuant to the requirements of Section 13551 et seq. of the California Code of Regulations and also certified by the California Coastal Commission pursuant to Chapter 6, Article 2, of the California Coastal Act. (1996 zoning code (part)).

EXHIBIT 13



wra
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(415) 454-0129 Fax

North Cabrillo Highway Subdivision

Half Moon Bay, California

Figure 2.

Vegetation Communities

0 50 100 200

Feet

Map Date, December 2010
Map By: Michael Rochelle

EXHIBIT 14

PULLMAN DITCH
BIOLOGICAL RESOURCES ASSESSMENT
SAN MATEO COUNTY

Prepared by:

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November 3, 2005

Project No. 2576-01

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INTRODUCTION

The City of Half Moon Bay has received Coastal Development Permit applications from several property owners to perform flood and fire control work on Pullman Ditch, located in the northern portion of the City of Half Moon Bay (City), in San Mateo County, California (Figure 1). In response to these permit applications, the City retained H. T. Harvey & Associates to prepare this Biological Resource Assessment in compliance with its Local Coastal Program. The permit applications included project descriptions for two phases of work; Phase I- ongoing maintenance and Phase II- outlet pipe re-orientation and ditch reconstruction.

In accordance with H. T. Harvey & Associates' scope-of-work, the biotic impact assessment herein addresses Phase I only. Phase II will be permitted separately. The proposed Phase I maintenance activities would occur within a 300-foot section of the ditch immediately west of Highway 1, on three lots (lots 15 and 16 of Block 20 and lot 14 of Block 19). These activities would include the clearing of natural material and inorganic debris from the ditch, mowing of grass and weeds, removal of trash and combustible materials which may create a fire hazard, and removal of any silt affecting water flow in the ditch. Also per our scope-of-work, the study area for habitat characterization was broader than the 300-foot long project reach and included approximately 1500 feet of Pullman Ditch extending from Highway 1 to the Pacific Ocean, as well as a 200-foot wide survey buffer for coastal resources.

Pullman Ditch is an incised, artificial, earthen-lined drainage extending from a nursery complex east of Highway 1 (Cabrillo Highway) to the Pacific Ocean. The ditch carries storm and irrigation flows from the nursery complex and is approximately 12-15 ft in width, with vertical banks of approximately 5 feet in height. Landscape and agricultural irrigation from properties adjacent to the ditch also contribute to flows. Pullman Ditch is a seasonal drainage with flows present during the rainy season. The majority of the ditch was dry during our September 2005 site reconnaissance.

The portion of the ditch proposed for maintenance activities is densely colonized by weedy non-native species and escaped cultivars, and is beneath a contiguous canopy of planted Monterey cypress trees (*Cupressus macrocarpa*). This portion of the ditch provides poor wildlife habitat. Adjacent lots within the project area are also colonized by non-native herbaceous vegetation. The project site is bounded by industrial and agricultural facilities to the south, residential development to the north, Highway 1 to the east, and Half Moon Bay State Beach land to the west. The entire project site is underlain by Farallone coarse sandy loam, a well-drained soil derived from granitic alluvium (Soil Conservation Service 1961).

The City is required by the California Coastal Commission (CCC) to perform a Biological Resources Assessment, including the following information:

1. Mapping coastal resources and sensitive habitat areas, including sand dunes, marine habitats, sea cliffs, riparian areas, wetlands, wildlife breeding locations, rocky intertidal zones, coastal bluff scrub, and any habitat containing or supporting rare, endangered, or unique species.
2. Description of habitat requirements for rare, endangered, and unique species.

This document provides this information, as well as an analysis of biotic impacts associated with the proposed project, as required for the CCC Coastal Development Permit. Mitigation measures are proposed for significant biotic impacts and summarized in a Mitigation Monitoring and Reporting Program. This document does not provide information regarding the jurisdiction and permit requirements of other state or federal agencies.

Figure 1. Site/Vicinity Map

METHODS

SITE VISITS

Reconnaissance-level field surveys of the project site were conducted by H. T. Harvey & Associates on September 30, 2005. The purpose of these surveys was to provide a project-specific biological impact assessment for the project site. All sensitive habitats, riparian areas and wetlands located on or within 200 feet of the project site were assessed. The project site was also assessed for its potential to support habitat for rare and endangered species and/or unique species per the City of Half Moon Bay's zoning code (Section 18.38.035). Survey personnel included a plant ecologist (Lisa Infante, M.S.) and wildlife ecologist (Laird Henkel, M.S.). The entire project area was surveyed on foot. A follow-up site visit was conducted by herpetologist Jeff Wilkinson, Ph.D., on October 21, 2005.

DESCRIPTION AND MAPPING OF COASTAL RESOURCES

The base map used for mapping coastal resources was an orthorectified, color aerial photograph taken in December 2003. Using Geographic Information Systems software, the approximate project boundary and survey buffer area was digitized onto the aerial photograph, and biotic habitats were delineated.

The 1993 City of Half Moon Bay Local Coastal Program (LCP) Land Use Plan policies identify riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs and bluffs, and habitats supporting rare, endangered, and unique species as sensitive habitats. Site surveys were focused on the identification and mapping of these habitats.

SPECIAL-STATUS SPECIES ASSESSMENT / DESCRIPTION OF HABITAT REQUIREMENTS

Rare, Endangered, and Unique Species

Prior to site visits, information concerning threatened, endangered, or other special-status and unique species that may occur in the area was collected from several sources and reviewed by H. T. Harvey & Associates biologists. The sources consulted included the California Department of Fish and Game's (CDFG) Natural Diversity Data Base (CNDDB 2005), and miscellaneous information available through the U.S. Fish and Wildlife Service (USFWS), CDFG, and technical publications. The California Native Plant Society's (CNPS) *Inventory of Rare and Endangered Plants of California* (2001), the *Flora of the Santa Cruz Mountains* (Thomas 1961), and *The Jepson Manual* (Hickman 1993) supplied information regarding the distribution and habitats of vascular plants in the vicinity. Additional information on the regional distribution of breeding birds was supplied by the San Mateo County Breeding Bird Atlas (Sequoia Audubon Society 2001). Finally, the CNPS's *Inventory of Rare and Endangered Plants of California* (2001) was used to identify and assess additional species occurring in similar habitats throughout San Mateo County.

Chapter 3 of the LCP identifies nine "rare and endangered" wildlife species as being of particular concern in the San Mateo County Coastal Zone. These include: the San Francisco garter snake

(*Thamnophis sirtalis tetrataenia*), the California Least Tern (*Sterna antillarum browni*), the California Black Rail (*Laterallus jamaicensis coturniculus*), the California Brown Pelican (*Pelecanus occidentalis californicus*), the San Bruno elfin butterfly (*Incisalia mossii bayensis*), the San Francisco tree lupine moth (*Grapholitha edwardisana*), the Guadalaupe fur seal (*Arctocephalus townsendi*), the sea otter (*Enhydra lutris*), and the California brackish water snail (*Tryonia imitator*). The LCP also cites a "rare bird alert" for the Rose-breasted Grosbeak (*Pheucticus ludovicianus*), but this refers to a rare transient bird reported as a species of interest to birders, and is not truly a "rare or endangered" species. In addition, the LCP identifies as "unique species" all raptors (birds of prey), the California red-legged frog (*Rana aurora draytonii*; now listed as federally-threatened), and all marine mammals.

The City's LCP identifies eight proposed or listed rare plant species as currently or formerly occurring in the City's coastal zone: coast rock cress (*Arabis blepharophylla*), Davy's bush lupine (*Lupinus eximius*), Dolores campion (*Silene verecunda* ssp. *verecunda*), Gairdner's yampah (*Perideridia gairdneri* ssp. *gairderi*), Hickman's cinquefoil (*Potentilla hickmanii*), Montara manzanita (*Arctostaphylos montarensis*), San Francisco wallflower (*Erysimum franciscanum* var. *franciscanum*), and yellow meadow foam (*Limnanthes douglassi* var. *sulphurea*). In addition, the LCP identifies as "unique species" the Monterey pine (*Pinus radiata*) and the California wild strawberry.

H.T. Harvey & Associates' reconnaissance-level field surveys were focused on evaluating the potential for these special-status species, and for sensitive habitats, to occur on site.

RESULTS

The following section provides descriptions of the sensitive biotic habitats and potential special-status species which occur within the study area. This study area includes the entire project reach (approximately 1500 feet) of Pullman Ditch, as well as a 200-foot survey buffer for coastal resources. However, only the easternmost 300-foot section of the ditch is currently proposed for maintenance activities.

DESCRIPTION AND MAPPING OF COASTAL RESOURCES

Coastal resources present on or within 200 feet of the project reach of Pullman Ditch include disturbed riparian habitat and riparian habitat (Figure 2). The remainder of the study area supports non-native herbaceous vegetation typical of infill parcels near the coast. Plant and wildlife species associated with these habitats are described below.

Non-native Herbaceous/Landscaped Habitat

Land adjacent to the Pullman Ditch is colonized by ruderal species typical of foggy areas near the coast. Bristly ox-tongue (*Picris echioides*) and Italian ryegrass (*Lolium multiflorum*) dominate this weedy community, with wild radish (*Raphanus sativus*), California aster (*Aster chilensis*), and fennel (*Foeniculum vulgare*) also common. Bristly ox-tongue and Italian ryegrass are weakly hydrophytic (water-loving) species which can indicate the presence of seasonally-inundated soils. However, the free-draining Farallone soils underlying this vegetation on the project site showed no indication of regular flooding (*i.e.,* high organic content in the surface layer, organic streaking, low-chroma matrix, or mottling). Furthermore, both bristly ox-tongue and Italian ryegrass are ubiquitous in disturbed upland sites that are subject to marine fog, and occur in high densities throughout the immediate coastal zone of Half Moon Bay.

Vegetation immediately adjacent to Pullman Ditch consists of non-riparian native species that were planted as landscaping. The majority of the eastern portion of the ditch (approximately 1000 feet extending from Highway 1 to the State Park walking path) is shaded by a contiguous canopy of Monterey cypress and Monterey pine trees. This area was not classified as riparian habitat because Monterey cypress and pine do not provide the wildlife functions and values associated with natural riparian species such as willow and alders. The limited areas of the ditch which provide habitat for riparian-associated wildlife were classified as riparian, described below.

The non-native herbaceous/landscaped habitat on the project site is of relatively little value to wildlife. Some bird species, such as Mourning Doves (*Zenaida macroura*), Western Meadowlarks (*Sturnella neglecta*), California Towhees (*Pipilo crissalis*), and White-crowned Sparrows (*Zonotrichia leucophrys*) may occasionally forage here, but it is unlikely that any birds nest in the herbaceous habitat on-site. A few common species, such as American Robins (*Turdus migratorius*) and Brewer's Blackbirds (*Euphagus cyanocephalus*) could potentially nest in the cypress trees on-site. Small mammals such as deer mice (*Peromyscus maniculatus*) and Botta's pocket gophers (*Thomomys bottae*) are likely to occur here. Western fence lizards

Figure 2. Biotic Habitats and Coastal Resources Map

(*Sceloporus occidentalis*), gopher snakes (*Pituophis melanoleucus*), and garter snakes (*Thamnophis* spp.) may also occur.

Riparian Habitat

As described above, the majority of vegetation along the project reach of Pullman ditch is non-native or, if native, consists of non-riparian trees that were planted as landscaping. These trees are located beyond the top-of-bank of the ditch and do not provide habitat for riparian-dependent wildlife. The ditch itself is heavily invaded by garden nasturtium (*Tropaeolum majus*), pampas grass (*Cortaderia selloana*), and wild radish, in addition to the native aquatic species watercress (*Rorippa nasturium-aquaticum*). One small arroyo willow (*Salix lasiolepis*) occurs at the frontage road culvert outfall, and a disturbed, pruned patch of willow occurs near Naples Avenue. Native California blackberry (*Rubus ursinus*) colonizes a portion of the northern bank. Vegetation below the top-of-bank of the ditch, although highly disturbed, may provide habitat or cover for wildlife and is considered riparian habitat as defined in the Local Coastal Plan. It is therefore mapped as generic riparian habitat, since it does not conform with any accepted natural community classification system. This generic mapping also includes the seasonal aquatic habitat and scattered patches of hydrophytic vegetation within the ditch.

In contrast, well-developed, intact Central Coast riparian scrub occurs west of the pedestrian trail, near the mouth of Pullman Ditch. This area supports a dense, low scrub of arroyo willow, which thins out as soils transition to the coarse sands of Half Moon Bay State Beach. Stunted Monterey pine also occur among the willows. Little or no understory vegetation occurs beneath this closed canopy, but open areas near the ditch mouth support patches of wetland vegetation including three-square bulrush (*Scirpus americanus*), brass buttons (*Cotula coronipifolia*), bur-reed (*Sparganium eurycarpum*), and rabbitsfoot grass (*Polypogon monspeliensis*). These wetland areas are too small to map separately and do not form a contiguous habitat type, and were therefore included within central coast riparian scrub for the purposes of this report.

Riparian habitats are typically an important resource for resident and migratory wildlife. The presence of water and abundant invertebrate fauna provide foraging opportunities, and in native riparian habitats, the diverse habitat structure provides cover and nesting opportunities. However, the degraded riparian habitat along the eastern portion of Pullman Ditch does not provide diverse vegetative structure, and there are few foraging or nesting opportunities for wildlife. In addition, water is not present year-round. This habitat may provide occasional foraging habitat for relatively common birds, such as Bushtits (*Psaltriparus minimus*), Ruby-crowned Kinglets (*Regulus calendula*), and Yellow-rumped Warblers (*Dendroica coronata*), but few birds are likely to nest here. Some common species, such as Bushtits, California Towhees, American Robins, Anna's Hummingbirds (*Calypte anna*), and Brewer's Blackbirds could foreseeably nest in the limited vegetation here. Seasonal water in Pullman Ditch could support Pacific treefrogs (*Hyla regilla*), and mammals such as raccoons (*Procyon lotor*) and Virginia opossums (*Didelphis virginiana*) may come here to drink.

The riparian habitat at Moss Landing State Beach, and in the small patch of willows a few hundred feet to the east, is of higher quality for wildlife than that found along the remainder of Pullman Ditch, but it is fairly limited in size. Many of the same wildlife species discussed above are likely to occur here. In addition, some bird species that nest in more developed riparian

habitat may nest here, including Wilson's Warblers (*Wilsonia pusilla*), Saltmarsh Common Yellowthroats (*Geothlypis trichas sinuosa*), and Song Sparrows (*Melospiza melodia*). Common mammals, such as raccoons, may come here for water, and Pacific treefrogs are likely present here as well.

Coastal Scrub

Although no coastal scrub occurs within the project impact area, this sensitive coastal resource occurs within 200 feet of the ditch west of Naples Avenue and intergrades with riparian scrub along the eroded banks of the ditch near its outfall at Roosevelt Beach. Coyote brush (*Baccharis pilularis*), the dominant shrub species within this habitat, is sparsely distributed between Naples Avenue and the pedestrian path and becomes dense west of the path, particularly south of the ditch (Figure 2). Other common species here include lizard tail (*Eriophyllum staechadifolium*) and sticky monkeyflower (*Mimulus aurantiacus*). At the very edge of this habitat, shifting sands of the dunes are stabilized by European beach grass (*Ammophila arenaria*).

This sparsely vegetated habitat supports few nesting bird species, although White-crowned Sparrows may nest here. During winter, American Pipits (*Anthus rubescens*), House Finches (*Carpodacus mexicanus*), and Brewer's Blackbirds sometimes forage in this habitat. Small reptiles, such as western fence lizards occur here, as do small mammals such as deer mice.

Agricultural

Land to the south of Pullman Ditch and a small field at the extreme western edge of the property are cultivated in pumpkins and winter vegetable crops. These areas may support robust exotic species such as wild radish and black mustard (*Brassica nigra*), as well as non-native pasture grasses, during fallow periods. Few or no native plants occur here.

Agricultural habitats typically provide few foraging or nesting opportunities for wildlife. No birds are expected to nest here, with the possible exception of Killdeer (*Charadrius vociferus*), which nest in bare, open habitats. A few bird species, such as Mourning Doves and Brewer's Blackbirds, may occasionally forage here. Botta's pocket gophers, deer mice, and other rodents are likely to occur here as well, but few other wildlife species are expected.

Photograph 1. Pullman Ditch.

Photograph 2. Habitat adjacent to Pullman Ditch.

SPECIAL-STATUS SPECIES ASSESSMENT

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

Special-status Wildlife Species

No wildlife species listed as threatened or endangered under the Federal Endangered Species Act are likely to occur on the project site (Table 1). Three federally-listed species, the California red-legged frog, San Francisco garter snake, and steelhead (*Oncorhynchus mykiss*), occur in terrestrial and aquatic habitats in the Coastal Zone of San Mateo County, but are unlikely to occur on the project site. Steelhead occur in Frenchman's Creek (NMFS 1996) and other coastal streams in the Half Moon Bay area, but no suitable habitat is present on the project site. More information on the California red-legged frog and San Francisco garter snake is provided below.

Of the nine "rare and endangered" species and the three "unique species" identified in the LCP, all marine mammals, California Least Tern, and California Brown Pelican could be eliminated from consideration based on the lack of marine habitat on the site. Similarly, habitat for the Western Snowy Plover (*Charadrius alexandrinus nivosus*), federally-listed as threatened, is not present on the project site, although this species could occur on the beach adjacent to the downstream end of Pullman Ditch. The project site is outside the range of the San Bruno elfin butterfly and the California black rail (the Black Rail does not breed on the west coast of San Mateo County). Additionally, as of 2005, the San Francisco tree lupine moth and the California brackish water snail are no longer proposed for listing under the Federal Endangered Species Act, and are no longer considered Species of Special Concern by the USFWS. Thus, of the special-status animal species listed in the LCP, only the California red-legged frog, San Francisco Garter snake and raptors have the potential to occur in the project vicinity.

In addition, some other special-status species, not listed in the LCP, could potentially occur on the project site, including the Saltmarsh Common Yellowthroat (*Geothlypis trichas sinuosa*), which is discussed below. Several other special-status species could occur on the project site as occasional foragers or migrants, but would not nest on the site, and would not be affected by project implementation (Table 1). These species include the American Peregrine Falcon (*Falco peregrinus anatum*), Sharp-shinned Hawk (*Accipiter striatus*), Cooper's Hawk (*Accipiter cooperi*), Merlin (*Falco columbarius*), California Yellow Warbler (*Dendroica petechia brewsteri*), and Tricolored Blackbird (*Agelaius tricolor*). Some common raptors, such as Red-tailed Hawks (*Buteo jamaicensis*), nest in trees in less developed areas of Half Moon Bay, but due to human disturbance in the area, and the small size of the trees, the cypress trees adjacent to Pullman Ditch are not likely to support any nesting raptors.

California Red-legged Frog (*Rana aurora draytonii*). Federal Status: Threatened; State Status: Species of Special Concern. California red-legged frogs occur primarily in and near aquatic habitats. They breed in ponds or still pools within streams, and disperse to forage in a variety of aquatic habitats. California red-legged frogs occur at several sites within five miles of the project (Figure 3, CNDDB 2005). The closest records of red-legged frogs to the project area

Figure 3. CNDDB Map

are from near the mouth of Pilarcitos Creek, about 1.5 miles to the south, and from Corinda Los Trancos Creek, about 2 miles east of the site.

Red-legged frogs are known to disperse at least 1.25 miles between breeding sites, over upland habitats. Bulger et al. (2003), working in a coastal watershed in Santa Cruz County, found that some red-legged frogs migrated fairly long distances to and from breeding ponds, and foraged at other aquatic sites during the summer. Distance traveled during these migrations ranged up to 1.7 miles, although no migrating individual was ever greater than 500 m (1640 ft) from aquatic habitat. During wet periods, especially in the winter and early spring months, red-legged frogs can move long distances, more than 1.25 miles, between aquatic habitats, often over areas that are considered to be unsuitable for frogs such as open fields, croplands, etc. (USFWS 2004).

However, habitat between Pilarcitos Creek and Pullman Ditch includes residential developments and roads that present significant barriers to movement by red-legged frogs. The considerable distance between known locations of red-legged frogs and the project site, the barriers to dispersal, and the lack of records in Frenchman's Creek indicate that red-legged frogs are likely absent from the vicinity of Pullman Ditch. In addition, habitat quality in Pullman Ditch is marginal for red-legged frogs, and no breeding habitat is present. During the September 30 and October 21, 2005 reconnaissance surveys, the majority of the ditch was dry and no red-legged frogs (or other frogs) were observed. Because high quality habitat for red-legged frogs is absent on the site, and there are no known breeding localities nearby, it is unlikely that this species would occur on the project site. However, we are not aware of any surveys conducted in Frenchman's Creek, near the project site, and if the species breeds there, it could occasionally disperse onto the project site. A small pool, present during September 2005, at the upstream end of Pullman Ditch could provide foraging habitat for this species. Therefore, there is a possibility that the California red-legged frog could occur on the site as a very uncommon dispersant.

San Francisco Garter Snake (*Thamnophis sirtalis tetrataenia*). Federal Status: Endangred; State Status: Endangered. This species occurs in and near freshwater aquatic habitats, almost exclusively in San Mateo County. San Francisco garter snakes prey almost exclusively on amphibians, including California newts (*Taricha torosa*), and ranid frogs, such as the California red-legged frog. They have never been found at or near sites that do not support ranid frogs. San Francisco garter snakes have been found at two locations near Pilarcitos Creek in Half Moon Bay, but have not been reported within a mile of the project site.

Because ranid frogs are expected to occur in Pullman Ditch only as extremely irregular dispersants, if at all, and none were observed during the two site visits, San Francisco Garter snakes area not expected to occur on the project site. We consider this species to be absent from Pullman Ditch.

Saltmarsh Common Yellowthroat (*Geothlypis tricas sinuosa*). Federal Status: None; State Status: Species of Special Concern. The Saltmarsh Common Yellowthroat is not listed in the LCP, but is listed by the CDFG as a Species of Special Concern. This small songbird nests in emergent wetland vegetation and in understory herbaceous vegetation in willow riparian habitats in the San Francisco Bay area. Although typical nesting habitat is adjacent to substantial year-round water, the small amount of water in Pullman Ditch in this habitat, and the dense willow riparian habitat along small portions of Pullman Ditch (primarily at Half Moon Bay State

Beach), may support this species. There is a remote possibility that this species could nest in the vicinity of the upstream end of the project reach. Saltmarsh Common Yellowthroats typically nest between March and September. Although this species is considered a Species of Special Concern, due primarily to its limited distribution, it is not uncommon throughout most of its range, and would not necessarily be considered a rare or unique species under the LCP.

Special-status Plant Species

As discussed above, eight plant species are identified in the City of Half Moon Bay LCP Land Use Plan as potentially occurring in San Mateo County's Coastal Zone. In addition, a review of additional species that occur throughout San Mateo County (CNPS 2001, CNDDB 2005) yielded 20 additional species that are associated with coastal and riparian habitats in the region. Based on reconnaissance-level surveys of the project area, all 28 species are considered to be absent from the portion of the ditch east of the state park pedestrian path. The majority of these species are associated with soil types or specific microhabitats, such as sparse sandy areas, seasonally mesic native grassland, or clay or serpentine substrates, that are absent from the portion of the project area. Although several species occur in coastal grassland and scrub habitats in the vicinity of the project area, including Blasdale's bentgrass (*Agrostis blasdalei*), San Francisco gumplant (*Grindelia hirsutula* var. *maritime*), San Francisco campion (*Silene verecunda* ssp. *verecunda*), and Santa Cruz microseris (*Stebbinsoseris decipiens*), these species are considered absent from the eastern portion of the site. This portion of the project area is characterized by a ruderal vegetation community typical of urban infill parcels. Non-native annual grasses and robust exotic forbs form a nearly continuous ground cover throughout this area, and the site is further degraded by trash and debris from the ditch. The highly disturbed and artificial nature of the ditch and surrounding habitat, as particularly indicated by the heavy invasion by ruderal species, precludes the occurrence of special-status plants.

However, suitable habitat for two special-status plant species, coastal marsh milk-vetch (*Astragalus pycnostachyus* var. *pycnostachyus*) and Choris's popcorn-flower (*Plagiobothrys chorisianus* var. *chorisianus*), occurs within coastal bluff scrub and within mesic areas at the ditch mouth. These areas are outside the project impact area. The habitat, life history, and potential for occurrence of these species is described in detail below.

Coastal Marsh Milk-vetch (*Astragalus pycnostachyus* var. *pycnostachyus*). Federal Status: Species of Concern; State Status: None; CNPS Status: List 1B. Coastal marsh milk-vetch is a stout, perennial herb in the pea family (Fabaceae) associated with maritime salt marshes, seeps, and mesic sites within dunes in Humboldt, Marin and San Mateo counties. Plants have an open, clumping habit and are densely soft-hairy, with long pinnate leaves and distinctive papery, inflated fruits. Many greenish-white or cream-colored flowers appear on in the axils of leaves from April through October.

Coastal marsh milk-vetch is known from three locations in coastal San Mateo County (Pescadero Marsh, Pomponio State Beach, San Gregorio State Beach), where plants are associated with sandy-clay or gravelly soils. Little published information is available on the ecological requirements of this plant, but suitable microhabitat apparently occurs within a range of plant communities. One population occurs on a steep slope within coastal scrub, associated with coyote brush (*Baccharis pilularis*), sea lettuce (*Dudleya farinosa*), and sticky monkeyflower

(*Mimulus aurantiacus*). The Pescadero Marsh population, on the other hand, persists in a diked area with peripheral halophytes, including alkali heath and marsh gumplant. Approximately 10 extant populations/occurrences are documented in Marin and Humboldt counties (CNDDB 2005), predominantly associated with the upper marsh ecotone.

Marginally-suitable habitat for coastal marsh milk-vetch occurs within coastal bluff scrub and mesic, sandy areas near the mouth of Pullman Ditch. However, due to the extremely limited range of this species, the artificial character of habitats associated with the ditch, and the lack of nearby "source populations" its occurrence is very unlikely. Phase I of the proposed project will not affect suitable habitat for this species.

Choris's Popcorn-flower (*Plagiobothrys chorisianus* var. *chorisianus*). Federal Status: None; State Status: None; CNPS Status: List 1B. Choris's popcorn-flower is a low-growing, highly branched plant in the borage family (Boraginaceae). Stems can be decumbent or erect and grow to about 16 inches in length. Plants are covered with stiff, sharp hairs, have long, narrow leaves only along the stem, and produce coils of buds in late winter which uncoil into racemes of white flowers throughout the spring and early summer (March to June). Plants die after flowering and seed-set. Like all members of the borage family, popcorn-flowers produce small, dry, fruits called nutlets. Minute structures of these nutlets form a primary basis for distinguishing taxa. *Plagiobothrys* taxa are confusing and difficult to distinguish, and many species need further study; *Plagioborthrys chorisianus* may intergrade with *P. undulatus*, a relatively common species along the coast (Hickman 1993).

Choris's popcorn-flower is known from 12 populations in Santa Cruz, San Mateo, and San Francisco counties. Plants are associated with mesic areas within coastal prairie, grassland, and scrub. A significant population occurs approximately 3 miles south of the project area, where Choris's popcorn-flower grows in mesic depressions on coastal bluffs with sedge (*Carex* sp.), rush (*Juncus* sp.), brass-buttons, and other wetland species.

Suitable habitat for Choris's popcorn flower occurs near the eroded mouth of Pullman Ditch, where small patches of seasonal wetland have become established (see central coast riparian scrub habitat, above). Phase I of the proposed project will not affect suitable habitat for this species.

Table 1. Special-status plant and animal species, their status, and potential for occurrence on the Pullman Ditch Project Site, Half Moon Bay, California.

NAME	*STATUS	HABITAT	POTENTIAL FOR OCCURRENCE ON THE PROJECT SITE
Federal or State Endangered or Threatened Species			
Steelhead (*Oncorhynchus mykiss*)	FT (Central Calif. Coast ESU)	An anadromous form of rainbow trout that migrates upstream from the Pacific or the S. F. Bay to spawn. Prefers streams with dense canopy.	No habitat present on the project parcel. Absent.
California Red-legged Frog (*Rana aurora draytonii*)	FT, CSSC	Ponds and still pools in streams, and adjacent wetland habitat.	Pullman Ditch could provide marginal foraging or dispersal habitat, if this species occurs nearby. Could occur as an irregular dispersant.
San Francisco Garter Snake (*Thamnophis sirtalis tetrataenia*)	FE, SE	Wetlands, especially those dominated by herbaceous wetland vegetation, on the San Francisco Peninsula.	Pullman Ditch does not provide foraging habitat, due to a lack of prey. Considered absent.
American Peregrine Falcon (*Falco peregrinus anatum*)	SE	Nests on cliffs or very high bridges and buildings, forages in a variety of habitats.	Rare to occasional forager on site; no suitable breeding habitat on site.
Yellow meadow foam (*Limnathes douglasii* ssp. *sulpherea*)	SE	Seasonal wetlands and vernal pools within grassland, coastal prairie, and coastal scrub.	No suitable habitat on project site; presumed absent.
California Species of Special Concern and State Protected Species			
Sharp-shinned Hawk (*Accipiter striatus*)	CSSC	Nests in dense woodlands, forages in many habitats in winter and migration.	Could occur on-site as a migrant and winter visitor.
Cooper's Hawk (*Accipiter cooperi*)	CSSC	Nests in woodlands, forages in many habitats in winter and migration.	Could occur on-site as a migrant and winter visitor.
Merlin (*Falco columbarius*)	CSSC	Uses many habitats in winter and migration.	Occasional forager during migration and winter. Does not breed locally.
California Yellow Warbler (*Dendroica petechia brewsteri*)	CSSC	Mature riparian habitats.	Could occur on-site as an occasional forager and migrant.
Saltmarsh Common Yellowthroat (*Geothlypis trichas sinuosa*)	CSSC	Breeds primarily in fresh and brackish marshes in tall grass, tules, and willows; uses salt marshes more in winter.	Willow riparian habitat at Half Moon Bay State Beach, and elsewhere along Pullman Ditch could provide potential nesting habitat. Could occur as an uncommon breeder.
Tricolored Blackbird (*Agelaius tricolor*)	CSSC	Nests in vegetation around wetlands. Forages over a variety of habitats.	No nesting habitat present. May occasionally forage on site.
State Protected Species, CNPS Species, Rare Species, and Unique Species			
Coastal marsh milk-vetch (*Astragalus pycnostachyus* var. *pycnostachyus*)	CNPS 1B	Moist soils within coastal scrub, margins of coastal salt marshes.	Suitable habitat occurs within coastal bluff scrub west of the pedestrian path and at the mouth of Pullman Ditch. However, species unlikely to occur due to extremely limited known range.
Choris's popcorn-flower (*Plagiobothrys chorisianus*)	CNPS 1B	Seasonally wet areas within chaparral, coastal prairie and scrub.	Suitable habitat occurs at the mouth of Pullman Ditch. Known population approximately 3 miles south of project site.

***SPECIAL-STATUS SPECIES CODE DESIGNATIONS**

FE =	Federally listed Endangered
FT =	Federally listed Threatened
SE =	State listed Endangered
CSSC =	California Species of Special Concern
SP =	State Protected Species
CNPS 1B =	Plants considered by CNPS to be rare, threatened, or endangered in California, and elsewhere
CNPS 3 =	Plants about which CNPS needs more information; a watch list
CNPS 4=	Plants of limited distribution; a watch list

IMPACTS AND MITIGATION MEASURES

Potential impacts to coastal and other biotic resources which may result from maintenance activities within and adjacent to Pullman Ditch are discussed in this section. The portion of the ditch currently proposed for maintenance (vegetation, silt, and debris clearing) extends from the culvert at the frontage road of Highway 1 west to approximately 300 feet downstream. Vegetation and debris may also be cleared from the three 50x100 ft parcels to the north of this portion of the ditch. Because no activities are currently proposed in the remainder of the project area, it is not included in this impact analysis.

IMPACTS FOUND TO BE LESS THAN SIGNIFICANT

Impacts to Non-native Herbaceous Habitat

The non-native herbaceous vegetation adjacent to the project site is regionally and locally common and provides only marginal habitat for wildlife. Clearing of vegetation and debris from this area is not considered a significant impact.

Impacts to the Pullman Ditch Riparian Area

Pullman Ditch, despite its artificial character, is considered a "Riparian Area" as defined by the LCP. According to this definition, a riparian area is "any area of land bordering a stream or a lake, including its banks, at least up to the highest point of an obvious channel...Such areas extend to the outer edge of appropriate indicator plant species." With the exception of one arroyo willow at the extreme eastern end of the ditch, no such indicator species occur in the portion of the ditch proposed for maintenance activities. The edge of the Pullman Ditch riparian habitat is therefore considered to be the topographic top of bank of the ditch, with the exception of the willow area, where the boundary extends to the dripline of the tree (Figure 2). This riparian habitat is considered to be an Environmentally Sensitive Habitat Area (ESHA), as defined in Section 30107.5 of the LCP. Permitted uses within and adjacent to an ESHA include only resource-dependent or other uses which will not have a significant adverse impact on sensitive habitats. Land uses on adjacent land which would have significant adverse impacts on the ESHA are also prohibited.

However, the LCP permits flood control projects in riparian areas "where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development." The proposed vegetation removal will improve flow within Pullman Ditch, an artificial watercourse designed to drain surface runoff from natural and hardscape areas east of Highway 1, and could therefore be considered permissible under the LCP. Nevertheless, to comply with the CDFG Streambed Alteration Agreement (Notification Number 1600-2004-0227-3, issued October 1 2004) for the project, adverse affects to riparian habitat will be avoided through a series of impact minimization measures. The following mitigation measures are required per condition #12 of the CDFG permit and will therefore be incorporated into the project:

1. No trees over 4 inches diameter at breast height will be removed;

2. All disturbed slopes around and on the banks will be seeded and mulched as needed until local vegetation has recolonized the site;
3. If planting of native species is desired, then locally collected seeds and propagules will be used.

Because these measures preclude the removal of existing arroyo willow trees from the ditch (all of which are greater than 4" dbh), impacts to riparian habitat are considered less than significant.

Impacts to Saltmarsh Common Yellowthroats

This species is relatively common where suitable habitat is present. Thus, minor impacts, such as loss of habitat for a single nesting pair, would not be considered significant. No impacts to nesting Saltmarsh Common Yellowthroats are expected, since active nests of all birds protected under the Migratory Bird Treaty Act will be avoided (see *Regulatory Overview for Nesting Birds,* below).

POTENTIALLY SIGNIFICANT IMPACTS

Impacts to California Red-legged Frogs

It is extremely unlikely that California red-legged frogs would occur in Pullman Ditch. However, due to the remote possibility of a wandering individual of this species occurring in the pool at the upstream end of the ditch, surveys are warranted prior to vegetation clearing. If this species occurred on the site, clearing of vegetation could potentially result in inadvertent harm (e.g., through crushing or harming with machinery). The following mitigation measures would reduce impacts to a less-than-significant level.

Mitigation 1: Pre-vegetation Clearing Surveys. Prior to initiation of vegetation clearing, a qualified biologist should conduct surveys for California red-legged frogs. One night-time survey and one day-time survey should be conducted. The night-time survey should be conducted the night before work begins, followed by the day-time survey the morning before work begins. Because it is unlikely that red-legged frogs occur in the project area, this pre-construction survey should be sufficient, despite the fact that the CDFG Streambed Alteration Agreement calls for protocol-level surveys (recently revised by the U.S. Fish and Wildlife Service to include 8 surveys over at least 6 weeks). If a red-legged frog is found, the U.S. Fish and Wildlife Service and the CDFG will be notified immediately. The U.S. Fish and Wildlife Service may then require consultation under Section 7 or Section 10 of the Federal Endangered Species Act, and require additional mitigation, including, at a minimum, the following. If no red-legged frogs are found, no further mitigation is required.

Mitigation 2: On-site Monitoring. If a red-legged frog is found on the project site, a qualified biologist will remain on-site during all vegetation-clearing work to help ensure that no red-legged frogs are harmed. This biologist will carefully monitor work in and around Pullman Ditch and watch for red-legged frogs. If a red-legged frog is found on the site within the work area, the biologist will relocate the frog to suitable habitat nearby, but outside the work area (this will require approval from the U.S. Fish and Wildlife Service).

Mitigation 3: Worker Training. All workers involved in the clearing of vegetation will participate in a training session led by a qualified biologist prior to initiation of work. This training session will include information on the ecology and identification of red-legged frogs, and the need to stop work and inform the on-site biologist in the event of a potential sighting.

The mitigation measures above would reduce impacts to California red-legged frogs to a less-than-significant level under the California Environmental Quality Act. However, the presence of this species on the project site may qualify the site (or that portion of the site) as an ESHA under the LCP. Under the LCP, the only activities allowed in habitat for rare or endangered wildlife are: education and research; hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat; and fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species. Thus, presence of the red-legged frog on the project site may prevent vegetation clearing from occurring. If this species is detected on-site, consultation with the relevant agencies would be necessary to determine what activities might be permissible.

MITIGATION MONITORING AND REPORTING PROGRAM

Table 2. Summary of Environmental Impacts for the Mitigation Monitoring and Reporting Program.

Environmental Impact	Mitigation Measure	Resulting Level of Significance	Monitoring Responsibility	Monitoring Timeframe
If California red-legged frogs occur on the project site, they could be harmed during project implementation.	1) Prior to vegetation removal, one night-time and one day-time survey will be conducted to determine if the species is present in the work area. 2) If a red-legged frog is found, the USFWS and CDFG will be notified, and work will stop until consultation has been completed. A qualified biologist will remain on-site during maintenance activities to ensure that no red-legged frogs are harmed. 3) If a red-legged frog is found, all workers will participate in a training session on the ecology and identification of red-legged frogs, and measures being used to avoid impacts.	Mitigated to Less-than-significant.	City of Half Moon Bay.	Immediately prior to and during work.

COMPLIANCE WITH ADDITIONAL LAWS AND REGULATIONS APPLICABLE TO BIOTIC RESOURCES OF THE PROJECT SITE

REGULATORY OVERVIEW FOR NESTING BIRDS

The Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA; 16 U.S.C., §703, Supp. I, 1989) prohibits killing, possessing, or trading in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment, a violation of the MBTA.

California State Fish & Game Code

Migratory birds are also protected in and by the State of California. The State Fish and Game Code §3503 (and other sections and subsections) emulates the MBTA and protects birds' nests and eggs from all forms of take. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered "take" by the CDFG and would constitute a significant impact.

Raptors (*i.e.*, eagles, hawks, and owls) and their nests are specifically protected in California under Fish and Game Code Section 3503.5. Section 3503.5 states that it is "unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto."

Project Applicability

Some common birds, such as California Towhees or Bushtits, could potentially nest in vegetation that would be cleared during project implementation. These species are protected under the laws described above. Vegetation clearing has the potential to take nests, eggs, young or individuals of these protected species. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to the abandonment of nests. Although this impact would not be significant under CEQA due to the local and regional abundance of the species in question and the low magnitude of the potential impact, we recommend that the following measures be implemented to reduce the risk of a violation of the MBTA and the California Fish and Game Code.

Compliance Measures

Measure 1. Avoidance. Avoid nesting season construction. Vegetation clearing should be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds in the Half Moon Bay area extends from February through August.

Measure 2. Pre-removal Surveys. If it is not possible to schedule vegetation clearing between September and January, then pre-construction surveys for nesting birds should be conducted by a

qualified ornithologist to ensure that no nests will be disturbed. This survey should be conducted no more than 14 days prior to the initiation of vegetation clearing activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other potential nesting habitats in and immediately adjacent to the impact areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist, in consultation with CDFG, will determine the extent of a disturbance-free buffer zone to be established around the nest, typically 250 feet, to ensure that no nests of species protected by the MBTA or State Code will be disturbed during project implementation.

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APPENDIX A.
SPECIAL-STATUS SPECIES REGULATIONS OVERVIEW

SPECIAL-STATUS SPECIES REGULATIONS OVERVIEW

Federal and state endangered species legislation gives several plant and animal species known to occur in the vicinity of the project site special status. In addition, state resource agencies and professional organizations, whose lists are recognized by agencies when reviewing environmental documents, have identified as sensitive some species occurring in the vicinity of the project site. Such species are referred to collectively as "species of special status" and include: plants and animals listed, proposed for listing, or candidates for listing as threatened or endangered under the Federal Endangered Species Act (FESA) or the California Endangered Species Act (CESA), animals listed as "fully protected" under the California Fish and Game Code, animals designated as "Species of Special Concern" by the CDFG, and plants listed as rare or endangered by the CNPS in the *Inventory of Rare and Endangered Plants of California* (2001).

Federal Endangered Species Act provisions protect federally listed threatened and endangered species and their habitats from unlawful take. "Take" under FESA includes activities such as "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any of the specifically enumerated conduct." The U.S. Fish & Wildlife Service's (USFWS) regulations define harm to mean "an act which actually kills or injures wildlife." Such an act "may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering" (50 CFR § 17.3). Activities that may result in "take" of individuals are regulated by the USFWS. The USFWS produced an updated list of candidate species September 19, 1997 (USFWS 1997; 50 CFR Part 17). Candidate species are not afforded any legal protection under FESA; however, candidate species typically receive special attention from federal and state agencies during the environmental review process.

Provisions of CESA protect state-listed threatened and endangered species. CDFG regulates activities that may result in "take" of individuals (*i.e.*, "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill"). Habitat degradation or modification is not expressly included in the definition of "take" under the California Fish and Game Code. The CDFG, however, has interpreted "take" to include the "killing of a member of a species which is the proximate result of habitat modification . . . " Additionally, the California Fish and Game Code contains lists of vertebrate species designated as "fully protected" (California Fish & Game Code §§ 3511 [birds], 4700 [mammals], 5050 [reptiles and amphibians], 5515 [fish]). Such species may not be taken or possessed without a permit.

The CDFG has also produced three lists (amphibians and reptiles, birds, and mammals) of "species of special concern" that serve as "watch lists." Species on these lists either are of limited distribution or the extent of their habitats has been reduced substantially, such that threat to their populations may be imminent. Thus, their populations should be monitored. They may receive special attention during environmental review.

Plants listed as rare or endangered by the CNPS (2001), but which have no designated status under state endangered species legislation, are defined as follows:

- List 1A. Plants considered by the CNPS to be extinct in California.
- List 1B. Plants rare, threatened, or endangered in California and elsewhere.
- List 2. Plants rare, threatened, or endangered in California, but more numerous elsewhere.
- List 3. Plants about which we need more information - A review list.
- List 4. Plants of limited distribution - A watch list.

EXHIBIT 15

PLANNING COMMISSION RESOLUTION P- 12-07
RESOLUTION FOR APPROVAL
PDP-004-06
Coastal Development Permit for a
Single-Family Residence Located at 2788 Pullman Avenue (APN 048-121-090)

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 parcel located at 2788 Pullman Avenue (APN 048-121-090), on a parcel zoned R-1, Single-Family Residential; and

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

WHEREAS, the Architectural Review Committee of the City of Half Moon Bay conducted a noticed public meeting for the project on February 15, 2006, at which time all those desiring to be heard on the matter were given the opportunity to be heard; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on December 14, 2006, and continued at the March 22, 2007, public hearing, at which time all those desiring to be heard on the matter were given an opportunity to be heard; and

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

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

WHEREAS, the Planning Commission has made the required findings for approval of the project, set forth in Exhibit A to this resolution;

NOW, THEREFORE, BE IT RESOLVED that, based upon the Findings in Exhibit A and subject to the Conditions of Approval contained in Exhibit B, the Planning Commission approves the application (PDP-004-06).

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

AYES, Commissioners Poncini, McCarthy, Vice Chair Roman and Chair Allis

NOES, Commissioner Lansing

ABSENT,

RECUSED: Commissioners Snow and Jonsson

ATTEST:

Steve Flint, Planning Director

APPROVED:

Jeff Allis, Chair

A-2-HMB-07-015
Oliva SFR
Exhibit 4
Notice of Final Local Action
Page 2 of 14

EXHIBIT A
FINDINGS AND EVIDENCE
PDP-004-06
Coastal Development Permit for a
Single-Family Residence Located at 2788 Pullman Avenue (APN 048-121-090)

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

issuance of a development permit, the Planning Commission or City Council shall make the finding that adequate services and resources will be available to serve the development upon its completion and that such development is located within and consistent with the policies applicable to such an area designated for development. The applicant shall assume full responsibility for costs incurred in the service extensions or improvements that are required as a result of the proposed project, or such share as shall be provided in such project would participate in an improvement or assessment district. Lack of available services or resources shall be grounds for denial of the project or reduction in the density otherwise indicated in the Land Use Plan.

Compliance: The project has a 5/8" water connection, which is sufficient to serve a residence of this size. The applicant will have to purchase a sewer connection from the Granada Sanity District prior to the issuance of a building permit. The Granada Sanity District has informed City staff that there is enough capacity to serve the proposed residence. The Planning Commission finds that there are adequate services and resources for the development of the single-family residences and associated infrastructure improvements.

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

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

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

   Planning Commission Findings: The project site is zoned R-1 (Single-Family Residential). The project complies with all development standards including lot size, structure height, setbacks, lot-coverage, floor to area ratio and building envelope. The project has been reviewed for compliance with the design review criteria in Chapter 18.21 of the Zoning Code.

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

   Planning Commission Findings: The project is located within an existing subdivision with roads and other infrastructure serving the existing houses. One 5/8" non-priority water service connection is assigned to the property. The property is within the Granada Sanitary District and is not assessed for a sewer connection. The applicant will have to purchase a sewer connection prior to the issuance of a building permit. The project is located within an existing developed area in the predominantly built-out City of Naples Tract Subdivision, which contains roads and adequate sewer, water and other infrastructure that serve the existing needs of the immediate neighborhood. In accordance with the City Council's

action during the public hearing of May 2, 2006, the applicants shall execute a recorded street agreement for future construction of public improvements adjacent to the project site frontage(s) as approved by the Public Works Director/City Engineer.

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

   Planning Commission Findings: The proposed project will not restrict or otherwise adversely affect public coastal access or public coastal recreational opportunities because it involves residential construction on an existing residential lot, does not involve new roads, does not alter existing access ways and will utilize existing access ways on Pullman Avenue, and provide infrastructure improvements that will improve coastal access.

Site and Design Review – Findings

The required Coastal Development Permit for the construction of a residence may only approved only after the approving authority has made the following finding (Number 6 listed below) per Municipal Code Section 18.21.040:

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

   Planning Commission Findings: The project was reviewed and approved by the Architectural Review Committee (ARC) at the meeting of February 15, 2006 and the ARC made the necessary finding.

Environmental Review – Findings

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

   Planning Commission Findings: This project proposes the development of a new single-family residence which is categorically exempt under California Administrative Code Sections 15303(a) for new construction of single-family residences.

EXHIBIT 16

CALIFORNIA COASTAL COMMISSION
NORTH CENTRAL COAST DISTRICT
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5260
FAX (415) 904-5400

W 5.5a

Filed: April 20, 2007
49th Day: June 8, 2007
Staff: YinLan Zhang—SF
Staff Report: April 26, 2007
Hearing Date: May 9, 2007
Commission Action:

APPEAL STAFF REPORT
SUBSTANTIAL ISSUE DETERMINATION

APPEAL NO.:	**A-2-HMB-07-015**
APPLICANT:	**Francisco Oliva**
LOCAL GOVERNMENT:	**City of Half Moon Bay**
LOCAL DECISION:	Approval with Conditions
PROJECT LOCATION:	2788 Pullman Avenue, Half Moon Bay
PROJECT DESCRIPTION:	Construction of a 2,500 square-foot single family residence on a 5,000 square-foot lot.
APPELLANTS:	Commissioners Reilly and Commissioner Blank
STAFF RECOMMENDATION:	Substantial Issue Exists;
SUBSTANTIVE FILE DOCUMENTS:	1. City of Half Moon Bay Planning Commission December 14, 2006 Staff Report for PDP 004-006 2. City of Half Moon Bay Planning Commission March 22, 2007 Staff Report for PDP 004-006 3. Pullman Ditch Biological Resource Assessment, H.T. Harvey Associates, November 3, 2006 4. City of Half Moon Bay Local Coastal Program.

EXECUTIVE SUMMARY

The City of Half Moon Bay approved with conditions a 2,500 square-foot single family residence on a 5,000 square-foot lot at 2788 Pullman Avenue.

The appellants contend that the approved development is inconsistent with the sensitive habitat protection policies of the City's certified LCP because the approved development does not meet the required minimum setback for sensitive habitats that support the San Francisco garter snake and California red-legged frog or incorporate the necessary measures to ensure that the approved development would be sited and designed to prevent impacts that could significantly degrade the environmentally sensitive habitat and would be compatible with the maintenance of biological productivity of the sensitive habitat.

Commission staff analysis indicates that the appeal raises significant questions regarding whether the development approved by the City is consistent with the sensitive habitat protection policies in the City's certified LCP. Commission staff recommends that the Commission find that the project, as approved by the City, raises a substantial issue of conformity with the City's LCP Policies

The motion to adopt the staff recommendation of Substantial Issue is found on page no. 2.

STAFF NOTES

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. Since the staff is recommending substantial issue, unless there is a motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the de novo portion of the appeal hearing on the merits of the project will be held in the future.

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

1.0 STAFF RECOMMENDATION

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

MOTION

I move that the Commission determine that Appeal No. A-2-HMB-07-015 raises NO substantial issue as to conformity with the certified Local Coastal Program with respect to the grounds on which an appeal has been filed pursuant to Section 30603 of the Coastal Act.

A. Development and Land Use:

1. Shall be prohibited when significant adverse impacts on coastal resource areas would occur as a result.

2. Shall be sited and designed to prevent impacts that could significantly degrade adjacent sensitive habitat areas or significantly degrade areas adjacent to sensitive habitat areas.

3. Shall be compatible with the maintenance of biologic productivity of any adjacent sensitive habitat areas.

4. Shall be permitted within sensitive habitat areas only if they are resource-dependent uses or other uses which will not have any significant adverse environmental impacts, and if the uses comply with U.S. Fish and Wildlife Service and State Department of Fish and Game regulations.

5. Shall assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural land forms along bluffs and cliff, and shall minimize risks to life and property in hazard areas.

6. Shall comply with the restrictions listed in this Title for each coastal resource area, and with all other applicable sections of the City's Local Coastal Program Land Use Plan.

18.38.085 Habitats for Rare and Endangered Species.

A. Rare and Endangered Species. The potential exists for any of the following Rare and Endangered Species to be found within the San Mateo County Coastal Area and therefore within the City of Half Moon Bay:

1. Animals: the San Francisco Garter Snake, California Least Tern, California Black Rail, California Brown Pelican, San Bruno Elfin Butterfly, San Francisco Tree Lupine Moth, Guadalupe Fur Seal, Sea Otter, California Brackish Water Snail, Globose Dune Beetle

...

D. **Buffer Zones. The minimum buffer surrounding a habitat of a rare or endangered species shall be 50 feet.** [Emphasis added.]

Discussion

The appellants contend that the approved development is inconsistent with the LCP's sensitive habitat protection policies because (1) the approved development does not meet the setback requirement for sensitive habitat, specifically, the 50-foot setback required for "habitats for rare and endangered species" as provided in Section 18.38.085 of the Zoning Code/IP, and (2) the approved development does not incorporate adequate mitigation measures to prevent impacts that could significantly degrade the environmentally sensitive habitats that support the federally

and state endangered San Francisco garter snake and the federally threatened, state species of concern, California red-legged frog and to ensure that the development would be compatible with the maintenance of biological productivity of the sensitive habitat.

Setbacks

The approved single-family residence would be located 42-feet from the edge of the riparian vegetation at Pullman Ditch. Associated landscaping improvement for the residence would be less than 42 feet from the edge of the riparian vegetation. The minimum required buffer for habitats for rare and endangered species in Section 18.38.085 of the Zoning Code/IP is 50 feet. In addition, Policy 3-3 of the LUP requires development adjacent to sensitive habitats to be sited and designed to prevent impacts that would significantly degrade the habitat. The City allowed the house to be located less than 50 feet from the edge of the riparian vegetation because although the City recognized that Pullman Ditch is sensitive habitat because it is an intermittent stream and the surrounding area is riparian corridor, both of which independently qualifies the area as sensitive habitat under Policy 3-1 of the certified LUP, the City did not find that Pullman Ditch and adjacent riparian habitat support the San Francisco garter snake or the California red-legged frog. As such, the City determined that Pullman Ditch does not meet the specific definition of "habitats for rare and endangered species," another type of sensitive habitat specifically identified in Policy 3-1 of the certified LUP and afforded extra protection by Policies 3-21, 3-23, and 3-24 of the certified LUP as well as Section 18.38.085 of the Zoning Code/IP.

The City's March 22, 2007 staff report states

> The bio report does specify that below the stream bank there may be vegetation that provides habitat or cover for wildlife, it does not specify that that is the habitat of a rare or endangered species. In fact, the bio report concludes that no wildlife species listed as threatened or endangered under the Federal Endangered Species Act are likely to occur on the project site. Therefore, the requirement in the LCP that a buffer zone of a minimum of 50 feet surrounding a habitat of a rare or endangered species would not apply to the proposed project site.

The "bio report" referenced in the above City finding is the November 3, 2005 Pullman Ditch Biological Resources Assessment (H.T. Harvey and Associates) conducted for the purposes of a City maintenance project. Biologists from the California Department of Fish and Game (CDFG), and the U.S. Fish and Wildlife Service (USFWS) have commented on the biological report and disputed the report's conclusion that neither California red-legged frogs nor San Francisco garter snakes are likely to be present in Pullman Ditch.

Dave Johnston from CDFG states in his March 9, 2006 email to City staff (Exhibit 6):

> We can't completely concur with the assessment's conclusion that California red-legged frogs (CRLF) would be very uncommon on the site and San Francisco garter snakes will not be present at all. The ditch is within the known range of these species and unsurveyed aquatic habitat is within easy dispersal distance.

EXHIBIT 17

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

WITHDRAWAL OF APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Date: February 13, 2008

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):
Commissioners Steve Blank and Mike Reilly
45 Fremont, Suite 2000
San Francisco, CA 94105
(415) 904-5200

SECTION II. Decision Being Appealed

Name of local/port government:
City of Half Moon Bay

Description of decision being appealed:
Conditional approval of CDP

Name of Applicant(s)
Francisco Oliva

Brief description of development being appealed:
2500 square foot single family residence near a drainage.

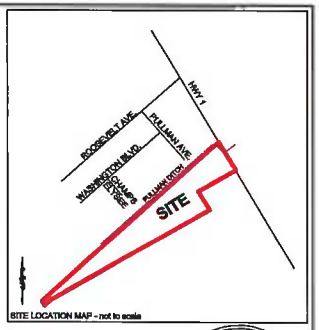
Development's location (street address, assessor's parcel no., cross street, etc.):
2788 Pullman Ave, Half Moon Bay
APN 048-121-090

Appeal Number:
A-2-HMB-07-015

Date appeal filed:
April 20, 2007

District:
North Central District

EXHIBIT 18



GENERAL NOTES

1. PLANS PREPARED AT THE REQUEST OF: MARK STOLOSKI, OWNER
2. BASE MAP BASED ON SURVEY BY COASTSIDE LAND SURVEYING AND VERTICAL MAPPING RESOURCES INC., 2008.
3. THIS IS NOT A BOUNDARY SURVEY.
4. PLAN WAS PREPARED IN RESPONSE TO CCC STAFF REQUEST.

REGISTERED PROFESSIONAL ENGINEER
CHARLES M. KISSICK
No. 62264
9-30-15
EXPIRES
CIVIL
STATE OF CALIFORNIA

LEGEND

- POTENTIAL ESHA 50' SETBACK
- PULLMAN DITCH
- POTENTIAL BUILDING ENVELOPE
- WATER LINE
- SEWER LINE

Prime Geosciences, Inc.
SIGMA PRIME GEOSCIENCES, INC.
111 VASCAR STREET
HALF MOON BAY, CA 94019
(650) 728-3590
FAX 728-3583

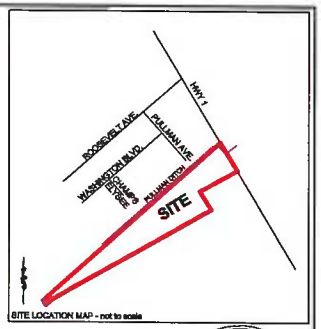
DATE: 2-5-14
DRAWN BY: CMK
CHECKED BY: AZG
REV. DATE:
REV. DATE:
4 DATE:

CCC STAFF ON-SITE ALTERNATIVE: STOLOSKI PROJECT

CABRILLO HIGHWAY
HALF MOON BAY
APN 048-133-010

SHEET
C-5

1"=100'



SITE LOCATION MAP - not to scale

GENERAL NOTES

1. PLANS PREPARED AT THE REQUEST OF: MARK STOLOSKI, OWNER
2. BASE MAP BASED ON SURVEY BY COASTSIDE LAND SURVEYING AND VERTICAL MAPPING RESOURCES INC., 2008.
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REGISTERED PROFESSIONAL ENGINEER CHARLES M. KISSICK No. 62264 9-30-15 EXPIRES CIVIL STATE OF CALIFORNIA

LEGEND

- POTENTIAL ESHA 50' SETBACK
- PULLMAN DITCH
- POTENTIAL BUILDING ENVELOPE
- WATER LINE
- SEWER LINE

Prime Geosciences, Inc.
SIGMA PRIME GEOSCIENCES, INC.
1144 MASON STREET
HALF MOON BAY, CA 94019
(650) 728-3590
FAX 728-3593

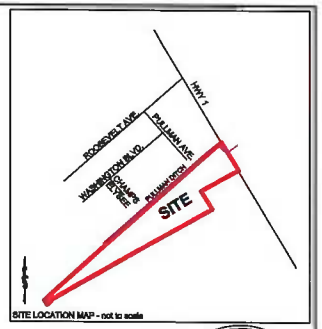
DATE: 2-5-14
DRAWN BY: CMK
CHECKED BY: AZG
REV. DATE:
REV. DATE:
REV. DATE:

CCC STAFF ON-SITE ALTERNATIVE DETAIL: STOLOSKI PROJECT

CABRILLO HIGHWAY
HALF MOON BAY
APN 048-133-010

SHEET
C-6

EXHIBIT 19



GENERAL NOTES

1. PLANS PREPARED AT THE REQUEST OF: MARK STOLOSKI, OWNER
2. BASE MAP BASED ON SURVEY BY COASTSIDE LAND SURVEYING AND VERTICAL MAPPING RESOURCES INC., 2008.
3. THIS IS NOT A BOUNDARY SURVEY.
4. PLAN WAS PREPARED IN RESPONSE TO CCC STAFF REQUEST.

LEGEND

- POTENTIAL ESHA 50' SETBACK
- PULLMAN DITCH
- POTENTIAL BUILDING ENVELOPE
- WATER LINE
- SEWER LINE

REGISTERED PROFESSIONAL ENGINEER
CHARLES M. KISSICK
No. 62264
~~3-31-15~~
EXPIRES
CIVIL
STATE OF CALIFORNIA

Prime Geosciences, Inc.
SIGMA PRIME GEOSCIENCES, INC.
111 VASSAR STREET
HALF MOON BAY, CA 94019
(650) 728-3590
FAX 728-3593

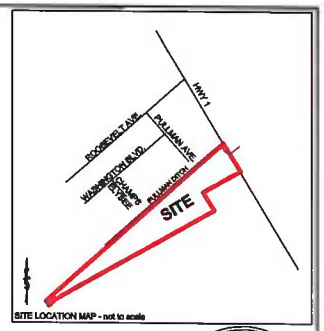
DATE: 2-5-14
DRAWN BY: CMK
CHECKED BY:
REV. DATE:
REV. DATE:
REV. DATE:

CCC STAFF KNEWING ALTERNATIVE: STOLOSKI PROJECT

CABRILLO HIGHWAY
HALF MOON BAY
APN 048-133-010

SHEET
C-3

EXHIBIT 20



GENERAL NOTES

1. PLANS PREPARED AT THE REQUEST OF: MARK STOLOSKI, OWNER
2. BASE MAP BASED ON SURVEY BY COASTSIDE LAND SURVEYING AND VERTICAL MAPPING RESOURCES INC., 2008.
3. THIS IS NOT A BOUNDARY SURVEY.
4. PLAN WAS PREPARED IN RESPONSE TO CCC STAFF REQUEST.

REGISTERED PROFESSIONAL ENGINEER
CHARLES M. MASON
No. 62264
9-30-15
EXPIRES
CIVIL
STATE OF CALIFORNIA

LEGEND

- POTENTIAL ESHA 50' SETBACK
- PULLMAN DITCH
- POTENTIAL BUILDING ENVELOPE
- WATER LINE
- SEWER LINE

Prime Geosciences, Inc.
SIGMA PRIME GEOSCIENCES, INC.
111 VASSAR STREET
HALF MOON BAY, CA 94019
(650) 728-3590
FAX 728-3593

DATE: 2-5-14
DRAWN BY: CMK
CHECKED BY: AZG
REV. DATE:
REV. DATE:
REV. DATE:

CCC STAFF OSBORN ALTERNATIVE: STOLOSKI PROJECT

CABRILLO HIGHWAY
HALF MOON BAY
APN 048-133-010

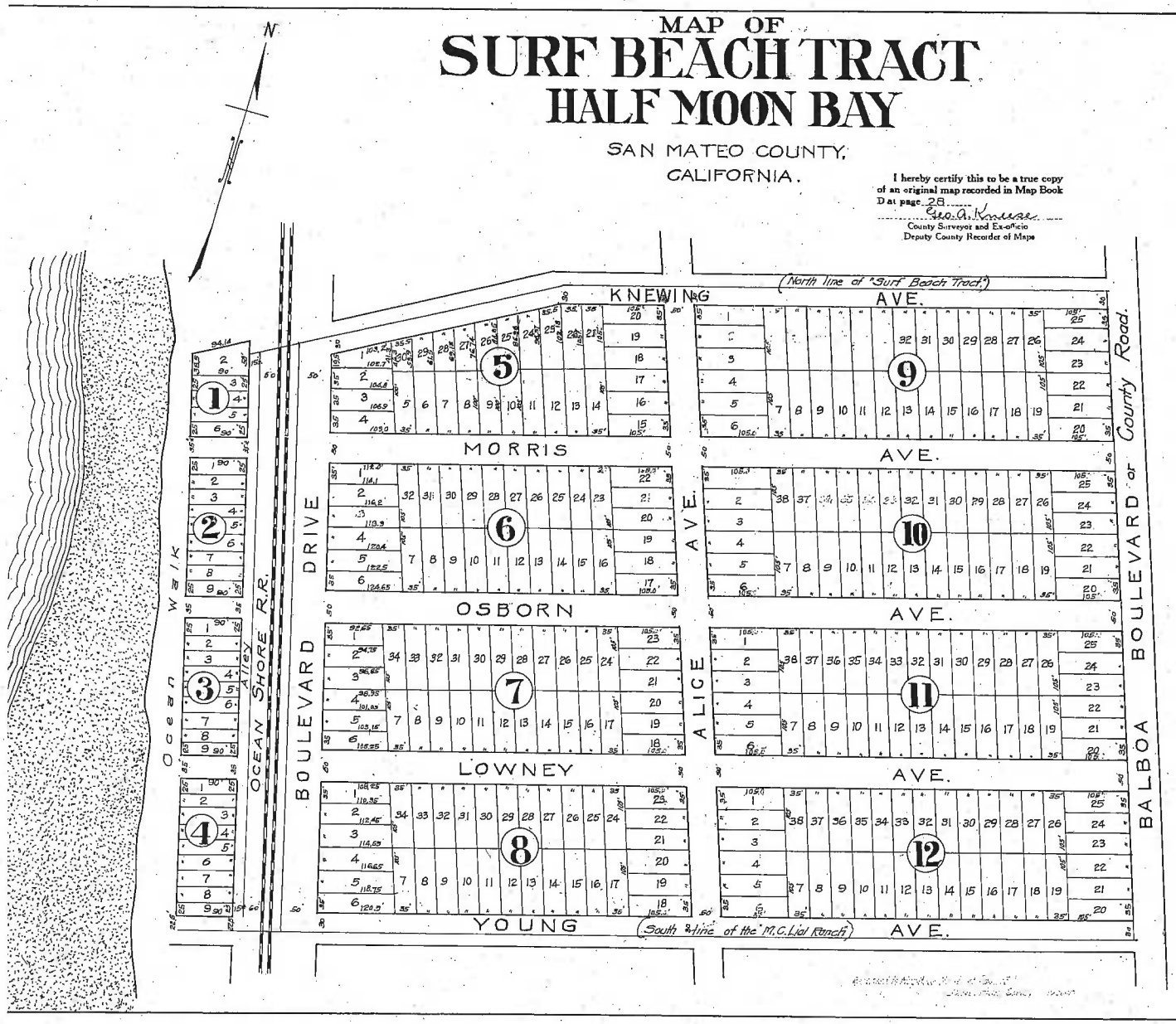
SHEET
C-4

EXHIBIT 21

MAP OF
SURF BEACH TRACT
HALF MOON BAY

SAN MATEO COUNTY,
CALIFORNIA.

I hereby certify this to be a true copy
of an original map recorded in Map Book
D at page 28
Geo. A. Konrad
County Surveyor and Ex-officio
Deputy County Recorder of Maps



We, the 'Surf Beach Realty Company', the proprietors of the lands and premises, shown on the within and accompanying Map, have caused said accompanying Map of lands in San Mateo County, State of California to be made, mapped and platted as shown hereon, and we do hereby acknowledge and certify to the same.

In Witness Whereof, we have caused our corporate name to be signed and our corporate seal to be affixed hereto, this 6th day of January, 1906.

(Signed) Surf Beach Realty Company.
by Geo. O. Rich, President.

STATE OF CALIFORNIA,
CITY AND COUNTY OF SAN FRANCISCO. } ss. On this 6th day of February, in the year One thousand Nine Hundred and Six, before me, George Pattison, a Notary Public in and for said City and County, residing therein, duly Commissioned and sworn, personally appeared Geo. O. Rich known to me to be the President of the 'Surf Beach Realty Company', the corporation that executed the within instrument and he duly acknowledged to me that such Corporation executed the same.

In Witness Whereof I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(Signed) George Pattison.
Notary Public.
In and for the City and County of

"Boulevard Drive, Knewing Avenue, Morris Avenue, Osborn Avenue, Lowney Avenue, Young Avenue, and Alice Avenue, as delineated and designated on this Map are hereby accepted by the Board of Supervisors of the County of San Mateo on behalf of the Public as dedicated to Public use, in accordance with and subject to the terms of a resolution of said Board adopted this 12th day of February, 1906.

SEAL (Signed) H.W. Schabera.
Clerk of said Board
of Supervisors.

I hereby certify that this map is correct as surveyed by me.
January 6th, 1906. (Signed) H.J. Dygert.
C.E. and Surveyor

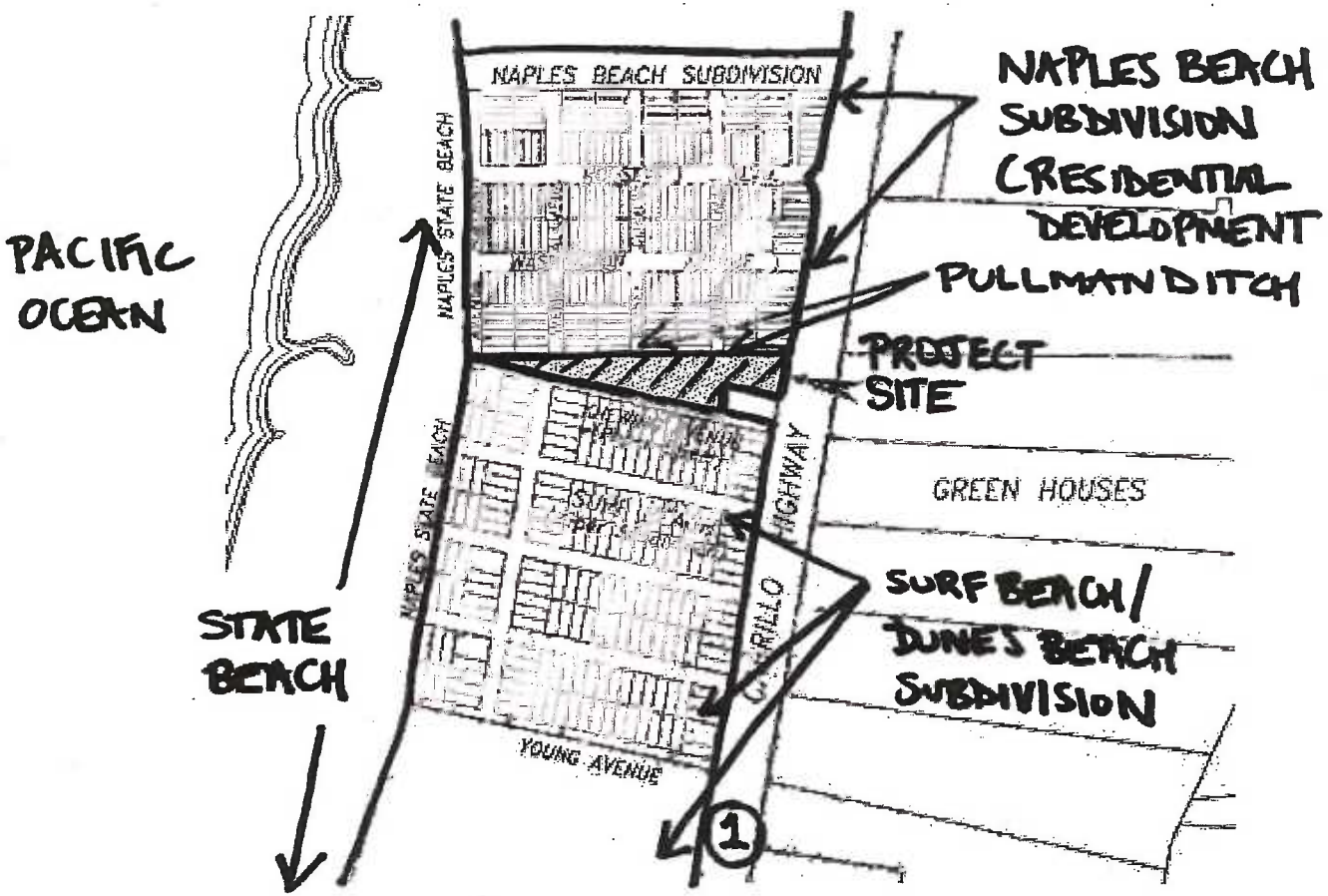
(NOTE:- This is a subdivision of the "M.C. Liol" Ranch in the Rancho Canal de Tierra Vasquez.)

Filed for record at the request of Surf Beach Realty Co. February 8th A.D. 1906, at 35 min. past 4 o'clock P.M., San Mateo County Records.

(Signed) J.F. Johnston, County Recorder.
by Pauline E. Hansen,
Deputy.

D 28

A-2-HMB-12-005 (STOLOSKI SUBDIVISION)



PROJECT LOCATION

EXHIBIT 22

Within these existing neighborhoods, existing zoning requirements represent a development potential for a maximum of 2,223 units, including 930 units in Ocean Colony and Canada Cove.[2] Except in these two latter areas where most of the land is as yet unsubdivided, full build-out cannot occur for a long period, given the need for consolidation of lots into buildable sites and for assessment districts to provide services.[3]

2. Paper Subdivisions

Category 2 includes all of the "paper subdivisions" in Half Moon Bay where there has been little, if any, development. All of these subdivisions have existed for many years and represent a large proportion of the theoretical development capacity of the City, although their lack of streets, water, and sewer services and fragmented ownership have historically prevented development. There are eleven of these subdivisions with a theoretical development potential, as platted, of over 1,100 new housing units. However, development potential on lots meeting current zoning requirements is for less than 500 units and even this number could not feasibly be developed within the near future due to fragmentation of ownership and the need for assessment districts or other means to finance infrastructural improvements. More importantly, development of these areas in accordance with existing platting would conflict with a number of Coastal Act policies pertaining to scenic resources, coastal access, and recreational opportunities, habitat protection and hazard avoidance, and provision for local recreational opportunities.

However, these lands have previously been committed to urbanization by subdivision and cannot feasibly be placed in agricultural use or open space habitat. They are not required for coastal recreation, although some expansion of the regional recreation area may be appropriate in connection with new development. Four of the eleven subdivisions may contain Class I and II soils (Surf Beach, Venice Beach, Highland Park, and Miramontes Terrace). However, agricultural use is infeasible because of prior subdivision, the impossibility of assembling usable parcels for lease, severe conflicts with existing development and heavy recreational use, lack of groundwater, and, in the case of Highland Park, Surf Beach, and Venice Beach, poor drainage. The University of California Cooperative Extension indicates that all of these subdivisions are poorly situated and drained for cultivation. (For further discussion of the reasons why none of these subdivisions is

---

[2]Ocean Colony may not be built out to its zoned potential, but existing zoning provides for about 861 additional units.

[3]The 1.48-acre parcel at the entrance to the Frenchmans Creek No. 1 Subdivision on Ruisseau Francais Avenue was originally created to accommodate a small commercial center. It was subsequently re-zoned residential. Present zoning would permit development of 5 residential units. All required utilities are presently installed in the Ruisseau Francais right-of-way.

suitable for agricultural use, see, e.g. Chapter II, Part 8 of this Plan and the sources cited therein).

The Surf Beach and Venice Beach tracts, in particular, suffer from conflicts with heavy coastal recreational use and conflicts with adjacent residential development and equestrian uses. In both cases, lack of good drainage has long made agricultural use difficult.

Development of the Miramontes Terrace tract, north of Kelly, as platted would produce direct conflicts with recreational use of the State Beach due to the lack of adequate buffers between homes and the area of intensive recreational use. Therefore, it is proposed that the area west of Balboa Avenue be added to the State Beach, thereby eliminating the possibility of 60+ homes immediately adjacent to the beach area.

The other old paper subdivisions are all located on non-prime soils. Trunk sewer services have been installed on a north-south axis through the area. The development of these areas represents no conflict with Coastal Act policies which could not be resolved in criteria guiding such development. However, substantial re-planning and controls are needed to ensure protection of coastal access and recreational opportunities, scenic resources and habitat area, and blufftops. Under existing zoning and platting, up to 800 units could be built in the subdivisions between Seymour and Redondo Beach Road, with an additional 900-1,000 on adjacent unsubdivided land.

In order to resolve conflicts between the future development potential of all these subdivisions and relevant Coastal Act policies, all but two of the undeveloped subdivisions are proposed to be designated Planned Development Districts for low density development. This designation will require re-planning and re-platting of the areas and substantial reductions in permitted densities to achieve reasonable patterns of development protective of coastal resources consistent with modern development standards.

The Miramontes Terrace tract north of Kelly is proposed for addition to the Half Moon Bay State Beach for expansion of recreational opportunities.

The Highland Park subdivision is proposed to be developed at medium density consistent with prevailing densities in the adjacent Newport Terrace subdivision, with such re-platting as is required to solve drainage problems and provide suitable homesites.

Under current zoning Category 2 lands not included within the Wavecrest Restoration Project Area have a development potential for 429 units. Under the Land Use Plan, the capacity would be reduced to about 325-340 units. (Table 9.1).

EXHIBIT 23

TABLE 9.1

CATEGORIES OF UNDEVELOPED LANDS IN HALF MOON BAY

CATEGORY 1: Existing Neighborhoods

		Existing Units	Maximum Potential New Units Under Exist. Zoning	Maximum Potential New Units Under LUP
1.	Miramar	117	75	75(5)
2.	City of Naples	51	68	71(5)
3.	Grandview Terrace	84	31	66
4.	Newport Terrace	52	20	25
5.	Casa del Mar	241	45	40
6.	Ocean Shore Terrace	95	32	76
7.	Pilarcitos Park	275	235	213
8.	Community Core/Spanish-town (Arleta Park East)	318	300	272
9.	Arleta Park(& Miramontes Terrace South of Kelly)	597	482	349-414
10.	Ocean Colony	189	861	861
11.	Canada Cove Mobile Home Park	288	69	71
12.	Frenchman's Creek	177	5	5(5)
13.	Sea Haven	166	0	0
Category 1 Subtotal:		2,650	2,223(1)	2,124-2,189

CATEGORY 2:

Undeveloped "Paper" Subdivisions

1.	Surf Beach	2	91	100(5)
2.	Venice Beach	6	85	60
3.	Miramontes Terrace (North of Kelly)	6	66	0-15
4.	Highland Park	0	66	95
5.	Wavecrest	0	*(2)	*(2)
6.	Redondo View	0	*(2)	*(2)
7.	Redondo	0	*(2)	*(2)
8.	Bernardo Station	19	121	70(2)
9.	Ola Vista	1	*(2)	*(2)
10.	Manhattan	1	*(2)	*(2)
11.	Lipton-by-the-Sea	0	*(2)	*(2)
Category 2 Subtotal:		35	429	325-340

San Mateo County Association of REALTORS®

Th 14a

May 12, 2014

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco CA, 94105

Re: A-2-HMB-12-005 (Stoloski Subdivision)

Dear Commissioners:

As an advocate for housing and the protection of private property rights, the San Mateo County Association of REALTORS® (SAMCAR) is pleased to submit comments and recommended action regarding A-2-HMB-12-005 (Stoloski Subdivision).

SAMCAR neither supports nor opposes individual proposals but the specifics surrounding this project are too egregious to ignore. We understand the Commission and its staff are charged with the need for a cautious approach towards development. However, when a project has met all local government requirements and request-upon-request by the Coastal Commission staff (with what can only be assumed by the evidence to be a focus by Coastal Commission staff on stopping the proposal)... then action by the Commission itself is needed.

To wit: The project is a four lot subdivision. The project was submitted to the City of Half Moon Bay in 2010. The city hired WRA to do all required environmental studies on the site. NO riparian habitat or any sensitive species were found... no comments were received from any resource agency during the public review period... subsequently, since all land use, planning, environmental and other mandates were satisfied - the proposal was unanimously approved by the Half Moon Bay City Council in 2012.

Two neighbors who live together (Mark Gradstein and Jane Gorman) then appealed the proposal to the Coastal Commission. Gradstein and Gorman claim (with no studies performed on their part or published data submitted to the Coastal Commission, and therefore, no financial investment on their part):

1) That the project requires a specific plan. It does not. The project is consistent with the HMB LCP wherein the property is zoned Planned Unit Development and is a stand-alone parcel and therefore, is also not subject to the dictates of the Surf Beach tract – a claim made by the Coastal Commission staff.

2) That a ditch running on the property is habitat to a protected frog and snake. The proponent has had additional biological studies done that, again, confirmed the WRA findings that the parcel is not a ESHA.

3) That a proposed culvert for storm water would create flooding near the home of the appellants at 2805 Naples. The culvert was subsequently removed to appease the appellant. However, as the appellant's primary goal is to halt the proposal, said action became moot. (Note: the appellant provided no engineering data to support their claim while the proponent has supplied all required engineering data.)

With all three of their appellant's claims now proven specious, the overriding issues become even more evident - *IF* Coastal Commission staff (as they would or should have with *any other proposal*) employed

850 Woodside Way • San Mateo, California 94401 • (650) 696-8200 • Fax (650) 342-7509 • www.samcar.org

sound scientific analysis, utilized accepted planning and land use practices and followed local dictates – the proposal would've been resolved by now.

Interestingly, the proponent has continuously supplied the Coastal Commission staff with requested information. They made repeated requests to meet on site to review the issues, which staff did not bother with until December of last year. The proponent also had several project alternatives prepared per request of the Coastal Commission staff... to what end?

When a proponent complies with every mandate required of them... and then repeated and questionable dictates from the Coastal Commission staff... in this one instant - the only logical way to resolve this flagrant treatment is to approve the project.

We appreciate the opportunity to express our concerns, and thank you in advance for your consideration. Should you have questions, please do not hesitate to contact me directly at 650.696.8209 or via email at paul@samcar.org

Respectfully,

Paul Stewart
Government Affairs Director
SAMCAR