

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
 45 FREMONT STREET, SUITE 2000
 SAN FRANCISCO, CA 94105
 PHONE: (415) 904-5260
 FAX: (415) 904-5400
 WEB: WWW.COASTAL.CA.GOV

**F7a**

Filed:	6/30/2015
Action Deadline:	Waived
Staff:	S. Rexing - SF
Staff Report:	7/31/2015
Hearing Date:	8/14/2015

**APPEAL STAFF REPORT: SUBSTANTIAL ISSUE
 DETERMINATION & DE NOVO HEARING**

Appeal Number:	A-2-HMB-15-0040
Applicant:	Jack Hamilton
Appellants:	Committee for Green Foothills, Sierra Club and James Benjamin
Local Government:	City of Half Moon Bay
Project Location:	135 Kelly Avenue, City of Half Moon Bay, San Mateo County (APN 056-048-020)
Project Description:	Subdivision of one parcel into two parcels located in the R-1 Single Family Residential, U-R Urban Reserve, and OS-A Open Space-Active Zoning Districts
Staff Recommendation:	Substantial Issue Exists; Approval with Conditions

PROCEDURAL NOTE

The Commission will not take testimony on this “substantial issue” recommendation unless at least three Commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Deputy Attorney General or the Executive Director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally, and at the discretion of the Chair, limited to 3 minutes total per side. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow, unless it has been postponed, during which the Commission will take additional public testimony.

SUMMARY OF STAFF RECOMMENDATION

The City of Half Moon Bay approved a coastal development permit (CDP) for the subdivision of one parcel at 135 Kelly Avenue into two parcels located in the R-1 Single Family Residential, U-R Urban Reserve, and OS-A Open Space-Active Zoning Districts. The Appellants contend that the City-approved subdivision project raises LCP conformance issues with respect to protection of public access and recreation opportunities along this section of the coast, and provision of adequate park and recreational facility space and public services for future new development. Specifically, the Appellants contend that the City's approval of the subdivision: 1) impacts designated beach access route Kelly Avenue; does not conform with the public access and public recreation policies of Chapter 3 of the Coastal Act (per PRC Section 30604(c)); and impacts public access prescriptive rights which may have accrued on the subject property, and does not provide adequate mitigation for such impacts; 2) does not conform with LCP Policies requiring land dedication or an in-lieu fee contribution to assure adequacy of recreation and park facilities for new development; and 3) does not ensure availability of adequate public services with respect to potential cumulative traffic impacts. In addition to these main issues, the Appellants make a contention regarding the City's CEQA exemption.¹ See **Exhibit 4** for the complete appeal documents.

Staff believes the appeal raises a substantial issue regarding the approved development's consistency with the City's certified Land Use Plan policies pertaining to public access and recreation. Staff recommends the Commission find **substantial issue** and take jurisdiction over the CDP application.

The LCP requires that any new development, subject to certain exceptions, include an offer to dedicate an easement for public access, or some other legal mechanism of access, unless it is demonstrated that the development will not individually or cumulatively affect the ability of the public to access the coast OR that the access dedication will not alleviate the access burdens identified. The LCP also requires protection of any historic public use when considering and approving new development.

Since it has been asserted that the northern lot (Parcel B) created by the subdivision, has historically been used by the public, and is currently being used by the public, it is appropriate per the requirements of the LCP to provide long-term assurances that this historic and current public use is not adversely impacted by the proposed subdivision development. In addition, Commission staff finds that there is potential for further subdivision or an application to rezone Parcel B which may increase the development potential, and there is also concern that a potential buyer of Parcel B would be unaware of the respective zoning requirements and would argue for development of a residence on the UR portion of the lot.

¹ This appeal contention includes claims that the City improperly concluded that the City is exempt from CEQA. However, contentions regarding the City's compliance with CEQA are not valid appeal contentions because appeal contentions, per the Coastal Act, are limited to questions of LCP consistency and Coastal Act access and recreation consistency.

Accordingly, Staff is recommending Special Conditions that limit allowable uses on Parcel B, the second, newly created parcel. In addition, Special Conditions will restrict such allowable uses on Parcel B to public access and agricultural uses that will ensure that future public access, public recreational opportunity and agricultural uses will be protected. Further, the Special Conditions will assure designated primary beach access routes will not be adversely impacted by the proposed lot subdivision and the development potential the subdivision creates, consistent with Half Moon Bay LCP policies that protect public access and recreation. Finally, the required Special Conditions will ensure that the project is consistent with the public access and recreation policies of Chapter 3 of the Coastal Act, protecting the public access points to and along the shoreline and offshore waters for public access and recreation purposes, including lower-cost access and recreational opportunities.

The motions and resolutions to act on this recommendation are provided on page 5.

TABLE OF CONTENTS

I. MOTIONS AND RESOLUTIONS.....	5
A. SUBSTANTIAL ISSUE DETERMINATION	5
B. CDP DETERMINATION.....	5
II. STANDARD CONDITIONS	5
III. SPECIAL CONDITIONS	6
IV. FINDINGS AND DECLARATIONS.....	8
A. PROJECT LOCATION	8
B. PROJECT DESCRIPTION.....	8
C. CITY OF HALF MOON BAY APPROVAL.....	9
D. APPEAL PROCEDURES	9
E. SUMMARY OF APPEAL CONTENTIONS	10
F. SUBSTANTIAL ISSUE DETERMINATION	11
G. COASTAL DEVELOPMENT PERMIT DETERMINATION	16
H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)	24

APPENDIX

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Location Map

Exhibit 2 – City Approved Project/Tentative Parcel Map

Exhibit 3 – Notice of Final Action and Appellant Letters to City

Exhibit 4 – Coastal Commission Appeal

Exhibit 5 – LCP Land Use Map and IP Zoning Designation Map

Exhibit 6 – Full Text Applicable LCP Policies

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-15-0040 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act, and I recommend a no vote.*

***Resolution to Find Substantial Issue:** The Commission hereby finds that Appeal Number A-2-HMB-15-0040 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 **YES** vote on the following motion. Passage of this motion, as is recommended by staff, will result in approval of the CDP as conditioned 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-15-0040 pursuant to the staff recommendation, and I recommend a yes vote.*

***Resolution to Approve CDP:** The Commission hereby approves Coastal Development Permit Number A-2-HMB-15-0040 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity 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. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions of approval:

1. **Parcel Map. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT:**
 - a. **Parcel Map.** The Applicant shall submit, for the review and approval of the Executive Director, a parcel map that is consistent with the configuration approved by the City of Half Moon Bay and depicted in **Exhibit 2** (including the depiction of Balboa Boulevard as a public right-of-way to be accepted by the City through recordation of the map), and also including a note referencing the deed restriction recorded as required by **Special Condition 2** of this CDP.
 - b. **Street Right-of-Way Dedication.** The parcel map shall include a street right-of way dedication for Balboa Boulevard, across Parcel B. This condition shall be implemented to the satisfaction of the City of Half Moon Bay Engineer.
 - c. **Record Final Parcel Map.** After approval by the Executive Director of the Commission, the Permittee shall record the parcel map as a final map with the San Mateo County Recorder's Office consistent with the map approved by the Executive Director. The recorded document shall include legal descriptions of all resultant parcels.
2. **Parcel B Development Rights Extinguished.** By acceptance of this permit, the Permittee acknowledges and agrees, on behalf of himself and all successors and assigns that other than the subdivision, any and all development rights that may otherwise exist for the portion of the subject property identified as Parcel B and as shown on the Tentative Parcel Map attached as **Exhibit 1, page 3** shall be considered extinguished in perpetuity, except:
 - a. **Development allowed on Balboa Boulevard pursuant to the satisfaction of the City of Half Moon Bay Engineer.**
 - b. **Development allowed in the area designated as Pilarcitos West Urban Reserve:**

1. Facilities associated with agricultural use of the land, such as wells, reservoirs, and fences, but excluding a farmhouse or other residential structure;
2. Limited recreation, including trails, sufficiently buffered from agricultural operations to avoid adverse impacts to agriculture.

c. Development allowed in the area zoned as Open Space Active:

1. Public Trail development, including nature walks and interpretive displays, and hiking, biking, and equestrian trails with ancillary parking lots, rest-rooms, benches, drinking fountains, and trash receptacles, subject to conformance with the resource conservation standards of the Half Moon Bay LCP.
2. No development in the area may block public access to the coast or to the Half Moon Bay Coastal Trail. Development shall avoid, to the maximum extent feasible, encroachment on other trails existing as of the date of the Commission's approval.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, imposing the restrictions included in this condition as covenants, conditions and restrictions on the use and enjoyment of Parcel B as depicted in **Exhibit 1, page 3**. The deed restriction shall include a legal description of the existing subject property affected by this subdivision (both Parcels A and B as depicted in **Exhibit 1, page 3**), a metes and bounds legal description and corresponding graphic depiction drawn to scale and prepared by a licensed surveyor of the Balboa Boulevard right of way, the Urban Reserve zoned portion of the property and the Open Space Active zoned portion of the properties. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interest being conveyed. This deed restriction shall not be removed or changed without a Commission-issued amendment to coastal development permit A-2-HMB-15-0040.

- 3. Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit to the Executive Director for review and approval documentation demonstrating that the Applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

4. **Road Improvements.** Future development on the two parcels created through this subdivision shall require the issuance of a coastal development permit. Permit approval shall be conditioned to require roadway improvements (e.g. curb, gutter, sidewalk, road widening, sewer, and storm drain) to Kelly Avenue, Balboa Boulevard, or both.

IV. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION

The subdivision is proposed on an undeveloped 2.1 acre parcel at 135 Kelly Avenue, in the 2700 block of North Cabrillo Highway (Highway 1) (APN 056-048-020) in the City of Half Moon Bay, San Mateo County. The subject parcel is a long and narrow rectangular parcel that was once a part of the railroad right-of-way. The southern edge of the parcel fronts Kelly Avenue and the parcel is bisected about a third of the way by Balboa Avenue (please see **Exhibit 1** for location and parcel map). The southernmost portion of the parcel is about 0.22 acres of land zoned Single Family Residential (R-1) and is fronted by Kelly Avenue. This portion is adjacent to existing developed residential areas to the east, and to the west there are other residences before reaching Balboa Boulevard. The remaining approximately 1.85 acre northern portion of the existing parcel is located between California State Parks land to the west and existing farmland to the east. This portion of the parcel is zoned either Open Space Active (OS-A) or Urban Reserve (U-R). The U-R portion of the northern part of the parcel is situated between the residentially zoned portions and the southern edge of Balboa Boulevard. North of Balboa Boulevard the remaining portion of the parcel is zoned OS-A.

The U-R portion of the subject parcel is located within the Pilarcitos West Urban Reserve district as designated by the City's certified LCP. The Pilarcitos West Urban Reserve district encompasses approximately 145 acres of land generally located east of Railroad Ave, north of Kelly Avenue, west of the Matteucci Lands designated Planned Development, Ocean Shore Subdivision and Highway 1, and south of Casa del Mar Subdivision (see **Exhibit 1** for map). The existing U-R portion of the subject parcel is undeveloped and free of structures. It was used as farmland in the past. The OS-A portion of the subject parcel north of Balboa Boulevard has been historically used and is currently used by the public for pedestrian and equestrian trail access routes.

B. PROJECT DESCRIPTION

The City of Half Moon Bay conditionally approved a CDP and tentative parcel map for the subdivision of the parcel into two parcels with one new parcel to be located in the R-1 zoning district and the second created parcel to be split zoned U-R and OS-A. The conditionally approved parcels, referred to as Parcel A (the southern R-1 parcel) and Parcel B (the northern U-R/OS-A parcel) will be 9,666 square feet and 80,448 square feet in size, respectively. The new parcel boundary between the City-approved parcels is located along the current zoning district boundary between the southern R-1 zoned portion and the U-R zoned portion. The City's approval was limited to approval of a subdivision as a new development requiring a coastal permit and did not extend to approval of any other actual development on either Parcel A or Parcel B. Any such development proposed for the future would be subject to a separate CDP process. The City approved the project with a Tentative Parcel Map and parcel configurations as

listed and depicted on the Tentative Parcel Map (see **Exhibit 2**). In addition, the City Engineer requested that the Balboa Boulevard right-of-way, which currently exists on the parcel prior to subdivision, be dedicated as a public right-of-way through a Condition of Approval of the subdivision and Tentative Parcel Map. Therefore, the City's approval included a condition of approval for the subdivision that the Final Parcel Map shall substantially conform to the Tentative Parcel Map date stamped April 15, 2015 in the City's Materials and that the Tentative Parcel Map require a recordation of a street right-of-way dedication for Balboa Boulevard during the recordation of the Final Parcel Map. See **Exhibit 3** for the City's Approval and **Exhibit 2** for the tentative parcel map and site plan.

C. CITY OF HALF MOON BAY APPROVAL

On April 13, 2015, the Applicant applied to the City for a CDP for the proposed project. On May 26, 2015, the Planning Commission adopted Resolution No. P-13-15 and approved CDP PDP-15-032 for the proposed project. Notice of the Planning Commission's final action on the CDP was received in the Coastal Commission's North Central Coast District Office on June 15, 2015 (see **Exhibit 3**). The Coastal Commission's ten-working day appeal period for this City permit action began on June 16, 2015 and concluded at 5 p.m. on June 29, 2015. Because an appeal to the Half Moon Bay City Council of the City Planning Commission's decision would have cost the Appellants \$1,950, they appealed directly to the Coastal Commission. The subject appeal was received during the 10 day appeal period on June 24, 2015 (see below and **Exhibit 4** for full text). The Applicant waived time requirements for a hearing within 49 days on June 26, 2015.

D. 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. The subject project is appealable to the Commission because it involves development that is located between the sea and the first public road paralleling the sea and is located within 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 on the subject project, unless three or more Commissioners object to that recommendation, 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 the substantial issue phase of the appeal hearing unless three or more 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 with some restrictions. The only persons qualified to testify before the Commission on the substantial issue question are the applicants, appellants, and persons who previously 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.

E. SUMMARY OF APPEAL CONTENTIONS

The Appellants contend that the City-approved project raises LCP conformance issues with respect to protection of public access and recreation opportunities along this section of the coast, and provision of adequate park and recreational facility space and public services for future new development. Specifically, the Appellants contend that the City's approval of the subdivision: 1) impacts designated beach access route Kelly Avenue; does not conform with the public access and public recreation policies of Chapter 3 of the Coastal Act (per PRC Section 30604(c)); and impacts public access prescriptive rights which may have accrued on the subject property, and does provide adequate mitigation for such impacts; 2) does not conform with LCP Policies requiring land dedication or an in-lieu fee contribution to assure adequacy of recreation and park facilities for new development; and 3) does not ensure availability of adequate public services with respect to potential cumulative traffic impacts. In addition to these main issues, the

Appellants make a contention regarding the City's CEQA exemption.² See **Exhibit 4** for the complete appeal documents.

F. 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

Public Access and Recreation

The Appellants contend that the approved project could result in impacts to beach access via Kelly Avenue, which is a designated primary Beach Access Route in the LCP, and that the City did not analyze whether resident access to and from the two newly created parcels could be limited to an alternative access route such as Balboa Boulevard, assuring that any new development on these parcels would have no impacts on the public's beach access via Kelly Avenue. In addition, the Appellants assert that the City should have analyzed the proposed development's conformity with the public access and recreation policies of Chapter 3 of the Coastal Act (per PRC Section 30604(c)). The Appellants also assert that the City's approval of the proposed subdivision failed to analyze the potential existing and historical public use of the parcel as evidenced by the existence of equestrian and pedestrian trails on the parcel or the potential to require dedication of the land so as to protect these access and recreational uses. Finally, the Appellants assert that the City's approval failed to analyze the project's compliance with certified LUP Policies requiring that new development, when necessary, provide land dedications or the payment of in-lieu fees to assure adequacy of available park and recreation facilities in light of the new development's increased demand on existing park and recreation facilities. See **Exhibit 4** for the full text of the Appellants' contentions. For the specific policy

² This appeal contention includes claims that the City improperly concluded that the City is exempt from CEQA. However, contentions regarding the City's compliance with CEQA are not valid appeal contentions because appeal contentions, per the Coastal Act, are limited to questions of LCP consistency and Coastal Act access and recreation consistency.

language referenced below, please see the “Public Access and Recreation” Section in the De Novo portion of this appeal report.

LCP Policy 2-15 designates Kelly Avenue, as well as Young Avenue and Venice Boulevard, as primary beach access routes within the City and requires that each be signed and improved including with left-turn lanes and sign placement along Highway 1 that indicates beach access is available from Highway 1 and encourages peak weekend transit services. In addition, LCP Policy 10-32 requires that private development approved adjacent to or served by primary beach access routes be required as a condition of approval, to improve or financially participate in the improvement of all such beach access routes. Further, LCP Policy 10-34 requires that the City limit access to new development from designated beach access routes, except where no alternative access route is possible.

In terms of the proposed subdivision’s conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, Section 30604(c) of the Coastal Act requires that every coastal development permit issued for development between the nearest public road and the sea must include a specific finding that said development is in conformity with the public access and recreation policies of Chapter 3. Since this project is located between the sea and the nearest public road, which in this case is Highway 1, such a finding would be required in order to approve this subdivision.

LCP Section 18.40 implements the public access requirements of the Coastal Act. Specifically, LCP Section 18.40.030 requires that any new development (including, but not limited to, development between the nearest public roadway and sea, such as the proposed subdivision, and subject to a few exceptions which do not apply here) include an offer to dedicate an easement for public access or some other legal mechanism of access unless it is demonstrated that the development will not individually or cumulatively affect the ability of the public to access the coast OR that the access dedication will not alleviate the access burdens identified. LCP Section 18.40.040 sets minimum required standards for the provision of access including the protection of any historic public use. LCP Section 18.40.050 discusses the findings required to demonstrate why access will or will not be affected and why a condition of approval requiring access is called for.

Finally, LUP Policy 2-35 encourages requiring land dedications or in lieu fee contributions to assure adequacy of recreation and park facilities to meet the demand generated by new developments.

The City’s decision regarding how the proposed project impacts coastal access states that the proposed project will not “inhibit coastal access since there is no construction included with this proposal.” In terms of impacts to beach access via Kelly Avenue, the City of Half Moon Bay’s approval included conditions that require: 1) the recordation of a public street right-of-way dedication for Balboa Boulevard during the recording of the Final Parcel Map; and 2) that any new development proposed on the new parcels would require a separate CDP with conditions requiring completion of on- and off-site improvements including road improvements (curb, gutter, sidewalk, road widening, sewer and storm drain). With these two required conditions of approval, the City found this proposal will “[provide] appropriate access to the proposed parcels.”

While the dedication of Balboa Boulevard as a public street right-of-way will allow access from one of these new parcels (Parcel B) to Balboa Boulevard, limiting direct use of Kelly Avenue to serve this new parcel, in conformity with LCP Policy 10-34, the newly created residential parcel (Parcel A) will be cut off from Balboa Boulevard, requiring users of this parcel to access it directly from Kelly Avenue. The City did not consider altering the configuration of the proposed subdivision to result in an alternative where both newly created parcels are being accessed via Balboa Boulevard, ensuring that direct private access for new development would not occur on designated beach access routes, consistent with LCP Policy 10-34. However, the outlet from Balboa Boulevard to the rest of the City is via Kelly Avenue, so even if all direct access were moved to Balboa Boulevard, traffic generated from Balboa Boulevard will eventually be routed to Kelly Avenue in order to reach Highway 1. Thus, although it is important to consider this alternative to ensure LCP consistency, the Commission finds that requiring direct access for the private development to Balboa Boulevard will not alter the fact that Kelly Avenue must still be used to serve this private development. Thus, the City's decision does not raise a substantial issue of LCP conformance with respect to LCP Policy 10-34.

With regard to LCP Policy 10-32, which requires as a condition of approval beach access improvements or financial contributions from private development approved adjacent to or served by primary beach access routes, the City's action required dedication of the Balboa Avenue public right-of-way. This dedication of a public roadway will allow for future improvements to access in the area. Further, the City's approval required that any future approved development will be required to do on- and off-site improvements such as curb, gutter, sidewalk, road widening improvements. Therefore, the City's decision does not raise a substantial issue of LCP conformance with respect to LCP Policy 10-32.

In terms of the required analysis that the proposal conforms to the Chapter 3 public access and public recreation policies of the Coastal Act, the City found that this subdivision conforms to all Chapter 3 access and recreation policies because "the project would provide a new R-1 parcel that would be no smaller than the average size of surrounding parcels." It is unclear how such a determination regarding the size of the new R-1 lot, and other surrounding residential parcels, illustrates conformity with the Chapter 3 policies of the Coastal Act, which include but are not limited to, requirements that new development not interfere with the public's right of access to the sea and requirements that public access be provided in new development projects, and exempts only a few types of projects. The City's analysis of how the proposed subdivision impacts public access and recreation does not completely answer whether the development is in conformity with Chapter 3 public access policies.

The City's approval of the proposed subdivision did not make findings regarding the historic or current trail use on the parcel, nor did the City propose any dedication of land or some other legal mechanism to preserve such uses. In addition, the City's approval did not demonstrate that the development will not individually or cumulatively affect the ability of the public to access the coast OR that the access dedication will not alleviate any access burdens identified. This analysis is required per the requirements of Implementation Plan (IP) Section 18.40 which states that as a condition of approval for any development located between the first public road and the sea, some form of public access should be approved pursuant to certain findings (Section 18.40.050.B) and subject to certain exceptions (18.40.030.B).

Finally, the Appellants note the City's analysis did not consider any in lieu fee contributions to meet the excess potential demands the proposed development may place on recreation or park facilities inconsistent with LCP Policy 2-35. LCP Policy 2-35 only requires land dedications or in-lieu fees if new developments will increase the demand generated on existing recreation and park facilities. The proposed subdivision by itself would not result in an increase in demand on recreation and park facilities, as it simply allows one parcel to be subdivided into two parcels. While the City did not analyze whether or not the subdivision would result in an increase in demand on existing recreation and park facilities, this portion of the appeal contention does not raise a substantial issue of conformance with the LCP.

Because the City's approval did not make findings regarding the historic or current trail use on the parcel, did not propose any dedication of land to preserve such historic and current access and recreational use and did not demonstrate that the development will not affect the ability of the public to access the coast OR that the access dedication will not alleviate the access burdens identified the appeal raises a substantial issue. Therefore, the appeal of the proposed subdivision raises a substantial issue of conformance of the approved project with the public access and recreation policies of the LCP and Chapter 3 of the Coastal Act.

Public Services

The Appellants contend that the City's approval of the proposed subdivision did not adequately analyze the availability of public services, specifically, the subdivision's cumulative impacts to traffic when considered along with other projects expected to occur over the next 25 years in the area. Namely, the Appellants contend that the proposed subdivision along with other similar, prospective projects in the area could result in significant adverse cumulative impacts (that would require mitigation) to the already congested main traffic arterials in the region, Highways 1 and 92. The intersection of Highway 1 with Kelly Avenue, the main access route that currently would serve any future residential development on the proposed R-1 parcel, currently operates at a Level of Service (LOS) D during peak a.m., p.m. and recreational hours.³ Traffic projections at this intersection will fall to LOS F at buildout (around 2040).⁴ Additionally, many traffic segments in the area are already at LOS E during peak hours.⁵ See **Exhibit 4** for the full text of the Appellants' contentions.

LUP Policy 9-2 prevents development from being approved unless it can be shown that the development will be served by adequate public services. LUP Policy 10-25 requires the City to support LOS C as the "desired LOS on Highways 1 and 92," except during peak commuting and recreational times when LOS E is acceptable. The specific language of Policies 9-2 and 10-25 as follows:

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.

³ Connect the Coastside Buildout Analysis and Traffic Projections Final Report, November 20, 2014.

⁴ *Id.*

⁵ *Id.*

Policy 10-25:

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

In addition, LUP Policy 10-4 requires that the City reserve public works capacity (such as traffic, water and sewer) for land uses given priority in the LUP, like public access and recreation opportunities, in order to assure that all capacity is not used up by other development with a lower priority land use for the coastal zone such as private residential uses. Specifically:

Policy 10-4:

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

The City's findings for its approval of the proposed subdivision state that there was no need to analyze whether the proposed development would be provided with adequate services and infrastructure consistent with the LCP requirements because no actual construction was proposed as a part of the project. However, the City did not analyze whether the subdivision itself increases the development potential for these lots in a manner that could create development rights that would need to be served by public works. The City did require a public right-of-way dedication of Balboa Boulevard when approving the proposed subdivision, and offered this requirement as proof that adequate services would be available to serve the two created parcels.

The Commission finds that it is important to assess the availability of adequate services at the time of subdivision approval, including with regard to road capacity, as traffic could impact the public's ability to access the coast. In this case, however, the current LOS at the intersection of Kelly Avenue and Highway 1 during peak hours (LOS D) is within the levels outlined as acceptable in LCP Policy 10-25. In addition, the City's requirement of the right-of-way dedication and road improvements for any future development will help ensure that there will be an analysis of adequate traffic and circulation availability for any future development on the parcels and to support the proposed development. Lastly, due to the respective zoning regulations for R-1, U-R and OS-A districts, the existing prior-to-subdivision parcel is allowed one residence. After subdivision into two parcels, only Parcel A will allow residential development and that development will require a CDP. Therefore, although if not conditioned properly the subdivision could create additional development potential on the newly subdivided parcel (see further discussion in the Land Use portion of the De Novo Review below), no additional new residential traffic will be generated as a result of the proposed subdivision itself.

Therefore, the appeal of the proposed subdivision does not raise a substantial issue of conformance of the approved project with the public services policies of the LCP.

Conclusion: Substantial Issue

While the appellants have raised several issues, the Commission has reviewed the ones relevant to the certified LCP and with the public access and recreation policies of the Coastal Act, and

has concluded that only one issue raises to the level of statewide concern, and that is protection of and provision of public access and recreational opportunity on Parcel B after the subdivision occurs. Therefore, the Commission finds that the appeal raises a **substantial issue** of conformity of the approved project with the public access and recreation policies of the certified Half Moon Bay LCP as well as with the public access and recreation policies contained in Chapter 3 of the Coastal Act, and takes jurisdiction over the CDP application for the proposed project.

G. COASTAL DEVELOPMENT PERMIT DETERMINATION

The standards for review of this application are the City of 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.

Land Use

Applicable Policies

The City of Half Moon Bay's LCP describes development policies that apply to specific areas in the City. The U-R (Urban-Reserve) portion of the subject parcel is included within the "Pilarcitos West Urban Reserve" area of Half Moon Bay. This area is subject to requirements that address agricultural enhancements and resolve conflict with adjacent residential and recreation uses so as to maximize land in agricultural production and restrict unnecessary public access to such operations.

Section 9.3.11 Pilarcitos West Urban Reserve:

This area contains about 145 acres of land and is generally located east of Railroad Avenue, north of Kelly Avenue, west of Matteucci lands designated PD, Ocean Shore Subdivision and Coast Highway I and south of Casa del Mar Subdivision. The area has a potential for buildout of approximately 1000 additional dwelling units. All of the lands in this area contain Class II soils with some Class I and on-site wells near the creek have traditionally provided water for farming.

...

Development of the Pilarcitos West Urban Reserve area shall be subject to the following conditions:

(a) A specific plan may be prepared for this area which addresses agricultural enhancement and resolves conflicts with adjacent residential and recreation uses so as to maintain the maximum amount of land in production and to restrict unnecessary public access to agricultural operations.

(b) Permitted development shall be limited to facilities associated with agricultural use of the land (e.g. farmhouses, wells, reservoirs, lot line adjustments, fences) and limited recreation (e.g. trails) buffered from agricultural operations.

LCP Zoning Ordinance Sections 18.11.010.B.1 and 18.12.050.B.1 establishes allowable uses in the U-R and OS-A zoning districts as follows:

Section 18.12.010.B.1 (OS-A) Active Open Space District.

Establish areas for the preservation of active recreational opportunities within the city such as the public beaches, parks, playgrounds, outdoor sports and athletic facilities, recreational vehicle parks, and parking lots supporting recreational activities.

Section 18.11.010.B.1 (U-R) Open Space Reserve District.

To reserve areas of open space along the inland edge of the city for agricultural, horticultural, floricultural, timber or open space use until needed to meet demands for urban use. Lands in this district are intended only for low-density urban development or recreational use and only after all other areas designated for urban development in the local coastal program and general plan have been substantially developed. (1996 zoning code (part)).

Further, LCP Section 18.11.025 establishes that in the U-R zoning district, the minimum lot size is 50 acres and a minimum lot area of 50 acres per dwelling is required. The OS-A has no such minimum lot requirement for dwellings but does not permit any new dwellings units as follows:

18.12.040 New or additional dwellings prohibited.

No new or additional dwelling units, including state parks employee housing, shall be permitted within any of the open space districts governed by this title. (1996 zoning code (part)).

Finally, LCP Policy 8-5 protects agriculture, which is an existing, allowable use on the U-R portions of the current parcel and will be on the newly created parcel U-R portions of new Parcel B, and include prohibitions on development on Urban Reserve lands other than uses as allowed under the U-R zoning designation as follows:

Policy 8-5:

Lands designated Urban Reserve on the Land Use Plan Map shall not be eligible for development approval and shall not receive a permit for development, other than for uses permitted under the designation Urban Reserve, except upon the happening of one of the following conditions:

- (a) In the case of land which is within an agricultural preserve and subject to a Williamson Act contract as of July 1, 1980, expiration of the Williamson Act contract.*
- (b) In the case of land which is not subject to a Williamson Act contract, the expiration of 10 years from the effective date of this Plan.*

Analysis

The proposed subdivision will result in two parcels, a southern parcel (Parcel A) that will be zoned solely R-1 or Single Family Residential and a northern parcel (Parcel B) that will be split zoned OS-A (Open Space Active) and U-R (Urban Reserve). The proposed Parcel A will conform to the applicable size requirements of R-1 lots, exceeding the minimum lot size and width requirements. The proposed Parcel A will be 9,666 square feet in size, 64.44 feet in width, and the zoning code requires a minimum R-1 lot size of 5,000 square feet and minimum width of 50 feet. Therefore, the creation of Parcel A will allow for the future development of a single family home on this parcel, just as the R-1 portion of the parcel prior to subdivision already allows. Therefore, with respect to the creation of Parcel A, this subdivision creates no additional development potential and the resulting parcel will remain consistent with the zoning requirements for R-1 parcels.

The second parcel created by this proposed subdivision, Parcel B, will create a 1.85 acre parcel that is split zoned OS-A and U-R. The LCP requires that U-R parcels must be a minimum of 50 acres; therefore Parcel B would not conform to the LCP requirements regarding U-R minimum parcel size. However, the existing parcel is already a legal non-conforming parcel with respect to the appropriate minimum parcel size. LCP Section 18.12.040 relating to OS-A zoned parcels do not allow new or additional dwellings. U-R zoned parcels are only allowed 1 dwelling unit per 50 acres by LCP Section 18.11.025. The existing unsubdivided parcel is less than 50 acres and the new Parcel B will only be 1.85 acres in size. Under existing zoning a new dwelling unit would not be allowed on Parcel B.

The Half Moon Bay LCP recognizes the significance of potential development and its potential impacts on coastal resources at the subdivision stage. The Coastal Act definition of development includes as development a “subdivision pursuant to the Subdivision Map Act... and any other division of land.” A proposed subdivision of land that does not propose any further development construction nevertheless triggers the requirement for a CDP. (See LCP Policy 9-3, referring to Public Resources Code section 30106.) Half Moon Bay Municipal Code Ordinance 17.02.050 requires a proposed division of land to conform, “in all respects,” to land use provisions including the LCP, the zoning code, specific plans, and all policies of the city, in particular policies regarding intensity of use. **Special Condition 2** is therefore required to define the development that can be allowed on Parcel B after subdivision to ensure that the future development is consistent with the City LCP and that the subdivision will not allow future intensification of use on this parcel, inconsistent with existing LCP requirements.

With the addition of **Special Condition 2**, the Commission ensures that even with the creation of two parcels, instead of the single existing parcel, the residential development potential is still limited to one single family residence or dwelling between the two parcels, on Parcel A specifically, where one could currently be built without the desired subdivision. Additionally, as conditioned, the proposed subdivision will not create any new permissible uses on Parcel B other than the past agricultural and past/current passive recreational uses and will protect those uses consistent with LCP Policy 8-5. These types of uses also assure consistency with the Pilarcitos West Urban Reserve requirements for the U-R portion of the parcel, as no specific plan exists for this area yet, and what is allowed consistent with the LCP zoning regulations. Specifically, the development of a farm house on Parcel B would create a nonconforming use and is prohibited by **Special Condition 2**.

Therefore, even after the proposed subdivision, as conditioned, the allowable uses and residential development potential of both parcels is the same as the parcel in its current configuration before subdivision occurs. Additionally, the proposed subdivision will not alter the conformance of the U-R portion of the lot with the LCP regulations because both before and after the subdivision, the U-R portion is legal non-conforming with respect to minimum required parcel size. Therefore, as conditioned, this subdivision is consistent with the land use and zoning regulations of the City of Half Moon Bay’s LCP LUP and IP regulations.

Public Access and Recreation

Applicable Policies

The City of Half Moon Bay’s LCP designates primary beach access routes, limits use of these primary beach access routes as routes to service new development where alternative access is

possible, and requires that private developments approved adjacent to such primary beach access routes or served by them have conditions of approval that require the improvement of, or increased financial participation in the improvement of, such beach access routes.

LUP Section 2.1, incorporating Section 30212(a) of the Public Resources Code:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Policy 2-15:

Designate, sign and improve, as primary Beach Access Routes to the State Beach the following streets as shown on the Land Use Plan Map...Kelly.

- (a) Provide for left-turn lanes at each primary access route, with signs on Highway 1 indicating beach access.*
- (b) Encourage Samtrans to provide peak weekend transit service to the beach on Kelly and Venice and reserve the possibility of eventual connections with remote parking sites.*

Policy 10-32:

The City shall require, as a condition of approved private development, the improvement or financial participation in the improvement of all primary and secondary beach access routes indicated on the Land Use Plan Map where development is permitted adjacent to such access route or is served by it. All areas designated in the Land Use Plan for Planned Development shall be subject to the following policies...

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.

In addition, LCP Section 18.40 in relevant part requires that historic public access and recreational use of a parcel be evaluated and identified when such a parcel is proposed for development, and requires certain findings of fact be made when such public access rights are required as a part of a proposed project. LCP Section 18.40 implements the public access requirements of Chapter 3 of the Coastal Act. Specifically, LCP Section 18.40.030 requires that any new development (including, but not limited to, development located between the nearest public roadway and sea, and subject to a few exceptions which do not apply here) provide or be required to provide an offer to dedicate an easement or some other legal mechanism to provide public access unless it is demonstrated that the development will not individually or cumulatively affect the ability of the public to access the coast OR that the access dedication will not alleviate the access burdens identified. LCP Section 18.40.040 sets minimum required standards for the provision of access including protection of historic public use (18.40.040.F). Finally, IP Section 18.40.050 discusses the findings required to demonstrate why access will or

will not be affected and why a condition of approval requiring access is called for. (Please see **Exhibit 6** for full text of the relevant 18.40 requirements policies).

In addition, in terms of the proposed subdivision's conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, Section 30604(c) of the Coastal Act requires that every coastal development permit issued for development between the nearest public road and the sea, must include a specific finding that said development is in conformity with the public access and recreation policies of Chapter 3. Since this project is located between the sea and the nearest public road, which in this case is Highway 1, such a finding is required in order to approve this subdivision. Applicable Chapter 3 access and recreation policies of the Coastal Act include Sections 30210 through 30213, 30221, and 30222, which specifically protect public access and recreation. Coastal Act Section 30240(b) also protects parks and recreation areas, such as the nearby shoreline, Half Moon Bay State Beach and Francis Beach Campground (see project location maps **Exhibit 1**). These overlapping policies protect the beach, public access points to and along the shoreline and offshore waters for public access and recreation purposes, including lower-cost access and recreational opportunities.

Analysis

The City of Half Moon Bay LCP protects and prioritizes existing and future potential for public access by designating beach access routes available within the City and requiring that such routes be improved by any new developments that will be directly served or are to be located adjacent to such routes. The LCP also limits privately-used access for new development from designated beach access routes except where no alternative access route exists. The City's LCP also requires any evidence of historic prescriptive public access rights be evaluated on parcels proposed for development (IP Section 18.40.040.F) when that issue is raised during the City consideration of an LCP application. The project site is directly accessed from a designated primary beach access route, Kelly Avenue. Any and all future development approved on the two newly subdivided parcels will be served either directly or indirectly by Kelly Avenue and thus, new private access use may impact the public's ability to access the coast through the use of this designated primary beach access route. According to the LCP policies mentioned above, the proposed subdivision development project should be conditioned to require improvement of Kelly Avenue because the two new parcels will be served by Kelly (Parcel A directly and Parcel B indirectly), and any private access use for future residential use on Parcel A should be limited from Kelly Avenue unless no alternative access route is possible.

The proposed configuration of the subdivision creating two parcels would result in new direct access from the residential parcel to Kelly Avenue and a potential second access connection to the second parcel via Balboa Boulevard. As discussed in the Substantial Issue determination part of the report, the Commission finds that requiring direct access for the private development to Balboa Boulevard will not alter the fact that Kelly Avenue must still be used to serve this private development. Thus, a subdivision reconfiguration will not make a significant difference with regard to use of Kelly Avenue as primary access route for the private development.

To ensure that access to Parcel B is at least directly accessed from Balboa Boulevard and future road improvements can be conducted on Balboa Boulevard the Commission requires **Special Condition 1** which states that the Final Parcel Map substantially conform to the Tentative Parcel Map date stamped April 15, 2015 in the City's Materials and that the Tentative Parcel Map

require a recordation and acceptance by the City of a street right-of-way dedication for Balboa Boulevard during the recordation of the Final Parcel Map. In addition, **Special Condition 4** requires that any future development proposed on the subdivided parcels be conditioned to include off-site road improvements to Kelly Avenue and/or Balboa Boulevard, consistent with LCP policies requiring private developments that will be served by beach access routes be required to improve or participate financially in the improvement of all primary and secondary beach access routes serving the future development.

While no residence would currently be allowed on Parcel B (the northern OS-A and U-R split zoned parcel) given the respective zoning requirements and use limitations, there is potential for further subdivision or an application to rezone the parcel which may further increase the development potential of Parcel B. In addition, current OS-A and U-R zoning designations would allow the development of such things as: retail sales, campgrounds, utility facilities, and equestrian centers (in the U-R portion) or government offices, public safety facilities, municipal sports facilities, minor utilities, and food and drink retail or onsite service (in the OS-A portions) on Parcel B. There is also a concern that a potential buyer of Parcel B would be unaware of the respective zoning requirements and use limitations on the split-zoned parcel and, would argue for development of a residence on the UR portion of the lot. Further, future development potential could impact the northern Parcel B's U-R portions which in the past have been farmed and the OS-A portions north of Balboa Boulevard currently and historically used by the public as evidenced by the existence of pedestrian and equestrian trails.

As previously stated, LCP Section 18.40 requires that historic public access use of a parcel be evaluated and identified, and requires certain findings of fact be made when such public access rights are preserved and maintained as a part of the approved project. Specifically, Section 18.40.030 requires that any new development (including, but not limited to, development located between the nearest public roadway and sea, such as the proposed subdivision, and subject to a few exceptions which do not apply here) have an offer to dedicate an easement or some other legal mechanism of access assurance unless it is demonstrated that the proposed development will not individually or cumulatively affect the ability of the public to access the coast or that requiring an access dedication will not alleviate the access burdens identified. Section 18.40.040 sets minimum required standards for the provision of access including the protection of historic public use (18.40.040.F). Since it has been asserted that the northern lot, Parcel B, has historically been used by the public, and is currently being used by the public, it is appropriate per the requirements of Section 18.40 to provide assurances that this historic and current public use is not adversely impacted by the proposed subdivision development. If other uses besides those past and current in place as previously mentioned on Parcel B are proposed in the future, this could decrease the availability of the public trails on the parcel and adversely impact public access rights established over time. In order to prevent such a situation and inconsistency with the requirements of LCP Section 18.40, **Special Condition 2** will limit uses on Parcel B to the uses listed in the condition such that potential future new development will not interfere with the public access use that currently exists across the parcel. **Special Condition 2** also protects agricultural uses on the area zoned Urban Reserve, ensuring that public access does not adversely affect potential agriculture as required by LUP section 2.1.

In order to assure the existing public access and recreation opportunities are protected, **Special Condition 2** will extinguish any future development rights that may be proposed for Parcel B

outside the area of the street right-of-way for Balboa Boulevard, and limits future development occurring on that parcel to those uses that have existed onsite (such as agricultural uses) or those uses that are current and constitute passive recreational activities (such as pedestrian, equestrian and bicycle use) to cross the parcel and access coastal areas seaward of the parcel. Requiring that this subdivision project limit allowable uses which may be proposed on the second, newly created parcel and deed restricting such allowable uses to those existing public access and potential agricultural uses will assure that the current recreational, access and agricultural uses will be protected as high priority uses for coastal land. Further, such restrictions will assure that designated primary beach access routes will not be adversely impacted by the proposed subdivision and the development potential the subdivision creates, consistent with Half Moon Bay LCP policies that protect public access and recreation. In addition, this will assure that the project is consistent with the public access and recreation policies of Chapter 3 of the Coastal Act, which protect the beach, the public access points to and along the shoreline and offshore waters for public access and recreation purposes, including lower-cost access and recreational opportunities.

To ensure that future property owners are properly informed regarding the terms and conditions of this approval, **Special Condition 3** requires a deed restriction to be recorded against the property involved in the application. This deed restriction will record the conditions of this permit as covenants, conditions, and restrictions on the use and enjoyment of the property.

Environmental Impacts

LCP Policy 3-3 prohibits any land use/development which would have significant adverse impacts on sensitive habitat areas and requires development in areas adjacent to such areas be sited and designed to prevent impacts that could degrade the sensitive habitats. LCP Policy 3-5 and Section 18.38.035 require the preparation of a biological report in areas within 100 feet of any sensitive habitat area, riparian corridor, bluff, seacliff or wetland to determine if the development will have significant impacts on the sensitive habitats that may occur and if so, must recommend feasible mitigation measures.

Policy 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.

Policy 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.

(b) 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.

Section 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.

Analysis

The Kelly Avenue drainage, an ephemeral swale that runs along the south side of Kelly Avenue, is in close proximity to the unsubdivided parcel. This drainage runs along Kelly Avenue from around 146 Kelly west 480 feet where it runs under Balboa Boulevard through a vegetated swale, then it eventually flows into the Pacific Ocean 350 feet west of the drainage at Francis State Beach. A biological report performed for the Citywide Drainage Maintenance Project (Appeal No. A-2-HMB-14-0004) found that this drainage was an area of California Department of Fish and Wildlife (CDFW) jurisdiction likely offering a dispersal corridor for California red-legged frogs (CRLF).⁶ A letter on the record asserts that the Kelly Drainage is a riparian area (see **Exhibit 3** letter from James Benjamin).

The proposed subdivision, will create two parcels from one, with zoning designations on one split between OS-A/U-R and the other zoned R-1 (see **Exhibit 2** for Parcel Map and **Exhibit 5** for Half Moon Bay Land Use and Zoning Designation Maps). The R-1 zoned lot is adjacent, but physically located across Kelly Avenue from the Kelly Avenue Drainage. Because the aforementioned Citywide Drainage Maintenance Project found that this drainage was an area of CDFW jurisdiction likely offering dispersal corridor for California red-legged frogs (CRLF) and there are assertions on the record in the subject appealed project that the Kelly Drainage is a riparian area, it is likely this drainage is a sensitive habitat area and would need to be adequately buffered from any and all future development proposed on the new R-1 lot.

The LCP requires sensitive habitats be adequately buffered from development depending on what the habitat is classified as. Depending on what type of habitat is found within the Kelly Drainage, the maximum buffer setback from the Drainage would be 50 feet (LCP Section 18.38.075.D requires 50 feet from the bank edge for perennial streams and 30 feet from the midpoint for intermittent streams). The southern edge of the new R-1 lot is approximately 47 feet from the bank edge of the drainage. Taking into account the required front setback in the R-1 zone of 20 feet, any development on the new lot that fronts Kelly will have to be located at least 67 feet from the bank edge of Kelly Drainage, which provides adequate buffer and is consistent with the LCP requirements regarding riparian (whether perennial or intermittent) areas. Further, the required alternative access route from Balboa Boulevard would provide access for the northern parcel (Parcel B) outside of any potential buffer that is required to protect Kelly Drainage from the development. When and if a residence is proposed on the R-1 parcel, the development must comply with the aforementioned LCP policies and sections protecting

⁶ Biological Resource Evaluation for the Citywide Drainage Ditch Maintenance Project Half Moon Bay, San Mateo County, California. Prepared by SWCA Environmental Consultants. July 3, 2013.

sensitive habitats and requiring development be sited and designed so as to prevent impacts to sensitive habitats. Finally, at that time, a biological report will be required in order to adequately assess the habitat type and appropriate buffer to be required here.

Thus, the project, as proposed, is consistent with the LCP provisions related to protection of sensitive habitats.

CDP Determination Conclusion – Approval with Conditions

As conditioned, the Commission concludes that approval of the subdivision proposal protects existing public access and recreational uses, as well as protects potential agricultural uses on the urban reserve portion. In particular, the newly created parcels will not further impact the public's ability to continue to access and recreate on Parcel B. Accordingly, the Commission finds that the project, as conditioned, is consistent with the certified City of Half Moon Bay LCP and the public access and recreation policies of the Coastal Act.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 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. 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.

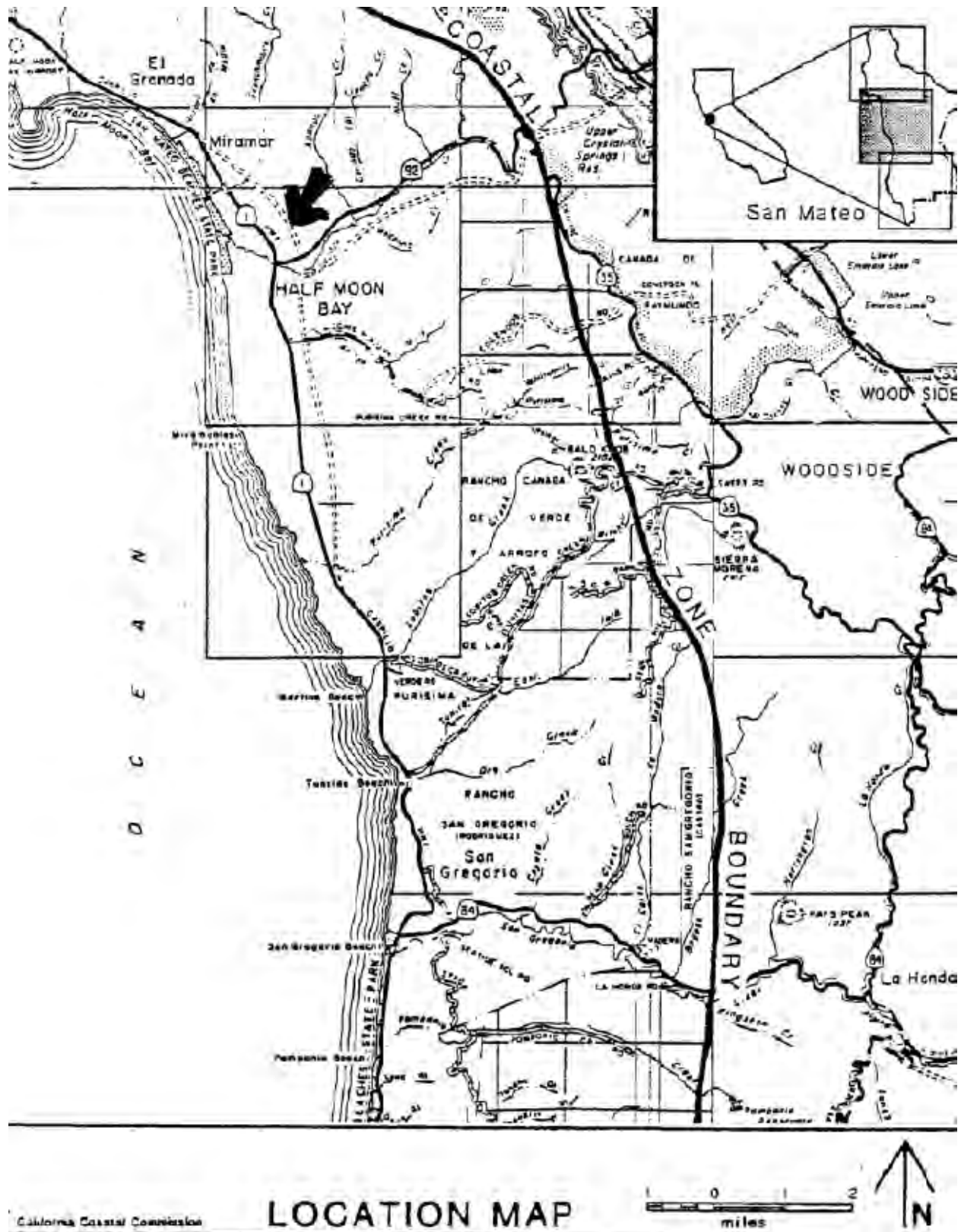
The City of Half Moon Bay is the lead agency responsible for CEQA review. The City found the project categorically exempt from CEQA as a Class 15 project that consists of the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent. The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The Commission has reviewed the relevant coastal resource issues associated with the proposed project, and has identified appropriate and necessary modifications to address adverse impacts to such coastal resources. The preceding CDP findings in this staff report have discussed the relevant coastal resource issues with the proposal, and the permit conditions identify appropriate mitigations to avoid and/or lessen any potential for adverse impacts to said resources consistent with the requirements of Section 30235 of the Coastal Act. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

The Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA. As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects that approval

of the proposed project, as modified, would have on the environment within the meaning of CEQA. If so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

Appendix A - Substantive File Documents

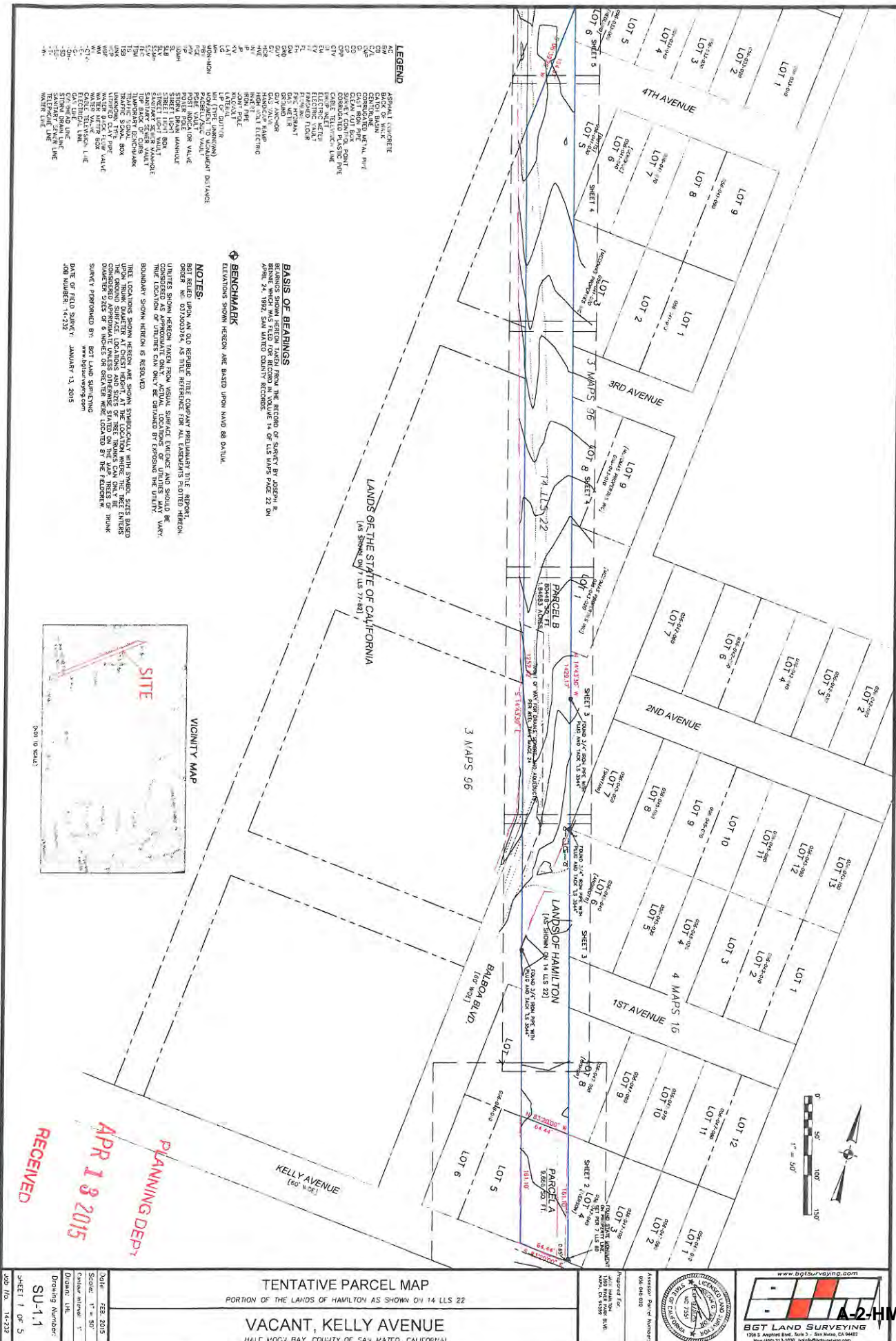
1. Connect the Coastside Buildout Analysis and Traffic Projections Final Report, November 20, 2014.
2. Citywide Drainage Maintenance Biological Resource Evaluation, July 3, 2013.







ATTACHMENT 2

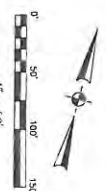


AC	ASPHALT CONCRETE
AD	ASBESTOS
AP	ASBESTOS PAVEMENT
AV	ASBESTOS VALVE
BT	BITUMEN
CC	CEMENT CONCRETE
CL	CLAY TILE
CM	CLAY PIPE
CP	CLAY PIPE
CS	CLAY TILE ROOF
CU	CORROSION RESISTANT METAL PIPE
CV	CIVIL ENGINEERING
CA	CORROSION RESISTANT METAL PIPE
CD	CLAY TILE ROOF
CE	CEMENT CONCRETE
CF	CLAY TILE ROOF
CG	CORROSION RESISTANT METAL PIPE
CH	CLAY TILE ROOF
CI	CORROSION RESISTANT METAL PIPE
CJ	CLAY TILE ROOF
CK	CORROSION RESISTANT METAL PIPE
CL	CLAY TILE ROOF
CM	CORROSION RESISTANT METAL PIPE
CN	CLAY TILE ROOF
CO	CORROSION RESISTANT METAL PIPE
CP	CLAY PIPE
CQ	CLAY TILE ROOF
CR	CORROSION RESISTANT METAL PIPE
CS	CLAY TILE ROOF
CT	CORROSION RESISTANT METAL PIPE
CU	CLAY TILE ROOF
CV	CORROSION RESISTANT METAL PIPE
CW	CLAY TILE ROOF
CX	CORROSION RESISTANT METAL PIPE
CY	CLAY TILE ROOF
CZ	CORROSION RESISTANT METAL PIPE
DA	CLAY TILE ROOF
DB	CORROSION RESISTANT METAL PIPE
DC	CLAY TILE ROOF
DD	CORROSION RESISTANT METAL PIPE
DE	CLAY TILE ROOF
DF	CORROSION RESISTANT METAL PIPE
DF	CORROSION RESISTANT METAL PIPE
DG	CLAY TILE ROOF
DH	CORROSION RESISTANT METAL PIPE
DI	CLAY TILE ROOF
DJ	CORROSION RESISTANT METAL PIPE
DK	CLAY TILE ROOF
DL	CORROSION RESISTANT METAL PIPE

BASIS OF BEARINGS
 BEARINGS SHOWN HEREON TAKEN FROM THE RECORD OF SURVEY BY JOSEPH E. BELMONT, CIVIL ENGINEER, FILED FOR RECORD IN VOLUME 14 OF U.S. MAPS PAGE 22 ON APRIL 24, 1925, SAN MATEO COUNTY RECORDS.

BENCHMARK
 ELEVATIONS SHOWN HEREON ARE BASED UPON MAND BE DATUM.

NOTES:
 1. BEING REPRODUCED FROM AN OLD REPRODUCTION OF THE COMPANY PRELIMINARY TITLE REPORT ORDER NO. 0172003764 AS TITLE REFERENCE FOR ALL EXAMINERS PLOTTED HEREON.
 2. UTILITIES SHOWN HEREON TAKEN FROM VISUAL SURFACE EVIDENCE AND SHOULD BE CONFIRMED BY FIELD SURVEY.
 3. ELEVATIONS OF BENCHMARKS OF UTILITIES MAY VARY.
 4. BOUNDARY SHOWN HEREON IS RESERVED.
 5. THESE LOCAL BOUNDARIES ARE SHOWN SPONTANEOUSLY WITH SPACED LINES BASED UPON TRAIL MAPS AT THE COUNTY RECORDS.
 6. THE BOUNDARIES OF THE TRAILS CAN ONLY BE IDENTIFIED BY VISUAL SURFACE EVIDENCE AND SHOULD BE CONFIRMED BY FIELD SURVEY.
 7. DETERMINED BY THE FIELD SURVEY PERFORMED BY: BGT LAND SURVEYING
 8. DATE OF FIELD SURVEY: JANUARY 13, 2015
 9. SHEET NUMBER: 14-232

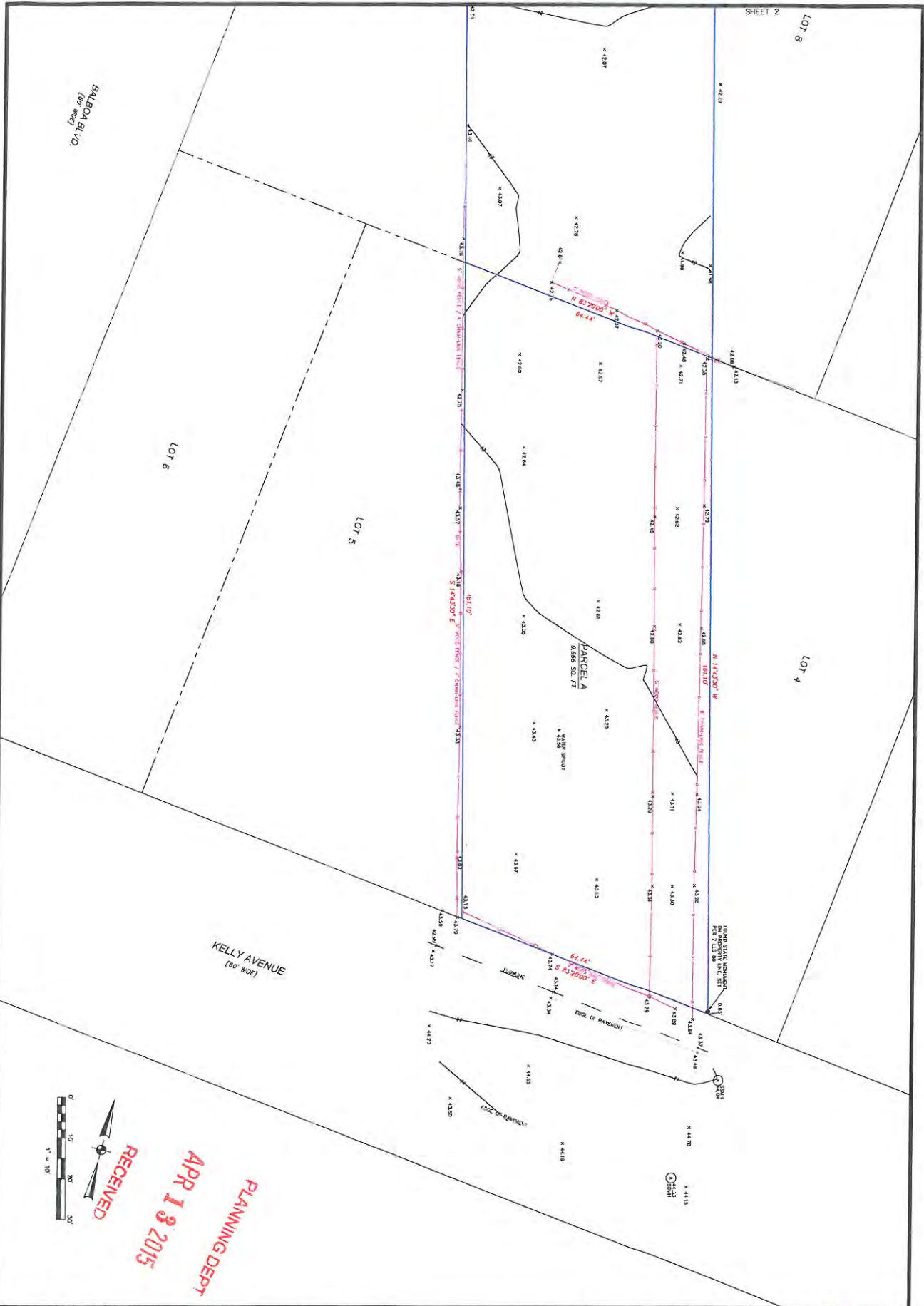


RECEIVED

APR 19 2015

PLANNING DEPT

<p>TENTATIVE PARCEL MAP PORTION OF THE LANDS OF HAMILTON AS SHOWN ON 14 LLS 22</p> <p>VACANT, KELLY AVENUE HALF MOON BAY, COUNTY OF SAN MATEO, CALIFORNIA</p>	<p>Project No.: Date: FEB 2015 Scale: 1" = 50' Sheet: 1 OF 5</p>		<p>BGT LAND SURVEYING 1208 Avenida del Mar, Suite 202 Mill Valley, CA 94024 Phone: (415) 212-1020 www.bgtlandsurveying.com</p>	<p>HMB-15-0040</p> <p>EXHIBIT 2</p> <p>Page 1 of 5</p>
---	---	--	---	---



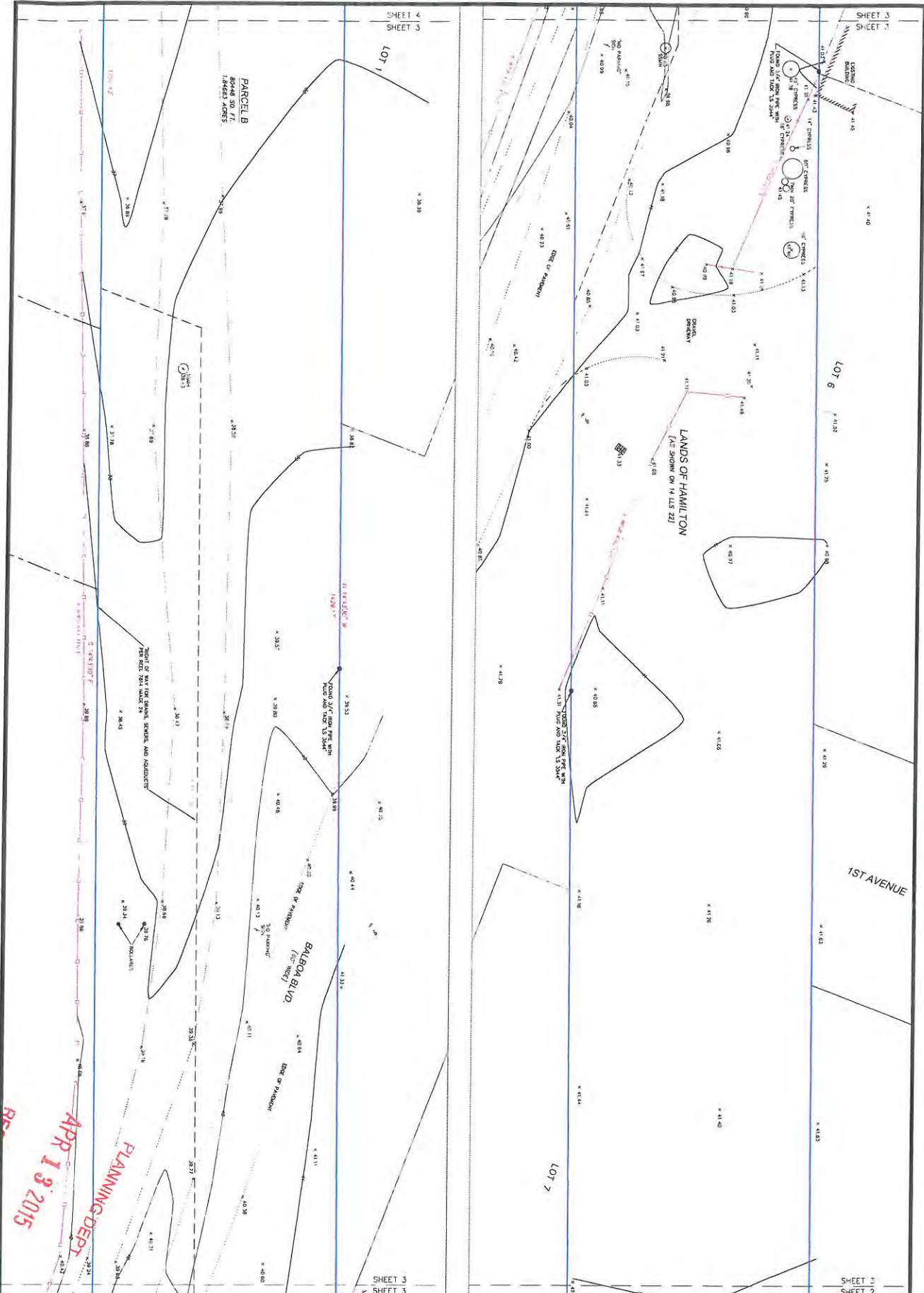
Date: FEB 2015
 Scale: 1" = 10'
 Color: Inset 1"
 Drawn: JML
 Drawing Number: SU-12
 SHEET 2 OF 5

TENTATIVE PARCEL MAP
 PORTION OF THE LANDS OF PARCEL 14 LLS 22
VACANT LOT, KELLY AVENUE
 HALF MOON BAY, COUNTY OF SAN MATEO, CALIFORNIA

Prepared for:
 JAMES HAMILTON, INC.
 1000 S. RAYBURN BLVD.
 SAN MATEO, CA 94062

Assessor's Parcel Number:
 026-048-009



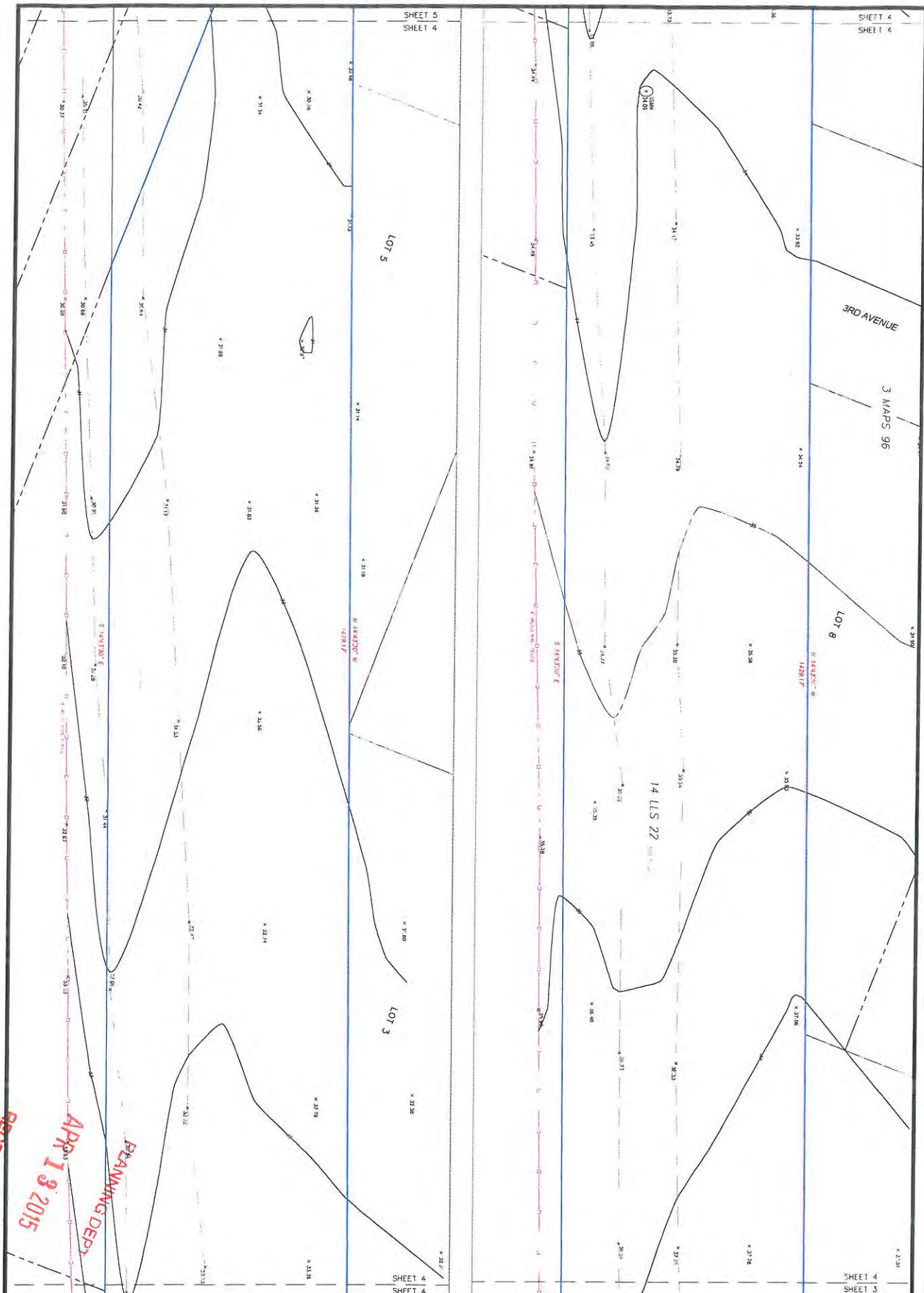


TENTATIVE PARCEL MAP
 PORTION OF THE LANDS OF HAMILTON PER 14 LLS 22
VACANT, KELLY AVENUE
 HALF MOON BAY, COUNTY OF SAN MATEO, CALIFORNIA

Date: 12B-2015
 Scale: 1" = 10'
 Drawing Number: SU-13
 Sheet 3 of 5

Prepared For:
 BGT LAND SURVEYING
 1201 S. Airport Blvd., Suite 3 - San Mateo, CA 94402
 Assessor's Parcel Number:
 025-04-002



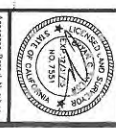


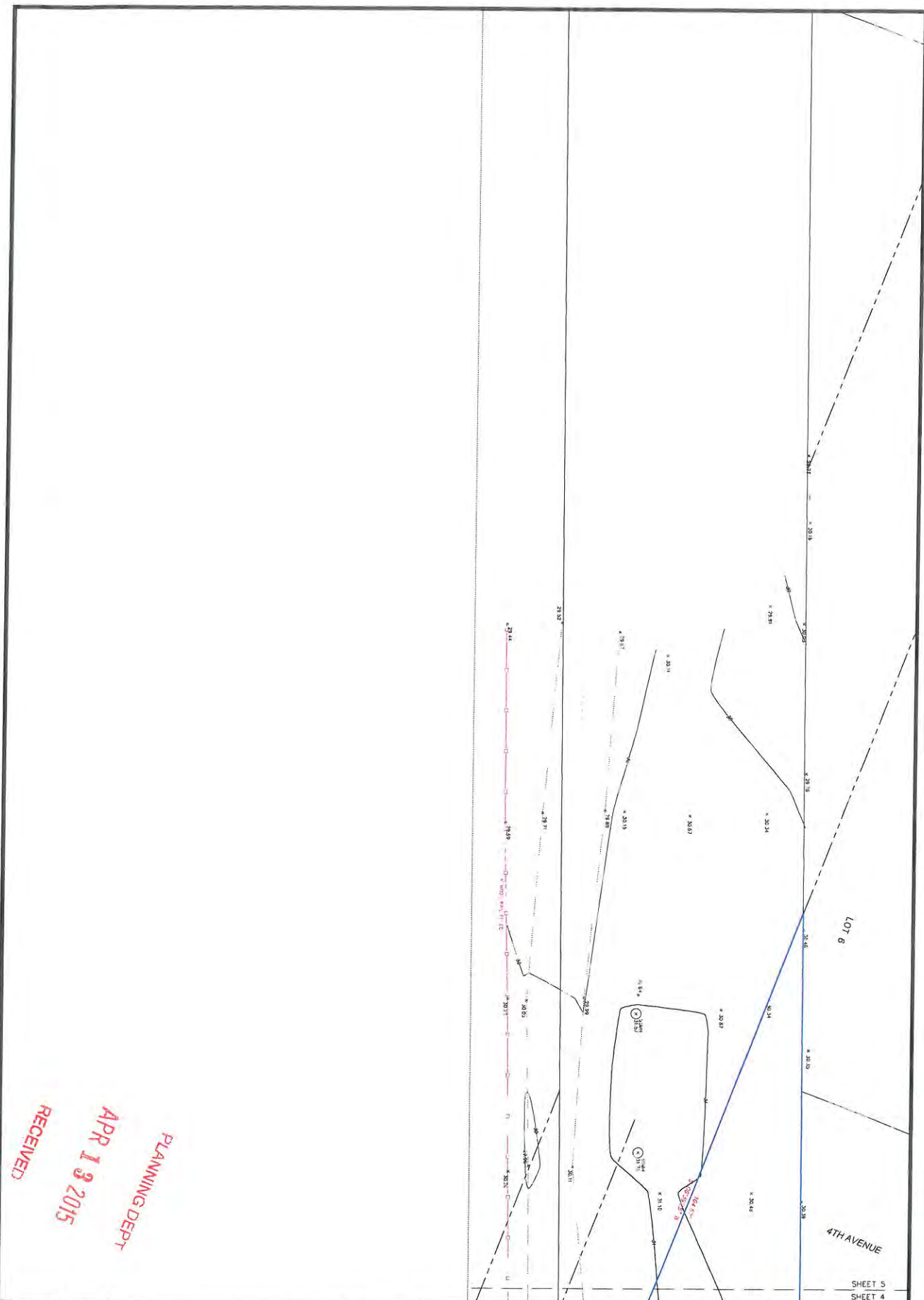
RECEIVED
 APR 19 2015
 PLANNING DEPT

Date: FEB 2015
 Scale: 1" = 10'
 Drawing Number: SU-14
 SHEET 4 OF 5
 DPT No. 14-232

TENTATIVE PARCEL MAP
 PORTION OF THE LANDS OF HAMILTON PER 14 LLS 22
 VACANT, KELLY AVENUE
 HALF MOON BAY, COUNTY OF SAN MATEO, CALIFORNIA

Prepared For:
 JAMES HAMILTON, INC.
 1400 CALIFORNIA STREET
 SAN MATEO, CALIFORNIA 94401





RECEIVED
 APR 13 2015
 PLANNING DEPT

TENTATIVE PARCEL MAP
 PORTION OF THE LANDS OF HAMILTON PER 14 LLS 22
 VACANT, KELLY AVENUE
 HALF MOON BAY, COUNTY OF SAN MATEO, CALIFORNIA

Prepared For:
 JACOB HAMILTON
 1400 KELLY AVENUE, SUITE 100
 HALF MOON BAY, CA 94040
 Assistant Parcel Number:
 03404-000



SHEET 5
 SHEET 4



CITY OF HALF MOON BAY

City Hall • 501 Main Street • Half Moon Bay • 94019

June 12, 2015

RECEIVED

JUN 15 2015

CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
Attn: Stephanie Rexing
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

Subject: Notice of Final Action Coastal Development Permit and Tentative Parcel Map for the subdivision of one parcel into two parcels in the R-1 Single Family Residential, U-R Urban Reserve, and OS-A Open Space-Active Zoning Districts at 135 Kelly Avenue (APN 056-048-020)

Dear Ms. Rexing,

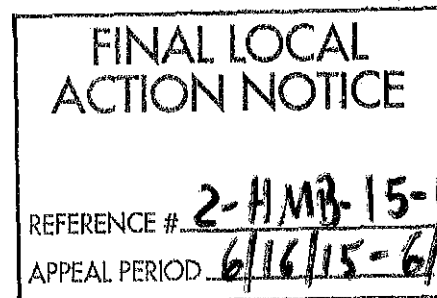
Attached is the Notice of Final Action for Coastal Development Permit PDP-15-032, which was approved by the Half Moon Bay Planning Commission on May 26, 2015. This approval was not appealed to the City Council during the ten working day appeal period which ended at 5:00 p.m. on June 9, 2015. Planning Commission Resolution P-13-15 for approval of Coastal Development Permit PDP-15-032, findings (Exhibit A) and conditions (Exhibit B) are included with this letter. Since this project is within the California Coastal Commission Appeals Jurisdiction, I have also included a copy of the approved tentative parcel map for this project as well as the staff report, approved minutes from the Planning Commission meeting and other correspondence.

Should you have questions regarding the Notice of Final Action and supporting material, please contact me at (650)726-8299 or e-mail at sphillips@hmbcity.com.

Sincerely,

Scott Phillips
Associate Planner

CC: File and applicant





NOTICE OF FINAL LOCAL ACTION

Coastal Development Permit

City of Half Moon Bay Planning Division
501 Main Street, Half Moon Bay, CA 94019
(650) 726-8250 FAX (650) 726-8261

Date: June 12, 2015 File: PDP-15-032

Applicant: Jack Hamilton
1390 River Park Blvd.
Napa, CA 94559

Planner: Scott Phillips, Associate Planner

This notice is being distributed to the Coastal Commission and to those who requested notice. The following project is located within the appealable area of the Coastal Zone. The Planning Commission approved the Coastal Development Permit and Tentative Parcel Map on Tuesday May 26, 2015, by Resolution No. P-13-15. The Planning Commission's decision was not appealed to the City Council within the ten business day appeal period.

Project Description: PDP-15-032 –Coastal Development Permit and Tentative Parcel Map for the subdivision of one parcel into two parcels in the R-1 Single Family Residential, U-R Urban Reserve, and OS-A Open Space-Active Zoning Districts and subject to the conditions of approval contained in Exhibit B of Resolution P-13-15

Project Location: 135 Kelly Avenue

APN: 056-048-020

Term of Permit: This permit shall expire one year from the date the appeal period ends if development authorized by the permit has not commenced.

Final Action: Approved by the Half Moon Bay Planning Commission on May 26, 2015, based upon findings and conditions contained in Resolution P-13-15.

This project is located within the Appeals Jurisdiction of the California Coastal Commission. Local Review of this Coastal Development Permit Application is now complete.



Les Deman, Chairman
Tom Roman, Vice Chairman
Thomas Conroy
John Evans
Rick Hernandez

CITY OF HALF MOON BAY

501 Main Street • Half Moon Bay, CA 94019

Phone: 650.726.8280 • Fax: 650.726.8261

www.hmbcity.com

PLANNING COMMISSION MINUTES

REGULAR MEETING

TUESDAY, May 26, 2015

7:00 P.M.

Meeting Location:

Emergency Operations Center (EOC)

537 Kelly Avenue • Half Moon Bay, CA 94019

Meeting facilities are accessible to people with disabilities. If you require special assistance to participate in the meeting, or agendas prepared in an appropriate alternative format, please notify the City Clerk's Office at (650) 726-8271 at least 48 hours prior to the meeting.

Copies of written documentation relating to each item of business on the Agenda are on file in the Planning Department at City Hall and the Half Moon Bay Public Library (620 Correas St. Half Moon Bay, CA 94019) where they are available for public inspection. Information may also be obtained by calling (650) 726-8250.

Those wishing to address the Planning Commission on any matter not listed on the Agenda, but within the jurisdiction of the Commission to resolve, may come forward to the podium during the "Public Comment" portion of the Agenda and will have three (3) minutes to discuss their item. Those wishing to speak on a "Public Hearing" matter will be called forward at the appropriate time during the public hearing consideration.

Please Note: *The Planning Commission meeting will adjourn at 10:30 p.m. unless the Commission votes to extend it during the same evening. If an item on the Agenda cannot be heard within the regular meeting hours of 7:00 p.m. to 10:30 p.m., it will be continued to the next regular meeting date unless the Planning Commission extends the time.*

5.26.2015

A-2-HMB-15-0040

EXHIBIT 3

Page 3 of 41

I. PLEDGE OF ALLEGIANCE AND ROLL CALL

Chairman Deman called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

PRESENT: Commissioners Conroy, Deman, Roman, Evans and Hernandez

ABSENT: none.

II. APPROVAL OF MINUTES

Commissioner Conroy made a motion to approve the minutes of May 12, 2015.

Commissioner Hernandez seconded the motion. **Motion carried** by 4-0-1.

Commissioner Hernandez abstained as he did not attend the May 12, 2015 meeting.

III. PLANNING MANAGER REPORT

- Planning Manager’s Report and Agenda Forecast

Bruce Ambo, Planning Manager, presented the Planning Manager’s Report and Agenda Forecast.

IV. PUBLIC COMMENT

Lennie Roberts.

V. PUBLIC HEARING ITEMS

1. **PDP-15-032** - Request for a Coastal Development Permit and Tentative Parcel Map for the subdivision of one undeveloped parcel into two parcels located in the R-1 (Single Family Residential), U-R (Urban Reserve), and OS-A (Open Space-Active) Zoning Districts and the Residential-Medium Density and Urban Reserve – General Plan/Local Coastal Plan Land Use Designation at 135 Kelly Avenue (APN 056-048-020), based upon the Findings and Evidence contained in Exhibit A of the Draft Resolution, and subject to the Conditions of Approval contained in Exhibit B.

Location: 135 Kelly Avenue

Assessor’s Parcel

Number (APN): 056-048-020

Owner/Applicant: John & Linda Hamilton / Jack Hamilton

Project Planner: Scott Phillips, Associate Planner

5.26.2015

Environmental

Status: Categorically exempt pursuant to California Administrative Code Section 15315, Class 15.

Right of Appeal: Any aggrieved person may appeal the decision of the Planning Commission to the City Council within ten (10) working days of the date of the decision. This site is located within the California Coastal Commission appeals jurisdiction; therefore the City's final action is appealable to the California Coastal Commission.

Scott Phillips, Associate Planner presented the Staff Report.

The following project representative and consultant addressed the planning Commission:

- Jack Hamilton

Public Comment:

1. Lennie Roberts
2. Neal O'Sullivan
3. Michael Midolo
4. Edward Burfine
5. Tim Bitts
6. Julie McHenry
7. Mike Ferreria

Commissioner Conroy made a motion to approve the project as presented in the Staff Report.


Commissioner Roman seconded the motion. **Motioned carried** by a 4-1-0 vote.

VI. PLANNING COMMISSION COMMUNICATIONS

VII. ADJOURNMENT

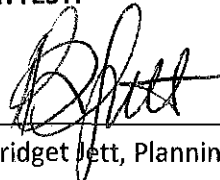
Commissioner Hernandez made a motion to adjourn the May 26, 2015 Planning Commission meeting at 8:43 p.m. Commissioner Roman seconded the vote. **Motion carried** by a unanimous vote.

APPROVED:



Les Deman, Chairman

ATTEST:



Bridget Jett, Planning Analyst

5.26.2015

**PLANNING COMMISSION RESOLUTION P-13-15
RESOLUTION FOR APPROVAL
PDP-15-032**

Coastal Development Permit and Tentative Parcel Map for subdivision of one parcel into two in the R-1 Single Family Residential, U-R Urban Reserve, and OS-A Open Space-Active Zoning Districts, 135 Kelly Avenue (APN 056-048-020)

WHEREAS, an application was submitted requesting approval of a Coastal Development Permit and Tentative Parcel Map for subdivision of one parcel into two parcels in the R-1 Single Family Residential, U-R Urban Reserve, and OS-A Open Space-Active Zoning Districts at 135 Kelly Avenue (APN 056-048-020); and

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

WHEREAS, the Planning Commission conducted a duly noticed public hearing on May 26, 2015, 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 consideration; and

WHEREAS, the Planning Commission has determined that the requested Coastal Development Permit and Tentative Parcel Map for subdivision of one parcel into two parcels is categorically exempt pursuant to California Administrative Code Section 15315, Class 15, in that the project consists of the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent; 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-15-032).

PASSED AND ADOPTED by the City of Half Moon Bay Planning Commission at a duly noticed public hearing held on May 26, 2015.

AYES, Deman, Conroy, Evans, Roman
NOES, Hernandez
ABSENT,
ABSTAIN,

APPROVED:


Les Deman, Chair

ATTEST:

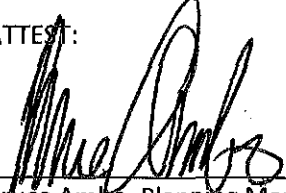

Bruce Ambo, Planning Manager

EXHIBIT A

FINDINGS AND EVIDENCE Planning Commission Resolution P-13-15 PDP-15-032

Coastal Development Permit and Tentative Parcel Map for subdivision of one parcel into two in the R-1 Single Family Residential, U-R Urban Reserve, and OS-A Open Space-Active Zoning Districts, 135 Kelly Avenue (APN 056-048-020)

Coastal Development Permit – Findings for Approval

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

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

Evidence: The project consists of the subdivision of one parcel with three separate zoning districts into two parcels and does not involve new uses or construction of new buildings. The subdivision is consistent with the General Plan, the Local Coastal Program, and the Zoning Code. As discussed above, the Parcel Map conforms to all the regulations of the R-1 Single Family Residential, U-R Urban Reserve, and OS-A Open Space-Active Zoning Districts in that no new parcels would be created within the individual zoning districts. In conformance with the Local Coastal Program, the proposed subdivision will not impact sensitive environmental resources, block scenic views, or inhibit coastal access since there is no construction included with this proposal. In conformance with the Subdivision Ordinance, the Parcel Map provides for appropriate services and facilities to serve development on the existing and proposed parcels.

Coastal Act 30240(b) and Policy 3-3 (b): *Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

Compliance: The site is located approximately 500 feet from the bluff edge; additionally, the project will not involve any construction. Therefore, the project would not significantly impact this environmentally sensitive habitat.

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

Compliance: The project does not propose any construction on the subject property. If or when development is proposed on the subject property, a separate Coastal Development Permit will be required. If cultural resources are unexpectedly encountered during subsurface excavation, the permit will be conditioned to require that construction halt until the find can be evaluated and appropriate mitigation identified.

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

Evidence: The proposed site does not involve the construction of new dwelling units.

- 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.

Evidence: The proposed southern parcel (Parcel A) conforms to all applicable requirements of the Zoning Code. The proposed subdivision exceeds the minimum lot size and width requirements of the R-1 Single Family Residential Zoning District. No additional changes have been requested beyond the 2 lot Tentative Parcel Map. The applicant has filed a Coastal Development Permit in conjunction with this Tentative Parcel Map in conformance with the requirements of Zoning Code Chapter 18.20. The proposed northern parcel (Parcel B) contains two separate zoning designations (OS-A and U-R) and is 1.85 acres in area. The U-R portion (south of Balboa Boulevard) of the proposed parcel contains less than the minimum required lot size of 50 acres. The OS-A Zoning Regulations do not contain a minimum lot size or width, which is the zoning designation north of Balboa Boulevard. The subject property is considered legal non-conforming. This proposal would not increase or decrease the non-conformance of the lot, since no further subdivision or lot line adjustment is proposed within U-R zoned Parcel B. Additionally, allowing the subdivision would not allow additional uses than the agricultural and passive recreational uses that are currently taking place on the subject property.

- 4. Adequate Services** – The proposed development will be provided with adequate services and infrastructure in a manner that is consistent with the Local Coastal Program.

Evidence: No construction is included with the proposed Tentative Parcel Map. The Tentative Parcel Map does include recordation of the street right-of-way dedication for Balboa Boulevard during the recording of the Final Parcel Map.

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

Evidence: The proposed project is located between the sea and the first public road parallel to the sea. Therefore, project is appealable to the California Coastal Commission. The project would conform to the public access and public recreation policies of Chapter 3 of the California Coastal Act because the project would provide a new R-1 parcel that would be no smaller than the average size of the surrounding parcels.

Tentative Parcel Map – Finding

Tentative Parcel Map – 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 Title 17 of the Half Moon Bay Municipal Code as to design, drainage, utilities, road improvements and offers of dedication or deed.

Evidence: As required by the Subdivision Ordinance, the proposed CDP/Tentative Parcel Map is consistent with the General Plan, the Local Coastal Program, and the Zoning Code. The CDP/Tentative Parcel Map allows for the continued use of the southern portion of the site for residential uses consistent with the Single Family Residential designation. As discussed above, the CDP/Tentative Parcel Map conforms to all the regulations of the R-1 Single Family Residential, Zoning Districts. The U-R Urban Reserve portion of the property is currently used as farmland and is non-conforming in regard to minimum lot size. Allowing this subdivision would not increase this non conformity since the size and shape of the U-R portion on Parcel B would not change. In conformance with the Local Coastal Program, the proposed subdivision will not impact sensitive environmental resources, block scenic views, or inhibit coastal access. In conformance with the Subdivision Ordinance, the CDP/Tentative Parcel Map provides for appropriate services and facilities to serve future development on the existing and proposed parcels.

Environmental Review – Finding

CEQA – The project will not have a significant effect on the environment.

Evidence: The project is Categorically Exempt pursuant to California Administrative Code Section 15315, Class 15, in that the project consists of the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent.

EXHIBIT B
CONDITIONS OF APPROVAL
Planning Commission Resolution P-13-15
PDP-15-032

Coastal Development Permit and Tentative Parcel Map for subdivision of one parcel into two in the R-1 Single Family Residential, U-R Urban Reserve, and OS-A Open Space-Active Zoning Districts, 135 Kelly Avenue (APN 056-048-020)

Authorization: Approval of this permit authorizes a Coastal Development Permit and Tentative Parcel Map for subdivision of one parcel into two parcels in the R-1 Single Family Residential, U-R Urban Reserve, and OS-A Open Space-Active Zoning Districts at 135 Kelly Avenue (APN 056-048-020).

A. The following Conditions apply to this project:

1. CONFORMANCE WITH THE TENTATIVE MAP. The Final Parcel Map shall substantially conform to the Tentative Parcel entitled "*Tentative Parcel Map, Lands of Hamilton*" with a City date stamp of April 13, 2015, except for any revisions required by this permit. (Planning)
2. CONFORMANCE WITH THE MUNICIPAL CODE. No part of this approval shall be construed to permit a violation of any part of the Half Moon Bay Municipal Code. (Planning)
3. FUTURE DEVELOPMENT. Any future development shall require the issuance of a Coastal Development Permit with Conditions of Approval requiring on-site, off-site (curb, gutter, sidewalk, road widening, sewer, and storm drain), grading, and site drainage (including C-3) improvements.
4. COASTSIDE FIRE PROTECTION DISTRICT REQUIREMENTS. The subdivider shall comply with all applicable Coastside Fire Protection District requirements.
5. COASTSIDE COUNTY WATER DISTRICT REQUIREMENTS. The subdivider shall comply with all applicable Coastside County Water District requirements.

B. The following Conditions shall be fulfilled prior to approval and recordation of a Final Map:

1. SIGNED CONDITIONS OF APPROVAL. The subdivider shall submit a signed copy of the conditions of approval to the Planning Department. (Planning)

2. STREET RIGHT-OF-WAY DEDICATION. The parcel map shall include a street right-of-way dedication for Balboa Boulevard, across Parcel B. This condition shall be implemented to the satisfaction of the City Engineer.
3. FINAL MAP. The subdivider shall submit a Final Parcel Map in substantial conformance with the Tentative Parcel Map and Title 17 of the Half Moon Bay Municipal Code to the satisfaction of the City Engineer.

C. Validity and Expiration of Permits

1. EFFECTIVE DATE. This site is located within the Coastal Appeal Zone. This permit shall take effect after expiration of the Coastal Commission appeal period, or if the permit is appealed to the Coastal Commission during the appeal period, it shall take effect after final Coastal Commission action. (Planning)
2. ACCURACY OF APPLICATION MATERIALS. The applicant shall be responsible for the completeness and accuracy of all forms and material submitted for this application. Any errors or discrepancies found therein may be grounds for the revocation or modification of this permit and/or any other City approvals.
3. EXPIRATION. The Coastal Development Permit and Tentative Parcel Map shall expire two years from the date of their approval if a final map has not been recorded during that time. The Planning Commission may approve up to three one-year extensions of this Coastal Development Permit and Parcel Map based on a written request and fee submitted to the Director prior to expiration of the Permit/Map.
4. HOLD HARMLESS. The applicant agrees as a condition of approval of this application to indemnify, protect, defend with counsel selected by the City, and hold harmless, the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents, from and against an and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorney's fees and disbursements (collectively, "Claims") arising out of or in any way relating to the approval of this application, any actions taken by the City related to this entitlement, any review by the California Coastal Commission conducted under the California Coastal Act Public Resources Code Section 30000 et seq., or any environmental review conducted under the California Environmental Quality Act, Public Resources Code Section 210000 et seq., for this entitlement and related actions. The indemnification shall include any Claims that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents. The applicant's duty to defend the City shall not apply in those instances when the applicant

has asserted the Claims, although the applicant shall still have a duty to indemnify, protect and hold harmless the City.

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

OWNER'S/PERMITTEE'S CERTIFICATION:

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

APPLICANT:

(Signature)

(Date)



City of Half Moon Bay
PLANNING COMMISSION STAFF REPORT
May 26, 2015

RECOMMENDATION

Approve PDP-15-032, an application for a Coastal Development Permit and Tentative Parcel Map for the subdivision of one undeveloped parcel into two parcels located in the R-1 (Single Family Residential), U-R (Urban Reserve), and OS-A (Open Space-Active) Zoning Districts and the Residential-Medium Density and Urban Reserve – General Plan/Local Coastal Plan Land Use Designation at 135 Kelly Avenue (APN 056-048-020), based upon the Findings and Evidence contained in Exhibit A of the Draft Resolution, and subject to the Conditions of Approval contained in Exhibit B.

PROJECT SUMMARY

Owner/Applicant: John and Linda Hamilton / Jack Hamilton

Project Planner: Scott Phillips, Associate Planner, (650) 726-8299

Requested Permits: Coastal Development Permit and Tentative Parcel Map

Project Location: 135 Kelly Avenue (APN 056-048-020)

LCP/Zoning: Residential-Medium Density and Urban Reserve – General Plan/Local Coastal Plan Land Use Designation and the R-1 (Single Family Residential), U-R (Urban Reserve), and OS-A (Open Space-Active) Zoning Districts

Environmental Status: Categorically exempt pursuant to California Administrative Code Section 15315, Class 15

Right of Appeal: Any aggrieved person may appeal the decision of the Planning Commission to the City Council within ten (10) working days of the date of the decision. This site is located within the California Coastal Commission appeals jurisdiction; therefore the City's final action is appealable to the California Coastal Commission.

BACKGROUND

Project Site and Surrounding Area

The subject site is located at 135 Kelly Avenue and consists of one undeveloped parcel. The existing parcel is long and narrow in a rectangular north-south configuration, and is a remnant from the original railroad right-of-way (see Figure 1). The existing parcel fronts Kelly Avenue and is bisected by Balboa Boulevard.



Figure 1. Existing parcel in green

The southern portion of the site, abutting Kelly Avenue, is adjacent to developed properties located within the R-1 Zoning District. The remaining northern portions of the subject property is between the California State Parks land to the west (OS-A Open Space Active Zoning District), and the existing farmland to the east (U-R Urban Reserve Zoning District).

Permit Requirements

A Tentative Parcel Map is required for the subdivision of land into four or fewer parcels. Subdivision of land is considered “development” pursuant to Section 18.20.020 of the Zoning Code and requires approval of a Coastal Development Permit. After approval of this Tentative Parcel Map, the applicant will be required to prepare a Final Parcel Map for recordation to the satisfaction of the City Engineer. The Final Map will be required to substantially conform to the Tentative Parcel Map.

Project Description

The project proposal involves the subdivision of an existing parcel into two parcels at the existing R-1 and U-R zoning district boundary (Parcel A – 9,666 square feet and Parcel B – 80,448 square feet). Since the new lot line would be located along the zoning district boundary, no change to the size or width of parcels within the individual zoning districts is proposed. The proposed Parcel A would have frontage on Kelly Avenue, and Parcel B would be bisected by Balboa Boulevard (see Figure 2). No construction is included with this proposal.

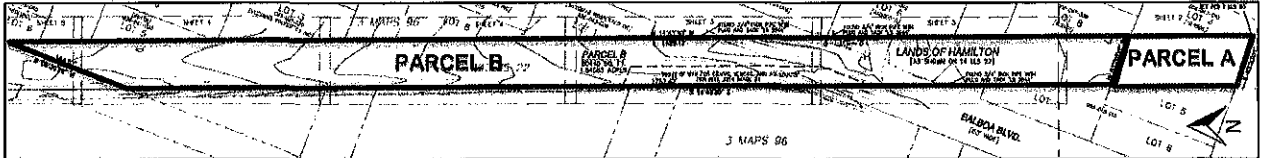


Figure 2. Proposed Parcels

ANALYSIS

The primary issues for this Tentative Parcel Map and Coastal Development Permit are conformance with the Zoning Code, and conformance with the Subdivision Ordinance, General Plan and Local Coastal Program.

Conformance with the Zoning Code

The proposed southern parcel (Parcel A) conforms to all applicable requirements of the Zoning Code. As indicated in Table 1, the proposed subdivision exceeds the minimum lot size and width requirements of the R-1 Single Family Residential Zoning District. No additional changes have been requested beyond the 2 lot Tentative Parcel Map. The applicant has filed a Coastal Development Permit in conjunction with this Tentative Parcel Map in conformance with the requirements of Zoning Code Chapter 18.20.

Table 1. Parcel A Conformance with R-1, Zoning District Lot Requirements

Development Standards	Zoning Requirements	Proposed
Min. Lot Size	5,000 sq. ft.	9,666 sq. ft. (no change)
Min. Average Site Width	50 ft.	64.44 ft. (no change)

Existing Substandard Lot Size

The proposed northern parcel (Parcel B) contains two separate zoning designations (OS-A and U-R) and is 1.85 acres in area. The U-R portion (south of Balboa Boulevard) of the proposed parcel contains less than the minimum required lot size of 50 acres. The OS-A Zoning Regulations do not contain a minimum lot size or width, which is the zoning designation north of Balboa Boulevard. The subject property is considered legal non-conforming. As indicated in Table 2, this proposal would not increase or decrease the non-conformance of the lot, since no further subdivision or lot line adjustment is proposed within U-R zoned Parcel B. Additionally, allowing the subdivision would not allow additional uses than the agricultural and passive recreational uses that are currently taking place on the subject property.

Table 2. Parcel B Conformance with U-R and OS-A, Zoning District Lot Requirements

Development Standards	Zoning Requirements	Proposed
Min. Lot Size	50 acres	1.85 acres (no change)

Street Dedication

The City Engineer has requested that the existing Balboa Boulevard street right-of-way be dedicated as public right-of-way through a Condition of Approval for the Tentative Parcel Map. Per Section 66426.5 of the Subdivision Map Act which states, "any conveyance of land to or from a governmental agency, public entity, public utility, or subsidiary of a public utility for conveyance to that public utility for right-of-way shall not be considered a division of land for purposes of computing the number of parcels." Therefore, the applicant is not required to create a third parcel to the north of Balboa Boulevard. The following is a brief summary of the requirements included in the proposed Parcel Map and required as conditions of approval prior to recordation of a Final Map:

1. Vehicular Access. The Coastal Development Permit (CDP)/Tentative Parcel Map require the recordation of a street right-of-way dedication for Balboa Boulevard during the recording of the Final Parcel Map.
2. Coastal Development Permit. Any new development proposed on Parcel A or B would require the approval of a separate CDP. Completion of onsite and offsite improvements, including sewer and storm drain improvements would be required as a condition of approval for this CDP.

Based on the above, staff concludes that the proposed CDP/Tentative Parcel Map provides appropriate access to the proposed parcels.

Conformance with the Subdivision Ordinance, General Plan, and Local Coastal Program

As required by the Subdivision Ordinance, the proposed CDP/Tentative Parcel Map is consistent with the General Plan, the Local Coastal Program, and the Zoning Code. The CDP/Tentative Parcel Map allows for the continued use of the southern portion of the site for residential uses consistent with the Single Family Residential designation. As discussed above, the CDP/Tentative Parcel Map conforms to all the regulations of the R-1 Single Family Residential, Zoning Districts. The U-R Urban Reserve portion of the property is currently used as farmland and is non-conforming in regard to minimum lot size. Allowing this subdivision would not increase this non conformity since the size and shape of the U-R portion on Parcel B would not change. In conformance with the Local Coastal Program, the proposed subdivision will not impact sensitive environmental resources, block scenic views, or inhibit coastal access. In conformance with the Subdivision Ordinance, the CDP/Tentative Parcel Map provides for appropriate services and facilities to serve future development on the existing and proposed parcels.

ENVIRONMENTAL REVIEW

The project is Categorically Exempt pursuant to California Administrative Code Section 15315, Class 15, Minor Land Divisions, in that the project consists of the division of land into four or fewer parcels in an urbanized area zoned for residential use; the subdivision conforms to the General Plan and zoning; services and access are available to the parcels consistent with local standards; the parcels were not involved in a division of a larger parcel within the previous two years; and the parcels do not have an average slope greater than 20 percent.

CONCLUSION

Based on the above analysis, staff concludes that the proposed project is consistent with the General Plan, the Local Coastal Program, and the Zoning Code, and conforms to the requirements of the California Environmental Quality Act. Staff recommends approval of the project based on the recommended findings and conditions of approval contained in Exhibits A and B of the proposed Resolution. The Planning Commission will need to determine if it concurs with the analyses set forth in the findings and whether the conditions are appropriate and adequate for approval.

ATTACHMENTS

1. Draft Resolution with Findings and Evidence, Exhibit A and Conditions of Approval, Exhibit B.
2. Tentative Parcel Map

ATTACHMENT 1

PLANNING COMMISSION RESOLUTION P-__-15
RESOLUTION FOR APPROVAL
PDP-15-032

Coastal Development Permit and Tentative Parcel Map for subdivision of one parcel into two in the R-1 Single Family Residential, U-R Urban Reserve, and OS-A Open Space-Active Zoning Districts, 135 Kelly Avenue (APN 056-048-020)

WHEREAS, an application was submitted requesting approval of a Coastal Development Permit and Tentative Parcel Map for subdivision of one parcel into two parcels in the R-1 Single Family Residential, U-R Urban Reserve, and OS-A Open Space-Active Zoning Districts at 135 Kelly Avenue (APN 056-048-020); and

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

WHEREAS, the Planning Commission conducted a duly noticed public hearing on May 26, 2015, 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 consideration; and

WHEREAS, the Planning Commission has determined that the requested Coastal Development Permit and Tentative Parcel Map for subdivision of one parcel into two parcels is categorically exempt pursuant to California Administrative Code Section 15315, Class 15, in that the project consists of the division of land into four or fewer parcels in an urbanized area zoned for residential use; the subdivision conforms to the General Plan and zoning; services and access are available to the parcels consistent with local standards; the parcels were not involved in a division of a larger parcel within the previous two years; and the parcels do not have an average slope greater than 20 percent; 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-15-032).

PASSED AND ADOPTED by the City of Half Moon Bay Planning Commission at a duly noticed public hearing held on May 26, 2015.

AYES,
NOES,
ABSENT,
ABSTAIN,

APPROVED:

Les Deman, Chair

ATTEST:

Bruce Ambo, Planning Manager

EXHIBIT A

FINDINGS AND EVIDENCE

**Planning Commission Resolution P-__-15
PDP-15-032**

Coastal Development Permit and Tentative Parcel Map for subdivision of one parcel into two in the R-1 Single Family Residential, U-R Urban Reserve, and OS-A Open Space-Active Zoning Districts, 135 Kelly Avenue (APN 056-048-020)

Coastal Development Permit – Findings for Approval

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

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

Evidence: The project consists of the subdivision of one parcel with three separate zoning districts into two parcels and does not involve new uses or construction of new buildings. The subdivision is consistent with the General Plan, the Local Coastal Program, and the Zoning Code. As discussed above, the Parcel Map conforms to all the regulations of the R-1 Single Family Residential, U-R Urban Reserve, and OS-A Open Space-Active Zoning Districts in that no new parcels would be created within the individual zoning districts. In conformance with the Local Coastal Program, the proposed subdivision will not impact sensitive environmental resources, block scenic views, or inhibit coastal access since there is no construction included with this proposal. In conformance with the Subdivision Ordinance, the Parcel Map provides for appropriate services and facilities to serve development on the existing and proposed parcels.

Coastal Act 30240(b) and Policy 3-3 (b): *Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

Compliance: The site is located approximately 500 feet from the bluff edge; additionally, the project will not involve any construction. Therefore, the project would not significantly impact this environmentally sensitive habitat.

Coastal Act 30244: *Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer,*

reasonable mitigation measures shall be required.

Compliance: The project does not propose any construction on the subject property. If or when development is proposed on the subject property, a separate Coastal Development Permit will be required. If cultural resources are unexpectedly encountered during subsurface excavation, the permit will be conditioned to require that construction halt until the find can be evaluated and appropriate mitigation identified.

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

Evidence: The proposed site does not involve the construction of new dwelling units.

- 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.

Evidence: The proposed southern parcel (Parcel A) conforms to all applicable requirements of the Zoning Code. The proposed subdivision exceeds the minimum lot size and width requirements of the R-1 Single Family Residential Zoning District. No additional changes have been requested beyond the 2 lot Tentative Parcel Map. The applicant has filed a Coastal Development Permit in conjunction with this Tentative Parcel Map in conformance with the requirements of Zoning Code Chapter 18.20. The proposed northern parcel (Parcel B) contains two separate zoning designations (OS-A and U-R) and is 1.85 acres in area. The U-R portion (south of Balboa Boulevard) of the proposed parcel contains less than the minimum required lot size of 50 acres. The OS-A Zoning Regulations do not contain a minimum lot size or width, which is the zoning designation north of Balboa Boulevard. The subject property is considered legal non-conforming. This proposal would not increase or decrease the non-conformance of the lot, since no further subdivision or lot line adjustment is proposed within U-R zoned Parcel B. Additionally, allowing the subdivision would not allow additional uses than the agricultural and passive recreational uses that are currently taking place on the subject property.

- 4. Adequate Services** – The proposed development will be provided with adequate services and infrastructure in a manner that is consistent with the Local Coastal Program.

Evidence: No construction is included with the proposed Tentative Parcel Map. The Tentative Parcel Map does include recordation of the street right-of-way dedication for Balboa Boulevard during the recording of the Final Parcel Map.

- 5. California Coastal Act** – Any development to be located between the sea and the first public

road parallel to the sea conforms to the public access and public recreation policies of Chapter 3 of the California Coastal Act.

Evidence: The proposed project is located between the sea and the first public road parallel to the sea. Therefore, project is appealable to the California Coastal Commission. The project would conform to the public access and public recreation policies of Chapter 3 of the California Coastal Act because the project would provide a new R-1 parcel that would be no smaller than the average size of the surrounding parcels.

Tentative Parcel Map – Finding

Tentative Parcel Map – 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 Title 17 of the Half Moon Bay Municipal Code as to design, drainage, utilities, road improvements and offers of dedication or deed.

Evidence: As required by the Subdivision Ordinance, the proposed CDP/Tentative Parcel Map is consistent with the General Plan, the Local Coastal Program, and the Zoning Code. The CDP/Tentative Parcel Map allows for the continued use of the southern portion of the site for residential uses consistent with the Single Family Residential designation. As discussed above, the CDP/Tentative Parcel Map conforms to all the regulations of the R-1 Single Family Residential, Zoning Districts. The U-R Urban Reserve portion of the property is currently used as farmland and is non-conforming in regard to minimum lot size. Allowing this subdivision would not increase this non conformity since the size and shape of the U-R portion on Parcel B would not change. In conformance with the Local Coastal Program, the proposed subdivision will not impact sensitive environmental resources, block scenic views, or inhibit coastal access. In conformance with the Subdivision Ordinance, the CDP/Tentative Parcel Map provides for appropriate services and facilities to serve future development on the existing and proposed parcels.

Environmental Review – Finding

CEQA – The project will not have a significant effect on the environment.

Evidence: The project is Categorically Exempt pursuant to California Administrative Code Section 15315, Class 15, in that the project consists of the division of land into four or fewer parcels in an urbanized area zoned for commercial use; the subdivision conforms to the General Plan and zoning; services and access are available to the parcels consistent with local standards; the parcels were not involved in a division of a larger parcel within the previous two years; and the parcels do not have an average slope greater than 20 percent.

EXHIBIT B
CONDITIONS OF APPROVAL
Planning Commission Resolution P-__-15
PDP-15-032

Coastal Development Permit and Tentative Parcel Map for subdivision of one parcel into two in the R-1 Single Family Residential, U-R Urban Reserve, and OS-A Open Space-Active Zoning Districts, 135 Kelly Avenue (APN 056-048-020)

Authorization: Approval of this permit authorizes a Coastal Development Permit and Tentative Parcel Map for subdivision of one parcel into two parcels in the R-1 Single Family Residential, U-R Urban Reserve, and OS-A Open Space-Active Zoning Districts at 135 Kelly Avenue (APN 056-048-020).

A. The following Conditions apply to this project:

1. CONFORMANCE WITH THE TENTATIVE MAP. The Final Parcel Map shall substantially conform to the Tentative Parcel Map entitled "*Tentative Parcel Map, Lands of Hamilton*" with a City date stamp of April 13, 2015, except for any revisions required by this permit. (Planning)
2. CONFORMANCE WITH THE MUNICIPAL CODE. No part of this approval shall be construed to permit a violation of any part of the Half Moon Bay Municipal Code. (Planning)
3. FUTURE DEVELOPMENT. Any future development shall require the issuance of a Coastal Development Permit with Conditions of Approval requiring on-site, off-site (curb, gutter, sidewalk, road widening, sewer, and storm drain), grading, and site drainage (including C-3) improvements.
4. COASTSIDE FIRE PROTECTION DISTRICT REQUIREMENTS. The subdivider shall comply with all applicable Coastside Fire Protection District requirements.
5. COASTSIDE COUNTY WATER DISTRICT REQUIREMENTS. The subdivider shall comply with all applicable Coastside County Water District requirements.

B. The following Conditions shall be fulfilled prior to approval and recordation of a Final Map:

1. SIGNED CONDITIONS OF APPROVAL. The subdivider shall submit a signed copy of the conditions of approval to the Planning Department. (Planning)

2. STREET RIGHT-OF-WAY DEDICATION. The parcel map shall include a street right-of-way dedication for Balboa Boulevard, across Parcel B. This condition shall be implemented to the satisfaction of the City Engineer.
3. FINAL MAP. The subdivider shall submit a Final Parcel Map in substantial conformance with the Tentative Parcel Map and Title 17 of the Half Moon Bay Municipal Code to the satisfaction of the City Engineer.

C. Validity and Expiration of Permits

1. EFFECTIVE DATE. This site is located within the Coastal Appeal Zone. This permit shall take effect after expiration of the Coastal Commission appeal period, or if the permit is appealed to the Coastal Commission during the appeal period, it shall take effect after final Coastal Commission action. (Planning)
2. ACCURACY OF APPLICATION MATERIALS. The applicant shall be responsible for the completeness and accuracy of all forms and material submitted for this application. Any errors or discrepancies found therein may be grounds for the revocation or modification of this permit and/or any other City approvals.
3. EXPIRATION. The Coastal Development Permit and Tentative Parcel Map shall expire two years from the date of their approval if a final map has not been recorded during that time. The Planning Commission may approve up to three one-year extensions of this Coastal Development Permit and Parcel Map based on a written request and fee submitted to the Director prior to expiration of the Permit/Map.
4. HOLD HARMLESS. The applicant agrees as a condition of approval of this application to indemnify, protect, defend with counsel selected by the City, and hold harmless, the City, and any agency or Instrumentality thereof, and its elected and appointed officials, officers, employees and agents, from and against an and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorney's fees and disbursements (collectively, "Claims") arising out of or in any way relating to the approval of this application, any actions taken by the City related to this entitlement, any review by the California Coastal Commission conducted under the California Coastal Act Public Resources Code Section 30000 et seq., or any environmental review conducted under the California Environmental Quality Act, Public Resources Code Section 210000 et seq., for this entitlement and related actions. The indemnification shall include any Claims that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the City, and any agency or Instrumentality thereof, and its elected and appointed officials, officers, employees and agents. The applicant's duty to defend the City shall not apply in those instances when the applicant

has asserted the Claims, although the applicant shall still have a duty to indemnify, protect and hold harmless the City.

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

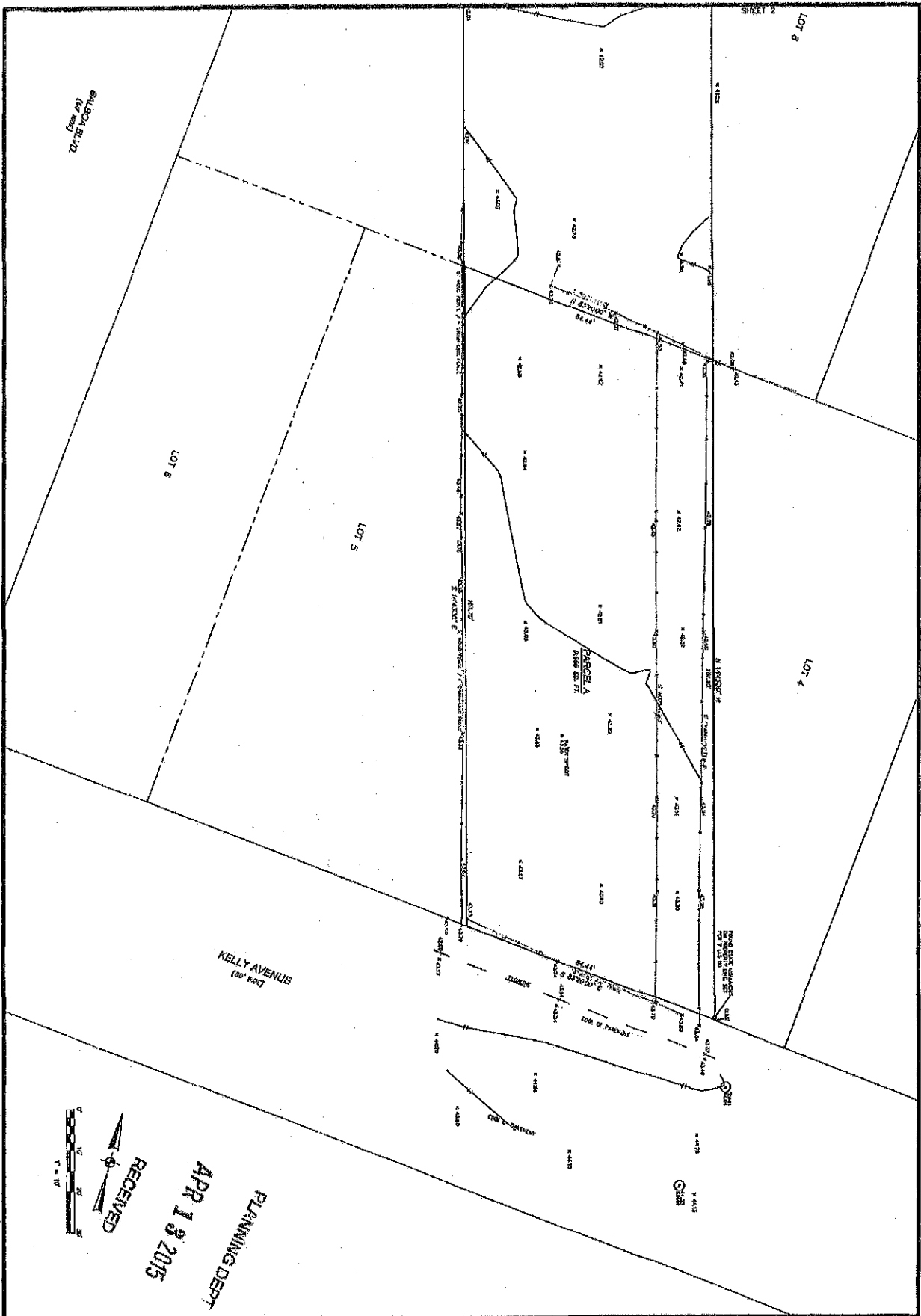
OWNER'S/PERMITTEE'S CERTIFICATION:

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


APPLICANT:

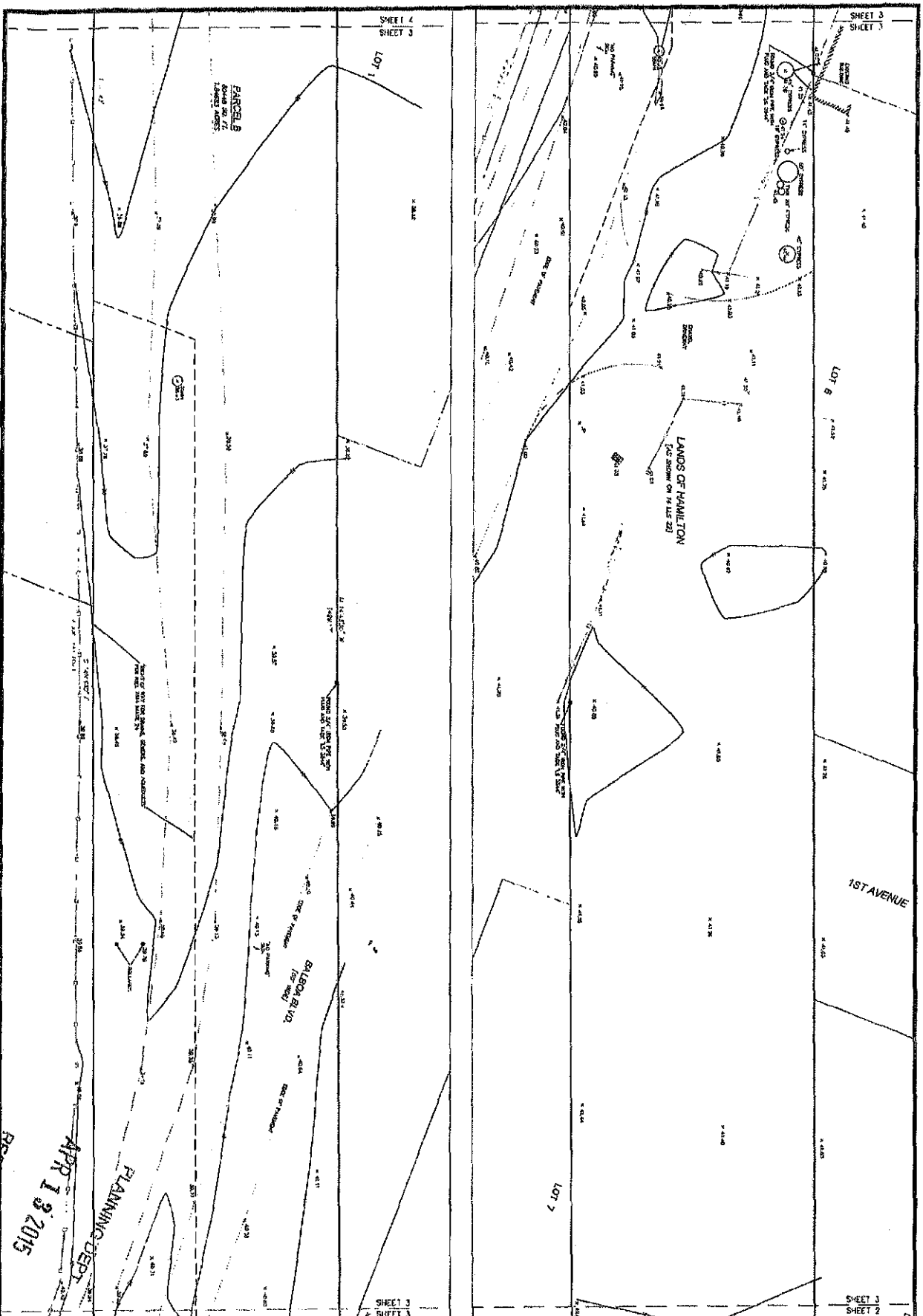
(Signature)

(Date)



RECEIVED
 APR 13 2015
 PLANNING DEPT

Date: FEB 2015 Scale: 1" = 10' Drawing Number: SU-12 Sheet: 2 of 5	TENTATIVE PARCEL MAP PORTION OF THE LANDS OF HAMILTON PER 14 LLS 22 VACANT LOT, KELLY AVENUE HALF MOON BAY, COUNTY OF SAN MATEO, CALIFORNIA	Prepared For: Date: Drawing No.:	 <p>25-FMB-15-0040 EXHIBIT 3</p>
---	--	--	--



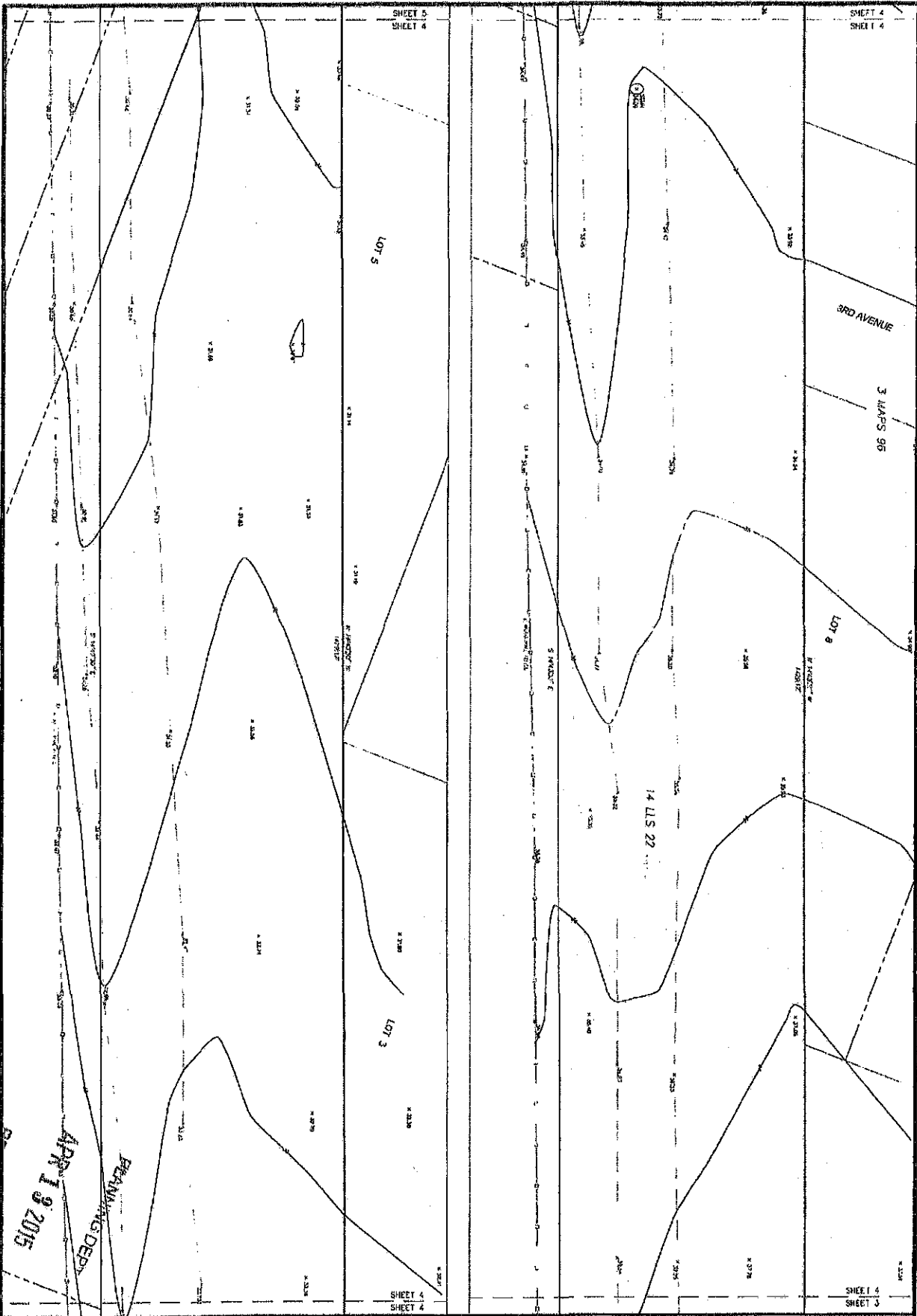
DATE: 10/20/15
 SHEET: 1 OF 5
 DRAWN: JAC
 CHECKED: JAC
 DRAWING NUMBER: SU-1.3
 SHEET 5 OF 5

TENTATIVE PARCEL MAP
 PORTION OF THE LANDS OF HAMILTON PER 14 LLS 22
VACANT, KELLY AVENUE
 HALF MOON BAY, COUNTY OF SAN MATEO, CALIFORNIA



www.bgtsurveying.com
A-2-H-15-0040
BGT LAND SURVEYING
 10000
 15000
 15000

RECEIVED
 APR 13 2015
 PLANNING DEPT



RECEIVED
APR 19 2015
BEARINGS & DEPT'S

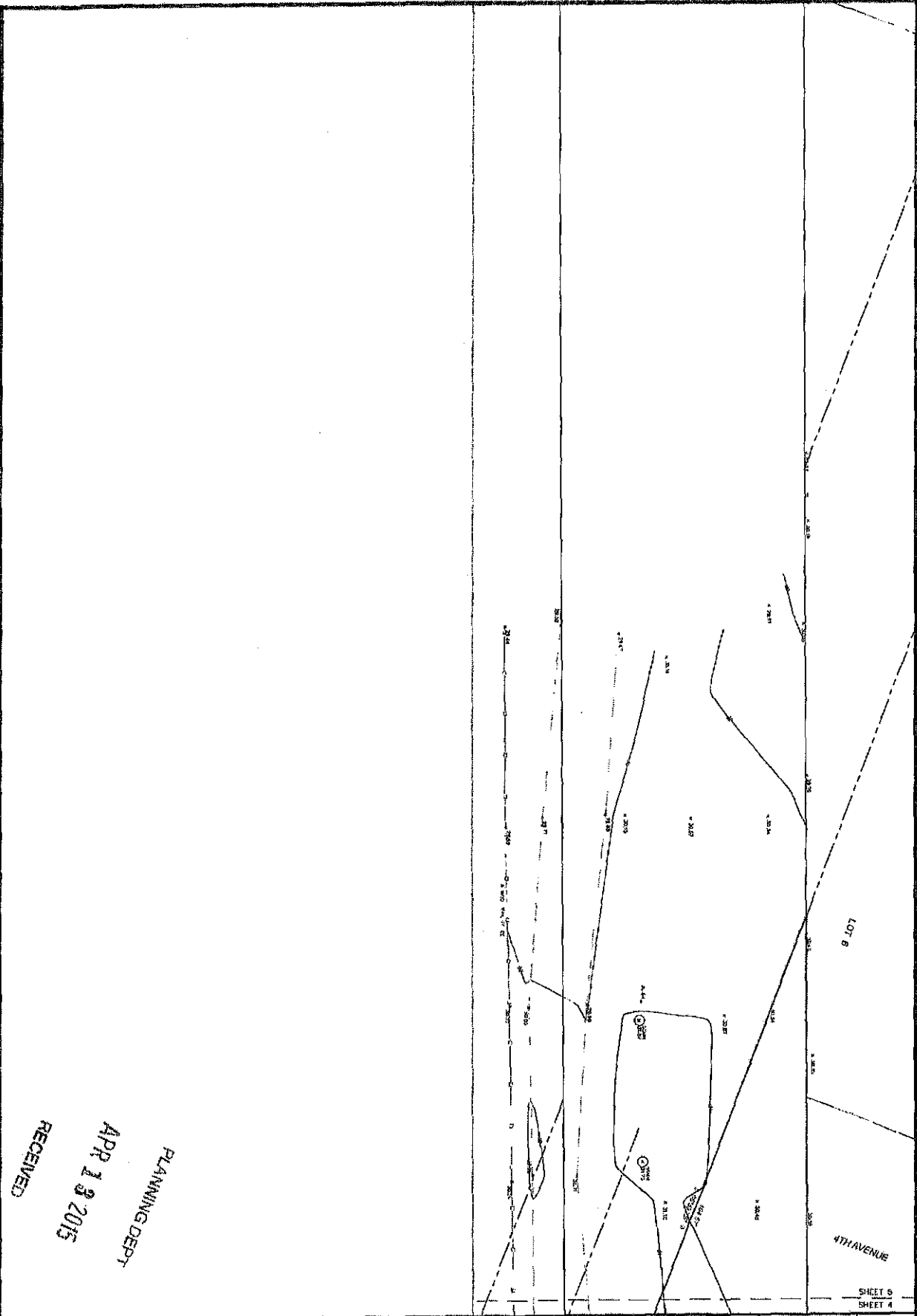
DATE: FEB 2015
DRAWN BY: J
CHECKED BY: J
DRAWING NUMBER: SU-14
SHEET 4 OF 5

TENTATIVE PARCEL MAP
PORTION OF THE LANDS OF HAMILTON PER 14 LLS 22
VACANT, KELLY AVENUE
HALF MOON BAY, COUNTY OF SAN MATEO, CALIFORNIA

Professional Seal
Professional Surveyor
14500-002



www.gstburveying.com
231005-15-0040
GST LAND SURVEYING
14500-002
EXHIBIT 3



PLANNING DEPT
 APR 13 2015
 RECEIVED

LOT B

4TH AVENUE

SHEET 5
 SHEET 4

Date: FEB. 2015
 Scale: 1" = 40'
 Drawing Number:
 SU-1.5
 SHEET 5 OF 5

TENTATIVE PARCEL MAP
 PORTION OF THE LANDS OF HAMILTON PER 14 LLS 22
 VACANT, KELLY AVENUE
 HALF MOON BAY, COUNTY OF SAN MATEO, CALIFORNIA

Proposed by:
 Prepared for:
 Date of Survey:
 Date of Map:
 Date of Issue:



A-2-H-15-0040
 EXHIBIT 3
 SET LAND SURVEYING
 1015 AVENUE 20
 SAN MATEO, CALIFORNIA 94062
 www.setland.com



CITY OF HALF MOON BAY
Community Development • 501 Main Street • Half Moon Bay • 94019
650-726-8250

MEMORANDUM

To: Planning Commission
From: Bruce Ambo, Planning Manager
Date: May 26, 2015
Subject: Committee for Green Foothills Letter, dated May 26, 2015 regarding PDP-15-032

This memorandum addresses the letter received today from the Committee for Green Foothills (CGF). Answers to the questions raised in the letter are provided below in italics based upon the Title submitted by the applicant:

1. What is the status of the subject parcel?

The subject parcel was conveyed in fee title in 1936 to the Hamilton Family, which has retained ownership of the property since its original conveyance.

2. What is the ownership of the "parcel" to the north of the subject property?

The parcel to the north (APN:056-013-040) is owned by the State of California Beaches and Parks.

3. Maps of the property showing the General Plan/LCP Land Use Designations and Zoning are needed.

Staff has verified that the General Plan/Local Coastal Plan designation of the subject property is Residential Medium Density and Urban Reserve. The Zoning Districts include R-1, Single Family Residential, UR, Urban Reserve, and OS-A, Open Space – Active.

4. What is the status of Balboa Boulevard?

Balboa Boulevard is a paper street and public right-of-way, similar to an easement.

5. The project does not qualify for the cited CEQA Exemption.

Section 15315 – Minor Land Divisions. "Applies to the division of property in urbanized areas zoned for residential, commercial and industrial use..." This exemption is still applicable to the subject property (zoned for Open Space or Urban Reserve in addition to Residential) because the subdivision would have an inconsequential effect on the use of the property because no change in use or reconfiguration of Zoning District boundaries is proposed.

A-2-HMB-15-0040

EXHIBIT 3

Page 30 of 41



COMMITTEE FOR
GREEN FOOTHILLS

May 26, 2015

Les Deman, Chairman and Members
Half Moon Bay Planning Commission
501 Main Street
Half Moon Bay, CA 94019

CITY OF HALF MOON BAY

MAY 26 2015

RECEIVED

Re: Item V.1. on the May 26, 2015 Agenda: PDP-15-032: Coastal Development Permit and Tentative Parcel Map for subdivision of a 90,114 sq. ft. parcel into two parcels of 80,448 sq. ft. and 9,660 sq. ft. Location: 135 Kelley Avenue, APN: 056-048-020.

Dear Chair Deman and Members of the Commission,

On behalf of Committee for Green Foothills (CGF), I have several comments and questions regarding the above-referenced project:

1. What is the legal status of the subject parcel? The subject parcel is comprised of a portion of the original Ocean Shore Railroad (OSRR) Right of Way, which CGF understands was purchased in part with federal funds. The OSRR filed for cessation of operations in 1920. When was this portion of the OSRR Right of Way sold, and did the federal government release all interests in the Right of Way at that time? What is the history of the status of this parcel as a separate "legal" parcel from the northern adjacent parcel? Demonstration of legality of the subject parcel is essential prior to consideration of a Coastal Development Permit or Tentative Parcel Map.

CGF requests that a Chain of Title be provided for our review, with additional information regarding: (1) when and how was the subject "parcel" created as a separate "parcel" from the adjacent "parcel" to the north, and (2) was the subject "parcel" ever transferred to owners separately from the adjacent "parcel" to the north, and if so, when did that occur?

2. What is the ownership of the "parcel" to the north of the subject property? This information has not been included on the Tentative Map, although all other owners of adjacent properties are included. This information is important, particularly in order to determine any relationship to the subject parcel's status as a separate "legal" parcel, as detailed above.

3. Maps of the property showing the General Plan/LCP Land Use Designations and Zoning are needed. The Staff Report, page 1, states that the subject parcel has two different General Plan/LCP Land Use Designations: Residential-Medium Density and Urban Reserve, and three different Zoning District designations: R-1 (Single Family Residential), U-R (Urban Reserve), and OS-A (Open Space-Active). The General Plan/LCP Land Use Map is not available on the City's website. However, reading my print copy, it appears that the northern portion of the parcel is designated under the General Plan/LCP as Regional Public Recreation rather than Urban Reserve. Please provide maps of the parcel that indicate the GP/LCP and zoning designations.

4. What is the status of Balboa Boulevard? What is the status of Balboa Boulevard (ownerships, and/or easements) immediately to the east and west of the subject property?

COMMITTEE FOR
GREEN FOOTHILLS

3921 E. Bayshore Road
Palo Alto, CA 94303

650.968.7243 PHONE
650.968.8431 FAX

info@GreenFoothills.org
www.GreenFoothills.org

A-2-HMB-15-0040

EXHIBIT 3

Page 31 of 41

5. This project does not qualify for the cited CEQA Exemption. The Staff Report states that the proposed project is Categorical Exempt from CEQA per CA Administrative Code Section 15315, Class 15, Minor Land Divisions "...in that the project consists of the division of land into four or fewer parcels in an urbanized area zoned for residential use..." Only about 10% (9,666 sq. ft.) of the total area (90,114 sq. ft.) of this parcel is zoned for residential use. Therefore CGF believes the project is not exempt from CEQA, and an Initial Study/Negative Declaration must be prepared. Please continue this item until the requested information can be provided to CGF and the appropriate CEQA document is prepared. CGF requests that we be kept informed as to any actions the City takes on this project, including notifying us as to issuance of an Initial Study/Negative Declaration under CEQA.

Please send any written correspondence to my home office address (see below), or you can also email or phone me.

Sincerely,



Lennie Roberts, Legislative Advocate
339 La Cuesta Drive
Portola Valley, CA 94028
Email: lennie@darwin.ptvy.ca.us
Phone: 650-854-0449



CITY OF HALF MOON BAY

Planning Division • 501 Main Street • Half Moon Bay • 94019
650-726-8250

MEMORANDUM

To: Planning Commission

From: Scott Phillips, Associate Planner

Date: May 26, 2015

Subject: Benjamin Letter, dated May 26, 2015 regarding PDP-15-032

Staff received a letter stating concerns that a Biological Report should have been required prior to the review of the Coastal Development Permit. Per Section 18.38.015(A), the Biological Report requirement is not applicable to,

“Any change of use which does not significantly increase the degree of encroachment into or impact upon the sensitive habitat as determined by the planning director.”

Concerns were also stated in the submitted letter that the subject property is considered sensitive habitat. The subject property is not identified as a sensitive habitat within the General Plan/Local Coastal Plan. Please note that this particular concern would be more relevant to the General Plan/Local Coastal Plan update process that is currently underway.

May 26, 2015

The Honorable Les Deman, Chair, and Members
Half Moon Bay Planning Commission
501 Main Street
Half Moon Bay, CA 94019

CITY OF HALF MOON BAY

MAY 26 2015

RECEIVED

Subject: PDP-15-032

Dear Chair Deman and Members of the Commission:

In addition to sharing the concerns raised in a recent letter from the Committee for Green Foothills, I am also concerned that the proposed project is not consistent with the certified Local Coastal Program and Implementation Plan / zoning ordinance for the following reasons:

- The Biological Resource Evaluation (BRE) for the City's 2013 Citywide Drainage Ditch Maintenance Project identifies the Kelly Ave. drainage as riparian area per the LCP,
- The same BRE identifies the Monterey pine forest in the Railroad ROW next to Kelly.
- Blue herons, egrets and other water-related birds rest and feed in the Railroad ROW and the Kelly drainage during the rainy season.

As you know, these are sensitive habitats under our zoning ordinance (18.38.020, 18.38.090) and LCP policies (3-1). Development proposed within 100 feet of coastal resources such as sensitive habitat areas, let alone in such sensitive habitat areas themselves, requires (1) the preparation of a biologic report, but no biologic report was attached to this agenda item (18.38.035, LCP Policy 3-5); and (2) that development in such areas be sited and design to prevent degradation to sensitive habitat areas (LCP Policy 3-3) and to prevent significant degradation in areas adjacent to sensitive habitat areas (18.38.050). BRE maps show resources within 100 feet of the project.

In addition, the Railroad Right-Of-Way provides a significant cross-section of upland habitat for California red-legged frogs (CRLF) and San Francisco garter snakes (SFGS) in this section of the City's coast. As you know, aquatic and upland habitats are equally important habitat components for these animals, and maintaining dispersal habitat between adjacent populations is vital to the health of the meta-population. Though Kelly Avenue is an arterial and a beach access corridor, the dispersal and foraging activities of the CRLF occur at night, when the normally busy access to the state beach closes, converting this part of Kelly Avenue into a cul-de-sac.

Unfortunately, the agenda report was published too recently for me to reschedule a conflicting event, so I am unable to attend the meeting. Thank you for facilitating Planning Commission consideration of these issues, and for ensuring that these concerns are made part of the record.

Respectfully,



James Benjamin, 400 Pilarcitos Avenue, Half Moon Bay, California 94019

CITY OF HALF MOON BAY
MAILING CONFIRMATION

I, **Melissa Thurman, Deputy City Clerk**, for the City of Half Moon Bay, do hereby declare that a Notice of Public Hearing was mailed for the following projects:

- **PDP-15-032**


The public hearing will be held at the following location, at the date and time below:

May 26, 2015 at 7:00 p.m.
Emergency Operations Center (EOC)
537 Kelly Ave.
Half Moon Bay, CA 94019

The Notice of Public Hearing was mailed, using standard postage, at the date and time below:

- **May 14, 2015 at 3:30 p.m.**

Signed:


Melissa Thurman, Deputy City Clerk



CITY OF HALF MOON BAY



**NOTICE OF PUBLIC HEARING BEFORE THE
CITY OF HALF MOON BAY
PLANNING COMMISSION**

CITY FILE NUMBER: PDP-15-032

DESCRIPTION: A request for a Coastal Development Permit and Tentative Parcel Map for the subdivision of one undeveloped parcel into two parcels in the R-1 (Single Family Residential), U-R (Urban Reserve), and OS-A (Open Space-Active) Zoning Districts and the Residential-Medium Density, Urban Reserve – General Plan/Local Coastal Plan Land Use Designation.

LOCATION: 135 Kelly Avenue

ASSESSORS PARCEL NUMBER (APN): 056-048-020

APPLICANT: Jack Hamilton

CEQA REVIEW: Categorically exempt pursuant to California Administrative Code Section 15315, Class 15, in that the project consists of the division of land into four or fewer parcels in an urbanized area zoned for residential, commercial, or industrial use; is in conformance with the General Plan and zoning, services and access are available to the proposed parcel consistent with local standards; the parcel was not involved in a division of a larger parcel within the previous 2 years; and the parcel does not have an average slope greater than 20 percent.

PUBLIC HEARING LOCATION:

**CITY OF HALF MOON BAY
EMERGENCY OPERATIONS CENTER
537 KELLY AVENUE
HALF MOON BAY, CA 94019**

HEARING DATE AND TIME:

**TUESDAY, MAY 26, 2015
7:00 p.m.
www.hmbcity.com**

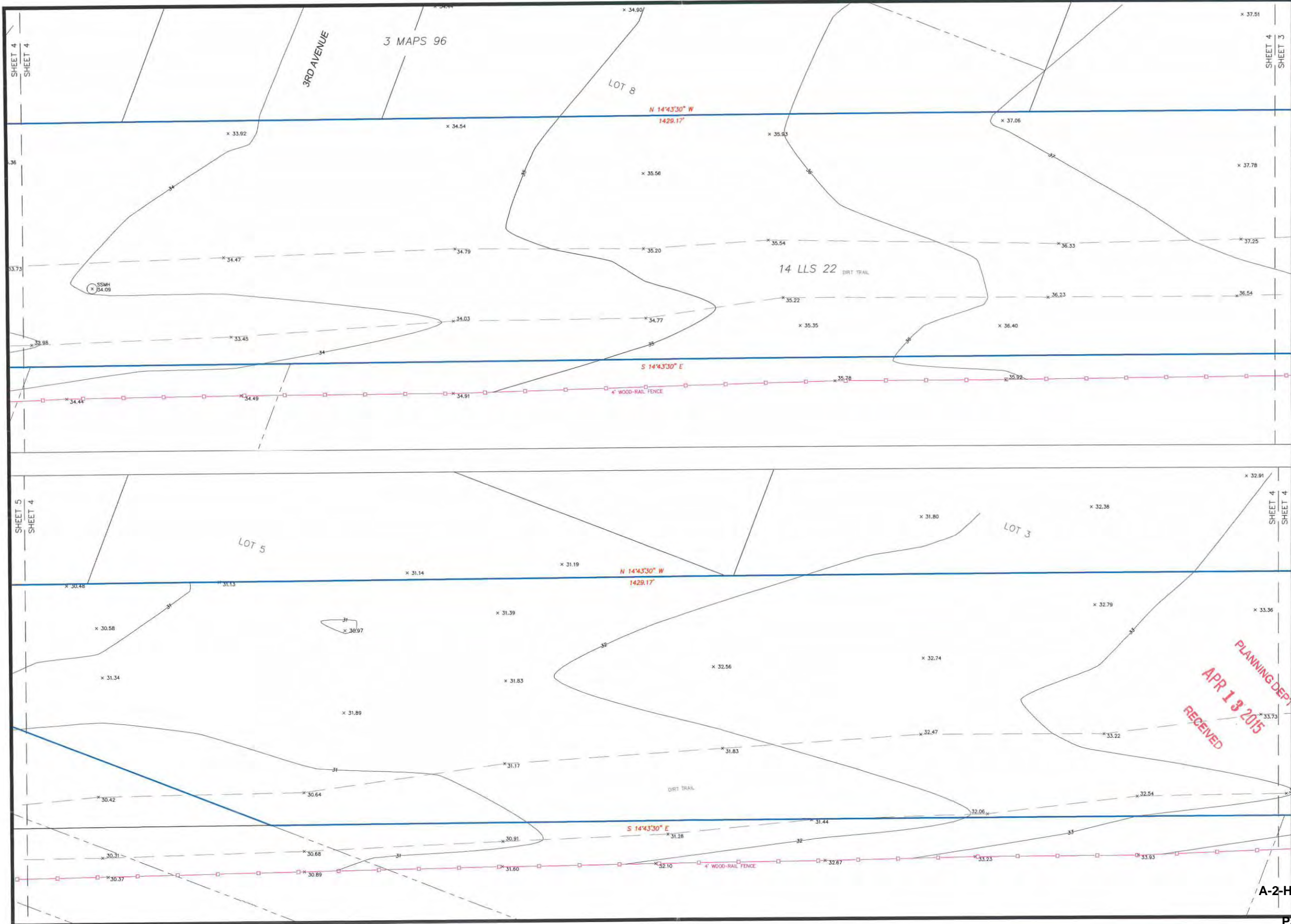
FOR MORE INFORMATION: More information is on file at City Hall, 501 Main Street, and may be examined during regular business hours. Please send comments to: Scott Phillips, Associate Planner, at 650-726-8299 or SPhillips@hmbcity.com. Comments can be mailed to City of Half Moon Bay Planning Division, 501 Main Street, Half Moon Bay, CA 94019.

RIGHT OF APPEAL: Any aggrieved person may appeal the decision of the Planning Commission to the City Council within ten (10) working days of the date of the decision. The project is located with the Coastal appeals jurisdiction; therefore the City's final decision on the project may be appealed to the California Coastal Commission.

Meeting facilities are accessible to people with disabilities. If you require special assistance to participate in the meeting, or agendas prepared in an appropriate alternative format, please notify the City Clerk's Office at (650) 726-8271 at least 48 hours prior to the meeting.

A-2-HMB-15-0040

EXHIBIT 3



Assessor Parcel Number:
 056-048-020

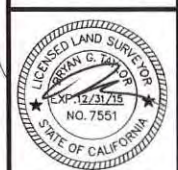
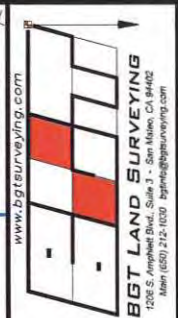
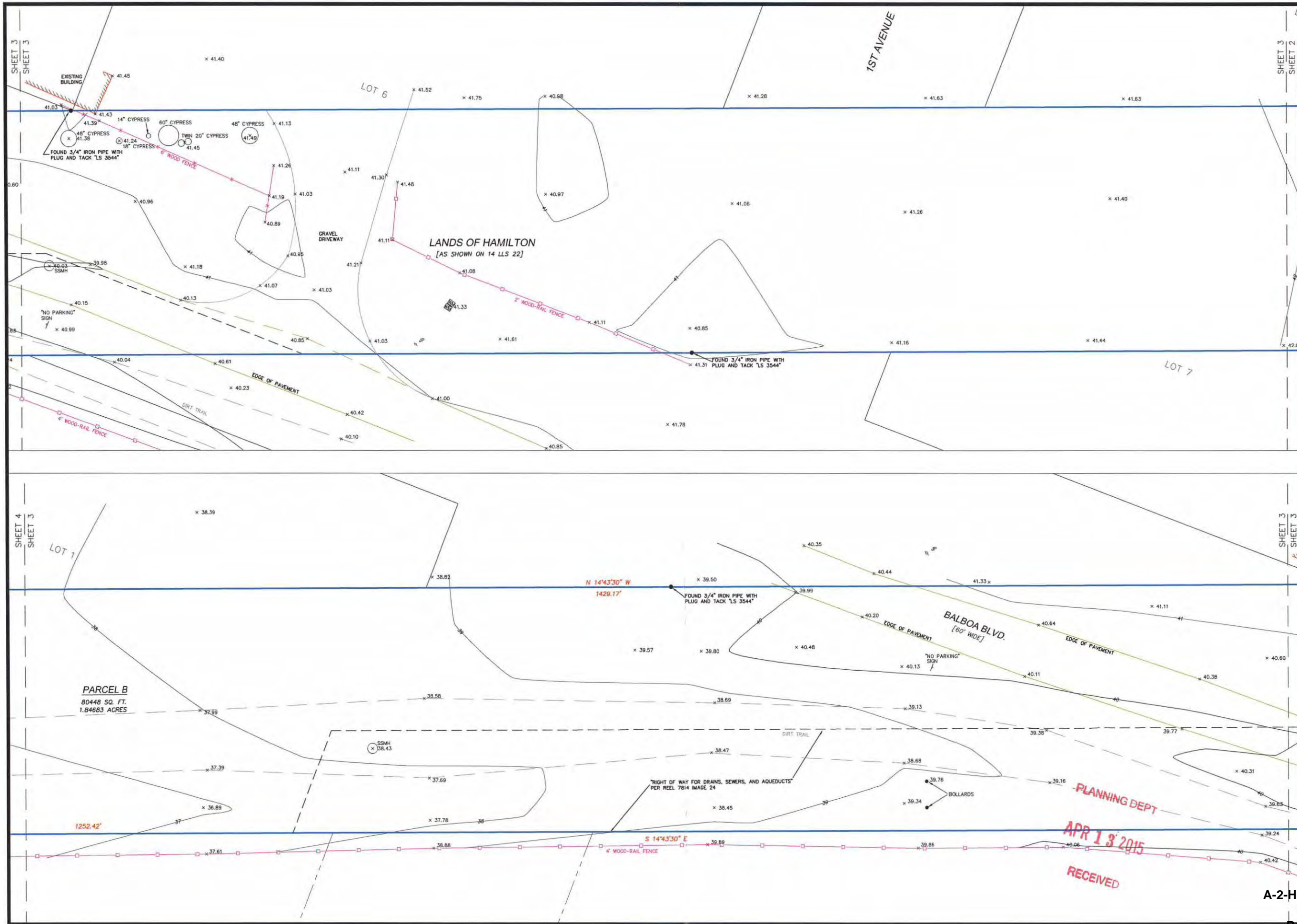
Prepared For:
 JACK HAMILTON
 1390 RIVER PARK BLVD.
 NAPA, CA 94559

TENTATIVE PARCEL MAP
 PORTION OF THE LANDS OF HAMILTON PER 14 LLS 22
VACANT, KELLY AVENUE
 HALF MOON BAY, COUNTY OF SAN MATEO, CALIFORNIA

PLANNING DEPT
 RECEIVED
 APR 13 2015

Date: FEB. 2015
 Scale: 1" = 10'
 Contour Interval: 1'
 Drawn: LHL

Drawing Number:
SU-1.4
A-2-HMB-15-0040
 SHEET 4 OF 4
EXHIBIT 3
 Job No. 15-032



Assessor Parcel Number:
056-048-020

Prepared For:
JACK HAMILTON
1300 RIVER PARK BLVD.
NAPA, CA 94559

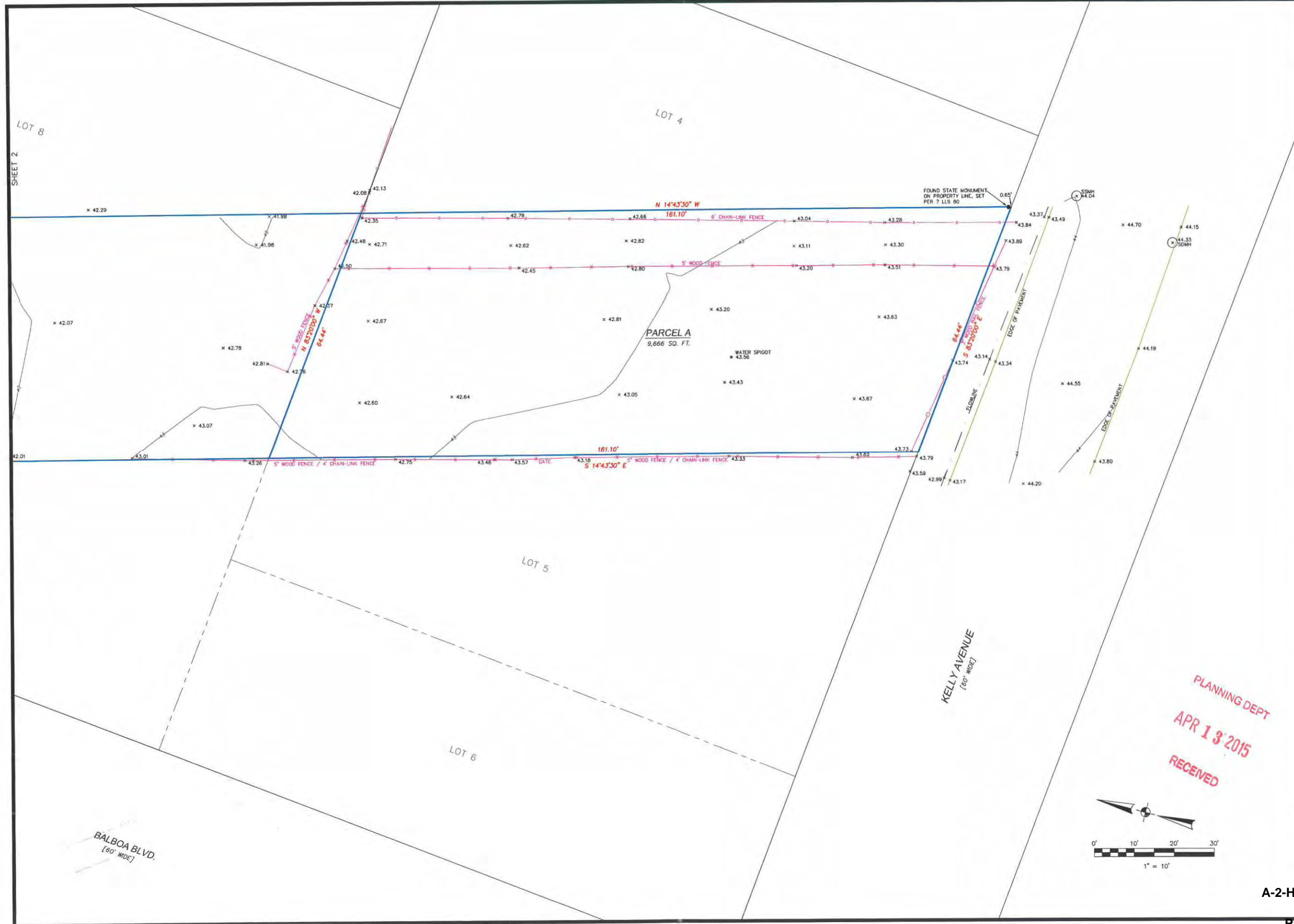
TENTATIVE PARCEL MAP
 PORTION OF THE LANDS OF HAMILTON PER 14 LLS 22
VACANT, KELLY AVENUE
 HALF MOON BAY, COUNTY OF SAN MATEO, CALIFORNIA

PARCEL B
 80448 SQ. FT.
 1.84683 ACRES

PLANNING DEPT
 APR 13 2015
 RECEIVED

Date: FEB. 2015
 Scale: 1" = 10'
 Contour Interval: 1'
 Drawn: LHL

Drawing Number:
 SU-13
 SHEET 3 OF 5
 EXHIBIT 3



SHEET 2

LOT 8

LOT 4

PARCEL A
9,666 SQ. FT.

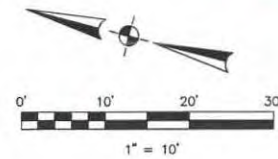
LOT 5

LOT 6

BALBOA BLVD.
[60' WIDE]

KELLY AVENUE
[60' WIDE]

PLANNING DEPT
APR 13 2015
RECEIVED



Assessor Parcel Number:
056-048-020

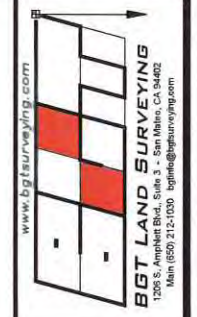
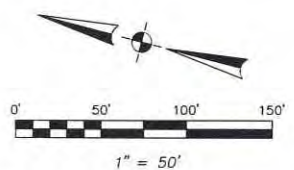
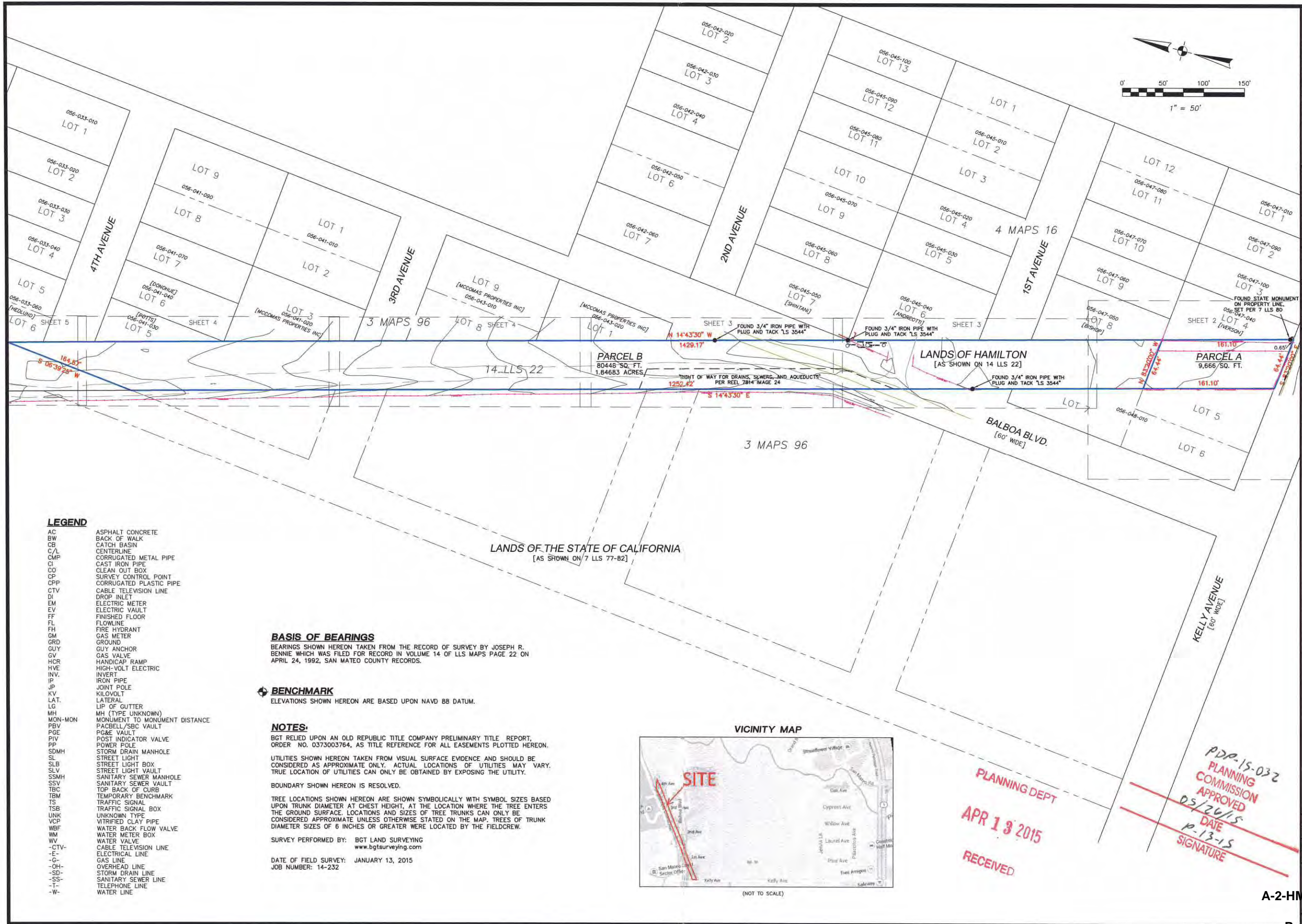
Prepared For:
JACK HAMILTON
1300 RIVER PARK BLVD.
NAPA, CA 94559

TENTATIVE PARCEL MAP
PORTION OF THE LANDS OF HAMILTON PER 14 LLS 22
VACANT LOT, KELLY AVENUE
HALF MOON BAY, COUNTY OF SAN MATEO, CALIFORNIA

Date: FEB. 2015
Scale: 1" = 10'
Contour Interval: 1'
Drawn: LHL

Drawing Number:
SU-1.2
SHEET 2 OF 3
EXHIBIT 3

A-2-HMB-15-0040



Assessor Parcel Number:
056-048-020

Prepared For:
JACK HAMILTON
1390 RIVER PARK BLVD.
NAFA, CA 94559

TENTATIVE PARCEL MAP
 PORTION OF THE LANDS OF HAMILTON AS SHOWN ON 14 LLS 22
VACANT, KELLY AVENUE
 HALF MOON BAY, COUNTY OF SAN MATEO, CALIFORNIA

Date: FEB. 2015
Scale: 1" = 50'
Contour Interval: 1'
Drawn: LHL

Drawing Number:
SU-11
A-2-HMB-15-0040
EXHIBIT 3
Job No. 14-232

LEGEND

- AC ASPHALT CONCRETE
- BW BACK OF WALK
- CB CATCH BASIN
- C/L CENTERLINE
- CMP CORRUGATED METAL PIPE
- CI CAST IRON PIPE
- CO CLEAN OUT BOX
- CP SURVEY CONTROL POINT
- CPP CORRUGATED PLASTIC PIPE
- CTV CABLE TELEVISION LINE
- DI DROP INLET
- EM ELECTRIC METER
- EV ELECTRIC VAULT
- FF FINISHED FLOOR
- FL FLOWLINE
- FH FIRE HYDRANT
- GM GAS METER
- GRD GROUND
- GUY GUY ANCHOR
- GV GAS VALVE
- HCR HANDICAP RAMP
- HVE HIGH-VOLT ELECTRIC
- INV INVERT
- IP IRON PIPE
- JP JOINT POLE
- KV KILOVOLT
- LAT. LATERAL
- LG LIP OF GUTTER
- MH (TYPE UNKNOWN)
- MON-MON MONUMENT TO MONUMENT DISTANCE
- PBV PACBELL/SBC VAULT
- PGE PG&E VAULT
- PIV POST INDICATOR VALVE
- PP POWER POLE
- SDMH STORM DRAIN MANHOLE
- SL STREET LIGHT
- SLB STREET LIGHT BOX
- SLV STREET LIGHT VAULT
- SSMH SANITARY SEWER MANHOLE
- SSV SANITARY SEWER VAULT
- TBC TOP BACK OF CURB
- TBM TEMPORARY BENCHMARK
- TS TRAFFIC SIGNAL
- TSB TRAFFIC SIGNAL BOX
- UNK UNKNOWN TYPE
- VCP VITRIFIED CLAY PIPE
- WBF WATER BACK FLOW VALVE
- WM WATER METER BOX
- WV WATER VALVE
- CTV- CABLE TELEVISION LINE
- E- ELECTRICAL LINE
- G- GAS LINE
- OH- OVERHEAD LINE
- SD- STORM DRAIN LINE
- SS- SANITARY SEWER LINE
- T- TELEPHONE LINE
- W- WATER LINE

BASIS OF BEARINGS

BEARINGS SHOWN HEREON TAKEN FROM THE RECORD OF SURVEY BY JOSEPH R. BENNIE WHICH WAS FILED FOR RECORD IN VOLUME 14 OF LLS MAPS PAGE 22 ON APRIL 24, 1992, SAN MATEO COUNTY RECORDS.

BENCHMARK

ELEVATIONS SHOWN HEREON ARE BASED UPON NAVD 88 DATUM.

NOTES:

BGT RELIED UPON AN OLD REPUBLIC TITLE COMPANY PRELIMINARY TITLE REPORT, ORDER NO. 0373003764, AS TITLE REFERENCE FOR ALL EASEMENTS PLOTTED HEREON.

UTILITIES SHOWN HEREON TAKEN FROM VISUAL SURFACE EVIDENCE AND SHOULD BE CONSIDERED AS APPROXIMATE ONLY. ACTUAL LOCATIONS OF UTILITIES MAY VARY. TRUE LOCATION OF UTILITIES CAN ONLY BE OBTAINED BY EXPOSING THE UTILITY.

BOUNDARY SHOWN HEREON IS RESOLVED.

TREE LOCATIONS SHOWN HEREON ARE SHOWN SYMBOLICALLY WITH SYMBOL SIZES BASED UPON TRUNK DIAMETER AT CHEST HEIGHT, AT THE LOCATION WHERE THE TREE ENTERS THE GROUND SURFACE. LOCATIONS AND SIZES OF TREE TRUNKS CAN ONLY BE CONSIDERED APPROXIMATE UNLESS OTHERWISE STATED ON THE MAP. TREES OF TRUNK DIAMETER SIZES OF 6 INCHES OR GREATER WERE LOCATED BY THE FIELD CREW.

SURVEY PERFORMED BY: BGT LAND SURVEYING
www.bgtlandsurveying.com

DATE OF FIELD SURVEY: JANUARY 13, 2015
JOB NUMBER: 14-232

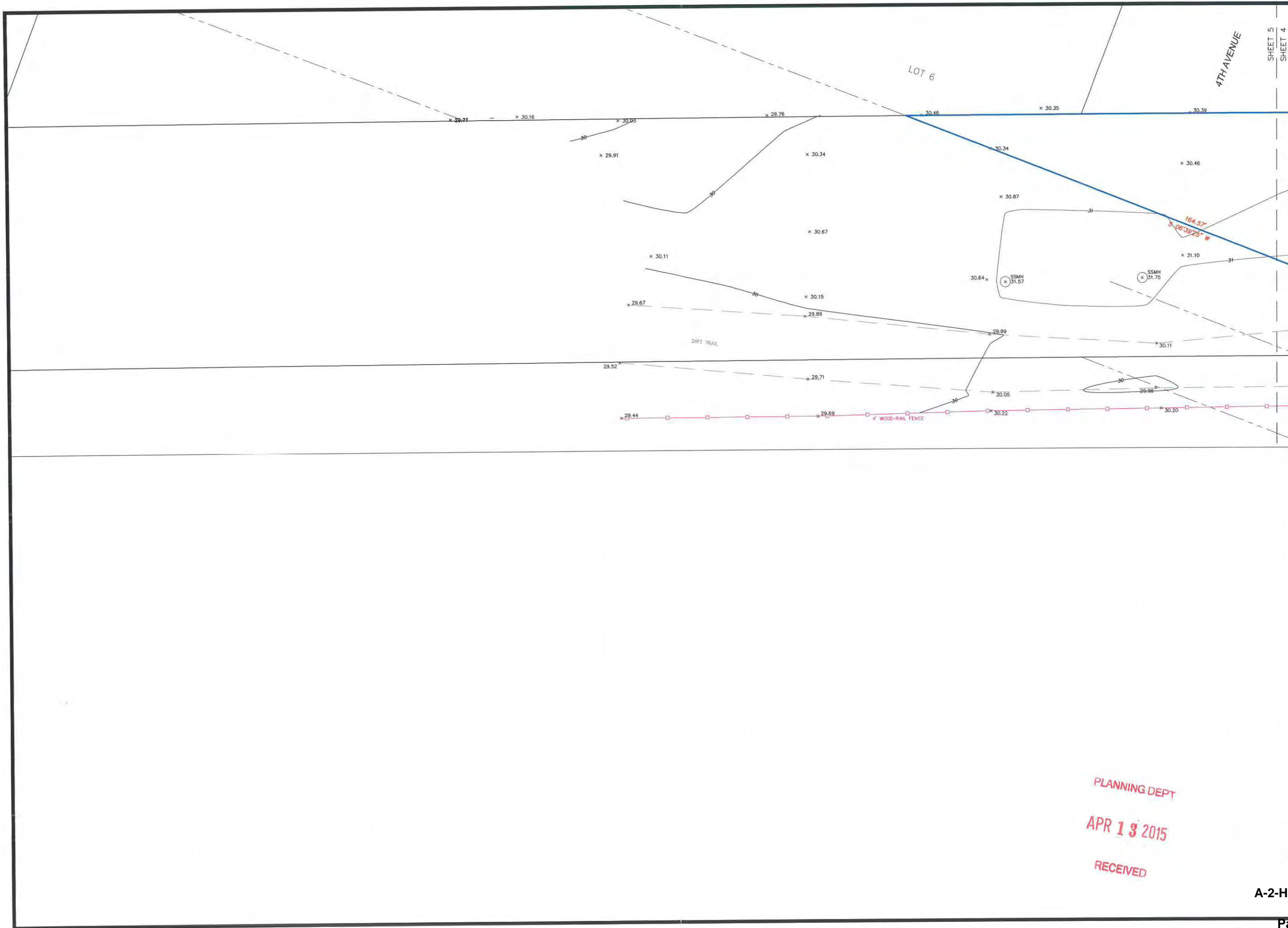
VICINITY MAP



PLANNING DEPT
 APR 13 2015
 RECEIVED

PDP-15-032
 PLANNING
 COMMISSION
 APPROVED
 03/26/15
 DATE
 P.13-15
 SIGNATURE

SU-11
 A-2-HMB-15-0040
 EXHIBIT 3



Assessor Parcel Number:
056-048-020

Prepared For:
JACK HAMILTON
1390 RIVER PARK BLVD.
NAPA, CA 94559

TENTATIVE PARCEL MAP
PORTION OF THE LANDS OF HAMILTON PER 14 LLS 22
VACANT, KELLY AVENUE
HALF MOON BAY, COUNTY OF SAN MATEO, CALIFORNIA

PLANNING DEPT
APR 13 2015
RECEIVED

Date: FEB. 2015
Scale: 1" = 10'
Contour Interval: 1'
Drawn: LHL

Drawing Number:
SU-1.5
A-2-HMB-15-0040
SHEET 5 OF 5
EXHIBIT 3

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5290
FAX (415) 904-5400
TDD (415) 597-5885



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: *Please see Attached*

Mailing Address:

City:

Zip Code:

Phone:

SECTION II. Decision Being Appealed

1. Name of local/port government: *City of Half Moon Bay*

2. Brief description of development being appealed:
CDA and Tentative Parcel Map for subdivision of a 90,114 sq. ft. parcel into two parcels of 80,448 sq. ft. and 9,660 sq. ft.

3. Development's location (street address, assessor's parcel no., cross street, etc.):
*135 Kelly Avenue, Half Moon Bay
APN 056-048-020*

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.

<u>TO BE COMPLETED BY COMMISSION:</u>	
APPEAL NO:	_____
DATE FILED:	_____
DISTRICT:	_____

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

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

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

6. Date of local government's decision: May 26, 2015

7. Local government's file number (if any): PDP-15-032

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:

Jack Hamilton
1390 River Park Blvd.
Napa, CA
94559

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) please see City Files for addresses of the following people who testified:

Neal O' Sullivan
Michael Midolo
Edward Burfine
Tim Bitts
Julie Mulhenry

(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.

please see Attached

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

SECTION V. Certification

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

Please see Attached

Signature of Appellant(s) or Authorized Agent

Date: _____

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date: _____

Appeal of PDP-15-032: Coastal Development Permit and Tentative Parcel Map for subdivision of a 90,114 sq. ft. parcel into two parcels of 80,448 sq. ft. and 9,660 sq. ft. Location: 135 Kelly Avenue, Half Moon Bay, APN: 056-048-020.

Owner/Applicant: John and Linda Hamilton/Jack Hamilton

Appellant Information and Certification

The information provided and facts stated above are correct to the best of our knowledge:

(s) Lennie Roberts (date) June 24, 2015

Lennie Roberts, Legislative Advocate

Committee for Green Foothills

339 La Cuesta Drive, Portola Valley, CA 94028

Phone: 650-854-0449

Email: lennie@darwin.ptvy.ca.us

(s) Michael J. Ferreira (date) June 24, 2015

Michael J. Ferreira, Conservation Chair

Loma Prieta Chapter, Sierra Club

3921 East Bayshore, Palo Alto, CA 94303

Phone: 650-563-4030

Email: michaeljferreira@gmail.com

(s) James Benjamin (date) 24 June 2015

James Benjamin

400 Pilarcitos Avenue

Half Moon Bay, CA 94019

Phone: 650-713-0186

Email: jamben@pacbell.net

Reasons for Appeal – PDP-15-032: Coastal Development Permit and Tentative Parcel Map for subdivision of a 90,114 sq. ft. parcel into two parcels of 80,448 sq. ft. and 9,660 sq. ft. Location: 135 Kelly Avenue, APN: 056-048-020

The City's Staff Report and approval by the Planning Commission (4-1) failed to analyze, did not have sufficient information, and/or was inconsistent with Coastal Act and HMB LUP Policies as detailed below:

1. The proposed project's impacts to Kelly Avenue, a designated beach access route, have not been adequately addressed or mitigated as required by LUP Policies 10-34, 2-15 and 10-32.

Kelly Avenue is a primary Beach Access Route (LUP Policy 2-15) to Half Moon Bay State Beach, and per LUP Policy 10-34, the CDP should have included analysis as to whether access to the two new parcels on the subject property can be feasibly limited to an alternative access, i.e., from Balboa Avenue rather than Kelly Avenue. Condition 3 impermissibly defers details as to what specific improvements or financial contributions to on-site or off-site street improvements are required, including curb, gutter, sidewalk, and/or widening of Kelly Avenue.

LUP 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.

LUP Policy 2-15: Designate, sign and improve, as primary Beach Access Routes to the State Beach the following streets as shown on the Land Use Plan Map....Kelly.

LUP Policy 10-32: The City shall require, as a condition of approved private development, the improvement or financial participation in the improvement of all primary and secondary beach access routes indicated on the Land Use Plan Map where development is permitted adjacent to such access route or is served by it.

2. The cumulative traffic impacts from the proposed project, in addition to other approved, planned, or anticipated projects, have not been adequately analyzed and/or mitigated.

The City's approval of the Tentative Parcel Map failed to address the cumulative impacts of the subdivision on the public's ability to access the coast. In combination with other projects likely to occur over the next 25 years in the San Mateo County Mid-Coast/Half Moon Bay area, the proposed subdivision would result in significant adverse cumulative impacts to the already congested Highways 1 and 92, which are the only regional highways connecting the recreational resources of Half Moon Bay and the Midcoast communities to the larger Bay Area. The existing Intersection Level of Service (LOS) of the Highway 1/Kelly Avenue intersection is "D" during AM and PM peak hours as well as during the peak recreational hour (per Connect the Coastside Buildout Analysis and Traffic Projections Final Report, November 20, 2014 ("Report")). The Report projects that LOS at Highway 1/Kelly Avenue

intersection will fall to "F" during peak recreational periods at buildout (assumed to be 2040). The same Report found that existing LOS for highway segments between Main Street and Skyline Boulevard on Highway 92 is already at "E" during peak morning and afternoon commute hours as well as during peak recreational periods. At buildout the LOS on Highway 92 will fall to "F" between Skyline Boulevard (at the "top of the hill") and SR 35 by Crystal Springs Lake during peak afternoon commute hours and peak recreational periods. There are similar LOS deficiencies on Highway One in Half Moon Bay and the Midcoast, according to the Report.

Approval of the project absent mitigation was inconsistent with LUP Policy 10-25 which establishes Service Level E as acceptable during peak commute hours and peak recreational hours, as its additional traffic would contribute to unacceptable LOS at buildout.

The City's LUP contains other policies that require adequate road or highway facilities to serve new development, and require that such facilities be protected for priority uses such as public access and recreation (see Policies 9-2, 9-4, and 10-4). These LUP policies carry out the requirements of Coastal Act Sections 30250(a) and 30252, which the City has also adopted as part of its LUP.

Previously approved subdivisions including Ailanto/ Pacific Ridge (A-1-HMB-99-022-A-1), Carnoustie (A-2-HMB-07-034), and Gibraltar Capital (A-2-HMB-12-011) have been approved either by the City or Coastal Commission with requirements to retire an equivalent number of lots to those being created, or to pay a traffic mitigation fee to offset the cumulative impacts of new traffic generated by those subdivisions. There was nothing in the public record for this project that addressed lot retirement. As with the aforementioned subdivisions, the proposed project should be required to mitigate its additional traffic.

3. The City's approval failed to include a specific Finding that the proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act (per PRC Section 30604(c)).

4. The City's approval failed to analyze the proposed project's compliance with LUP Policies requiring land dedication or an in-lieu fee contribution to assure adequacy of recreation and park facilities, per LUP Policy 2-35. Nor were there any Conditions of Approval that address this requirement.

LUP Policy 2-35: Continue the existing policy of requiring land dedications or in-lieu fee contributions to assure adequacy of recreation and park facilities to meet the demand generated by new developments. Modify the existing Dedication Ordinance to assure that contributed fees are equivalent in value to lands which would otherwise be required by basing the fees on the equivalent fair market value of the land which would otherwise be dedicated.

5. The City's approval failed to analyze possible prescriptive rights on the subject property, or require dedication of land to ensure that this use will be accommodated, per IP Section 18.40.050.B.3.

A significant portion of the subject property north of Balboa Avenue is used (and has historically been used) as a popular equestrian and pedestrian trail. The Staff Report did not evaluate this existing use by the public, determine whether rights of access by the public may have been acquired through use over time, or require dedication of land or other methods to ensure that this public use will remain.

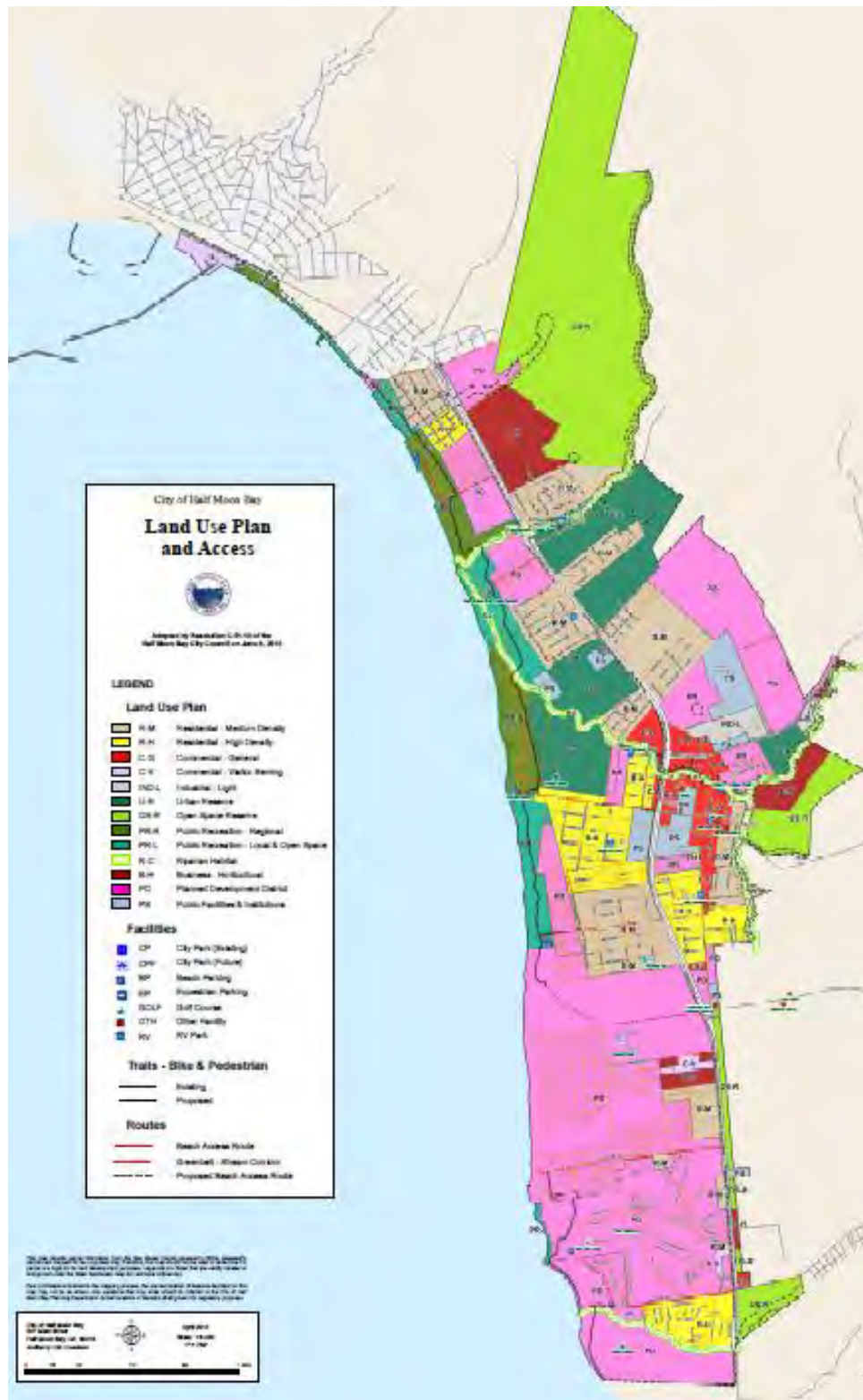
6. The City's approval failed to address potential environmental impacts, including cumulative adverse impacts, from the proposed land division. The City's approval improperly concluding that the proposed project is Categorically Exempt per Section 15315, Class 15, Minor Land Divisions: "...in that the project consists of the division of land into four or fewer parcels in an urbanized area zoned for residential use..." (Staff Report, page 5). Only 9,666 sq. ft. of the total 90,114 sq. ft. area of the parcel is putatively zoned for residential use; the other 90% is zoned U-R Urban Reserve and OS-A Open Space-Active. Consequently the parcel does not qualify as an "urbanized area" and the CEQA exemption is not applicable.

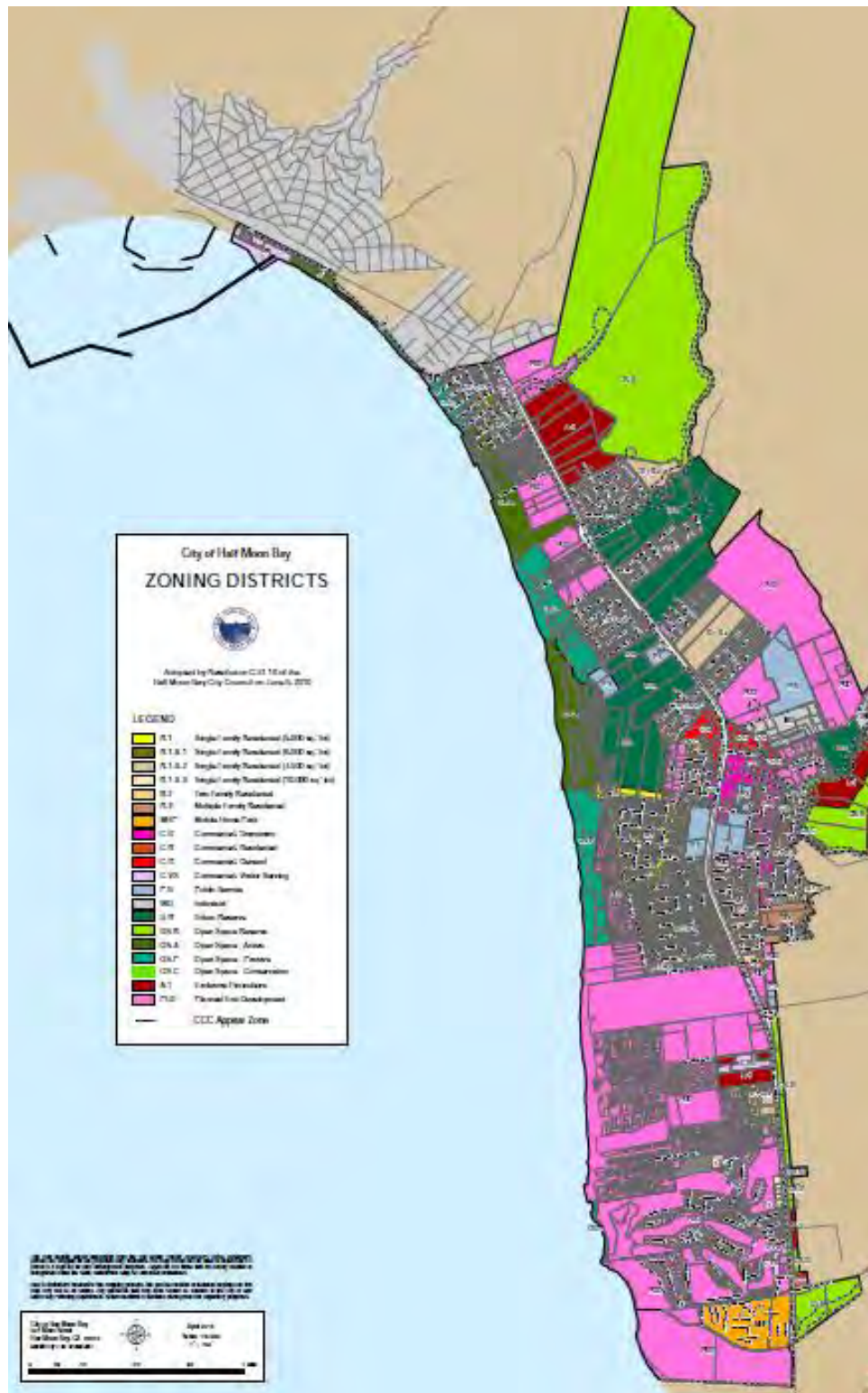
Appellants note that the portion of Railroad Avenue that is the subject of this proposed subdivision has several unique features that need further addressing.

For one, it is the only parcel within the City of Half Moon Bay containing 3 different zoning classifications within its boundaries: Open Space Active (OS-A), Urban Reserve (U-R), and Residential (R-1). The proposed subdivision of this Railroad Avenue parcel by the City appears to be conceding that the original intention of the R-1 zoning was to create a housing entitlement without benefit of subdivision rather than simply including it generally in a zoning district — much the same as Kelly Avenue, all other streets in the area and the long stretch of Railroad Avenue to the south are also shown as R-1.

For another, as to the latter point, the City's staff report does not discuss or disclose that the preponderance of the R-1 zoned portion of Railroad Avenue south of Kelly Avenue is the property of the City of Half Moon Bay and subject to 2 separate conservation easements. These properties were purchased with \$1,500,000 provided by special State of California budgetary legislation signed by then-Governor Gray Davis and with local funding contributions of approximately \$800,000 — the majority of which was provided by the City of Half Moon Bay. Obviously, there are public policy aspects of this proposed subdivision that remain unexamined.

The City of Half Moon Bay required an onerous appeal fee of \$1,950 that quelled the Appellants' desire for a local appeal to the City Council and thus the opportunity for a duly noticed local public hearing to fully air the long-standing public controversy over parcel legality and eligibility for development of the Railroad Avenue Right of Way throughout the City as well as other issues of the project's conformity with the certified LCP and Coastal Act as outlined above.





Chapter 18.40 LOCAL COASTAL PROGRAM PUBLIC ACCESS

Sections:

- [18.40.010](#) Purpose and intent.
- [18.40.020](#) Definitions.
- [18.40.030](#) Applicability.
- [18.40.040](#) Standards for application of access conditions.
- [18.40.050](#) Public access dedication findings and support.
- [18.40.060](#) Review of recorded access documents.

18.40.010 Purpose and intent.

The purpose and intent of this local coastal program public access chapter is:

- A. To achieve the basic state goals of maximizing public access to the coast and public recreational opportunities, as set forth in the California Coastal Act codified at Sections 30000 through 30900 of the California Public Resources Code. Section 30001.5 (c) states that public access both to and along the shoreline shall be maximized consistent with sound resource conservation principles and constitutionally protected rights of private property owners;
- B. To implement the public access and recreation policies of Chapter 3 of the Coastal Act (Sections 30210--30255); and
- C. To implement the certified land use plan of the local coastal program which is required by Section 30500(a) of the act to include a specific public access component to assure that maximum public access to the coast and public recreation areas is provided;
- D. In achieving these purposes, this chapter shall be given the most liberal construction possible so that public access to the navigable waters shall always be provided and protected consistent with the goals, objectives and policies of the California Coastal Act and Article X, Section 4, of the California Constitution. (1996 zoning code (part)).

18.40.020 Definitions.

As used in this chapter:

- A. "Development" means, on land, in or under water, the placement or erection of a solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; change in density or intensity of use of land, including but not limited to, subdivisions pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water; or access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private or public or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes; kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'bergNejedly Forest Practice Act of 1973 (commencing with Section 4511).
- B. "Structure" means and includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.
- C. New Development. For purpose of implementing the public access requirements of Public Resources Code Section 30212 and of this chapter, "new development" includes "development" as defined above except the following:

A-2-HMB-15-0040

EXHIBIT 6

Page 1 of 10

1. Structures Destroyed by Natural Disaster. The replacement of any structure, other than a public works facility, destroyed by a disaster; provided that the replacement structure conforms to applicable existing zoning requirements, is for the same use as the destroyed structure, does not exceed either the floor area, height, or bulk of the destroyed structure by more than ten percent, and is sited in the same location on the affected property as the destroyed structure. As used in this section, "disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of the owners.

2. Demolition and Reconstruction. The demolition and reconstruction of a single-family residence; provided that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than ten percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

3. Improvements. Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height or bulk of the structure by more than ten percent, which do not block or impede access and which do not result in a seaward encroachment by the structure.

4. Repair and Maintenance. Repair or maintenance activity which, pursuant to Public Resources Code Section 30610, requires no permit unless the activity will have an adverse impact on lateral public access along the beach.

5. Reconstruction and Repair. The reconstruction or repair of any seawall; provided that the reconstructed or repaired seawall is not seaward of the location of the former structure. As used in this section, "reconstruction or repair" of a seawall shall not include replacement by a different type of structure or other modification in design or construction which results in different or greater impacts to shoreline resources than those of the existing structure.

D. "Sea" means the Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, creeks, and flood control and drainage channels.

E. Types of Public Access and Recreation. The following defines the types of public access required by this chapter:

1. Lateral public access provides public access and use along or parallel to the sea.

2. Bluff top access provides public access and coastal viewing along a coastal bluff top area.

3. Vertical access provides a public access connection between the first public road, trail, or public use area nearest the sea and the publicly owned tidelands or established lateral access.

4. Trail access provides public access along a coastal recreational path, including to and along lakes, rivers, streams, freshwater marshes, significant habitat and open space areas or similar resource areas, and which also may link inland recreational facilities to the shoreline.

5. Recreational access provides public access to coastal recreational resources through means other than those listed above, including but not limited to parking facilities, viewing platforms and bluff top parks.

F. Character of Access Way Use. The following defines the character of access way use established by this chapter:

1. Pass and repass refers to the right of the public to walk and run along an access way. Because this use limitation can substantially restrict the public's ability to enjoy adjacent publicly owned tidelands by restricting the potential use of lateral access ways, it will be applied only in connection with vertical access or other types of access where the findings required by Sections [18.40.050\(A\)\(1\)](#) through (4) and [18.40.050\(D\)\(1\)](#)

A-2-HMB-15-0040

EXHIBIT 6

Page 2 of 10

through (6) establish that the limitation is necessary to protect natural habitat values, topographic features (such as eroding bluffs), or privacy of the landowner.

2. Passive recreational use refers to the right of the public to conduct activities normally associated with beach use, such as walking, swimming, jogging, sunbathing, fishing, surfing, picnicking, but not including organized sports, campfires, or vehicular access other than for emergencies or maintenance.

3. Active recreational use refers to the right of the public to conduct the full range of beach-oriented activities, not including horseback riding and use of motorized vehicles unless specifically authorized. (1996 zoning code (part)).

18.40.030 Applicability.

A. Access Required. As a condition of approval and prior to issuance of a permit or other authorization for any new development identified in subsections (A)(1) through (4) of this section, except as provided in subsections (B)(1) through (3) of this section, an offer to dedicate an easement or other legal mechanism pursuant to Section [18.40.040](#)(J)(2) for one or more of the types of access identified in Section [18.40.020](#)(D)(1) through (5) shall be required and shall be supported by findings required by Section 18.40.050A through C provided that no such condition of approval shall be imposed if the analysis required by Section [18.40.050](#)(A)(1) through (4) establishes that the development will not adversely affect, either individually or cumulatively, the ability of the public to reach and use public tidelands and coastal resources or that the access dedication requirements will not alleviate the access burdens identified.

1. New development on any parcel or location specifically identified in the land use plan or in the LCP zoning districts.

2. New development between the nearest public roadway and the sea.

3. New development on any site where there is substantial evidence of a public right of access to the sea acquired through use or a public right of access through legislative authorization.

4. New development on any site where a trail, bluff top access or other recreational access is necessary to mitigate impacts of the development on public access.

B. Exceptions. The requirements set forth above shall apply except in the following instances:

1. Projects excepted from the definition of "new development" in Section [18.40.020](#)(8)(1) through (5).

2. Where findings required by Sections [18.40.050](#)(A)(1) through (4) and [18.40.050](#)(B)(1) through (5) establish any of the following:

a. Public access is inconsistent with the public safety, military security needs, or protection of fragile coastal resources;

b. Adequate access exists nearby; or

c. Agriculture would be adversely affected.

3. Exceptions identified in subsection (B)(2)(b) of this section shall be supported by written findings required by Section [18.40.050](#)(C)(1) through (3) of this chapter. (1996 zoning code (part)).

18.40.040 Standards for application of access conditions.

A. Lateral Public Access. The public access required pursuant to Section [18.40.030](#) (A)(1) through (4) shall conform to all of the following standards and requirements set forth in this section:

1. Minimum Requirements. A condition to require lateral access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section [18.40.030](#)(A)(1) through (4) shall provide the public with the permanent right of lateral public access and passive recreational use along the shoreline (or public recreational area, bikeway, or bluff top area, as applicable); provided

A-2-HMB-15-0040

EXHIBIT 6

Page 3 of 10

that in some cases controls on the time, place, and manner of uses may be justified by site characteristics including sensitive habitat values or fragile topographic features, or by the need to protect the privacy of residential development. These minimum requirements are also to be used for bluff top access or trail access, as applicable.

2. Active Recreational Use. Active recreational use may be appropriate in many cases where the development is determined to be especially burdensome on public access. Examples include cases where the burdens of the proposed project would severely impact public recreational use of the shoreline, where the proposed development is not one of the priority uses specified in Public Resources Code Section 30222, where active recreational uses reflect the historic public use of the site, where active recreational uses would be consistent with the use of the proposed project, and where such uses would not significantly interfere with the privacy of the landowner. In determining the appropriate character of public use, findings shall be made on the specific factors enumerated in Section [18.40.050](#)(B)(1) through (5). Lateral access shall be legally described as required in subsections (G)(1) through (3) of this section.

B. Vertical Public Access--Minimum Requirements.

1. A condition to require vertical public access as a condition of approval of a coastal development permit or other authorization to proceed with development pursuant to Section [18.40.030](#)(A)(1) through (4) shall provide the public with the permanent right of access as follows:

a. Located in specific locations identified in the certified local coastal program for future vertical access, or

b. Located in a site for which the local government has reviewed an application for a development permit and has determined a vertical access way is required pursuant to the access and recreation policies of the Coastal Act or the applicable provisions of the local coastal program.

2. A condition to require vertical access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section [18.40.030](#)(A)(1) through (4) shall provide the public with the permanent right of vertical access and be limited to the public right of passive recreational use unless another character of use is specified as a condition of the development. In determining whether another character of use is appropriate, findings shall be made on the specific factors identified in Section [18.40.050](#)(B)(1) through (5).

3. Each vertical access way shall extend from the road to the shoreline (or bluff edge) and shall be legally described as required in subsections (G)(1) through (3) of this section. The access easement shall be a minimum of ten feet wide. If a residential structure is proposed, the access way should not be sited closer than ten feet to the structure.

C. Bluff Top Access--Minimum Requirements.

1. A condition to require public access along a bluff top as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section [18.40.030](#)(A)(1) through (4) shall provide the public with the permanent right of scenic and visual access from the bluff top to the public tidelands.

2. The bluff top access shall be limited to passive recreational use and coastal viewing purposes unless another character of use is specified as a condition of development. In determining the appropriate character of use findings shall be made on the specific factors identified in Section [18.40.050](#)(B)(1) through (5).

3. Each bluff top access way shall be described in the conditions of approval of the coastal development permit as an area beginning at the current bluff edge extending fifty feet inland, or a different standard, greater or lesser as determined to be necessary for public safety or geologic stability. However, the access way shall not extend any closer than ten feet from an occupied residential structure. Due to the potential for

erosion of the bluff edge, the condition shall include a mechanism that will cause the access way to be adjusted inland as the edge recedes. Any permanent improvements should be set back from the access way by a distance derived by multiplying the annual rate of bluff top retreat by the life expectancy in years of the improvements.

4. The access way shall be legally described as required in subsections (G)(1) through (3) of this section, with the furthest inland extent of the area possible referenced as a distance from a fixed monument in the following manner:

Such easement shall be _____ feet wide located along the bluff top as measured inland from the daily bluff edge. As the daily bluff top edge may vary and move inland, the location of this right of way will change over time with the then current bluff edge, but in no case shall it extend any closer than _____ feet from _____ (a fixed inland point such as the centerline of a public road or other easement monument).

D. Trail Access--Minimum Requirements.

1. A condition to require public access as a condition of approval of a coastal development permit (or other authorization to proceed with development) required pursuant to Section [18.40.030](#)(A)(1) through (4) shall provide the public with the permanent right of access and active recreational use as follows:

a. Along a designated alignment of a coastal recreational path or trail in specific locations identified in the LCP for implementation of trail access; or

b. In locations where it has been determined that a trail access is required to link recreational areas to the shoreline or provide alternative recreation and access opportunities pursuant to the access and recreation policies of the LCP and Coastal Act, consistent with other provisions of this chapter. In determining if another character of use is appropriate, findings shall be made on the specific factors enumerated in Section [18.40.050](#)(B)(1) through (5). The trail access shall be legally described as required by subsections (G)(1) through (3) of this section.

E. Recreational Access--Minimum Requirements. A condition to require public recreational access as a condition of approval of a coastal development permit (or some other authorization to proceed with development) required pursuant to subsections (A)(1) through (4) of this section, shall provide the public with the permanent right of access and use within a designated recreational access area. Conditions required pursuant to this section shall specify the location and extent of the public access area. The form and content should take the form of requirements in subsections (A)(1) through (D)(1)(a) and (b) of this section as applicable. The access way shall be legally described as required in subsections (G)(1) through (3) of this section.

F. Protection of Historic Public Use.

1. Substantial Evidence Determination. Substantial evidence that the area used by the public has been impliedly dedicated shall be determined based on evidence of all of the following:

a. The public must have used the land for a period of five years or more as if it were public land;

b. Without asking for or receiving permission from the owner;

c. With the actual or presumed knowledge of the owner;

d. Without significant objection or bona fide attempts by the owner to prevent or halt the use; and

e. The use must be substantial, rather than minimal; and

f. The applicant must not have demonstrated that the law has prevented the property from being impliedly dedicated.

2. Findings. Where an issue as to the existence of public prescriptive rights has been raised during the course of reviewing a coastal development permit application, one of the following findings shall be made:

- a. Substantial evidence does not warrant the conclusion that public prescriptive rights exist;
- b. Substantial evidence of public prescriptive rights exist but development will not interfere with those rights;
- c. There is an unresolved controversy as to the existence of public prescriptive rights which requires denial of a coastal development permit because of interference with those rights;
- d. There is an unresolved controversy as to the existence of public prescriptive rights, but the applicant's dedication of a public access protects the rights of the public and allows an agreement to accept the actual dedication in exchange for giving up the contested claim of implied dedication.

3. Siting and Design Requirements. Development shall be sited and designed in a manner which does not interfere with or diminish any public right of access which may have been established based on historic public use. Only when site constraints are so severe that siting of the access way of recreational use area in its historic location would significantly impair the proposed development and alternative development siting is not feasible, development may be sited in the area of public right of access based on historic use provided that the applicant provides an equivalent area of public access or recreation to and along the same destination and including the same type and intensity of public use as previously existed on the site. Mechanisms for guaranteeing the continued public use of the area or equivalent area shall be required in accordance with subsections A through E of this section.

4. Minimum Requirements. An access condition shall not serve to extinguish or waive public prescriptive rights. In permits where evidence shows the possibility of such prescriptive rights, the following language shall be added to the access condition:

Nothing in this condition shall be construed to constitute a waiver of any prescriptive rights which may exist on the parcel itself or on the designated easement.

G. Legal Description of an Access Way--Recordation.

1. An access dedication required pursuant to Section [18.40.030\(A\)\(1\)](#) through (4) shall be described in the condition of approval of the permit or other authorization for development in a manner that provides the public, the property owner, and the accepting agency with the maximum amount of certainty as to the location of the access way. As part of the condition of approval, easements shall be described as follows:

- a. For lateral access: along the entire width of the property from the mean high tide line to (as applicable): the toe of the bluff, the toe of the seawall, or other appropriate boundary such as string-line or drip-line;
- b. For bluff top access or trail access: extending inland from the bluff edge or along the alignment of a recreational trail;
- c. For vertical access: extending from the road to the shoreline (or bluff edge). A privacy buffer provided pursuant to subsection I of this section shall be described, as applicable.

2. Prior to the issuance of the coastal development permit or other authorization for development, the landowner shall execute and record a document in a form and content acceptable to the Coastal Commission or the city, consistent with provisions of Section 18.40.060A through E of this chapter, irrevocably offering to dedicate to a public agency or private association approved by the Coastal Commission an easement for a specific type of access as described in Section [18.40.020\(D\)\(1\)](#) through (5) and a specific character of use as described in Section [18.40.020\(E\)\(1\)](#) through (3), as applicable to the particular conditions.

3. The recorded document shall provide that the offer to dedicate shall not be used or construed to allow anyone, prior to acceptance of the dedication, to interfere with any rights of public access acquired through use which may exist on the property.

4. The recorded document shall include legal descriptions of both the applicant's entire parcel and the casement area and a map to scale. The offer shall be recorded free of prior liens and any other encumbrances which the Coastal Commission or the city determines may affect the interest being conveyed. The offer to dedicate shall run with the land in favor of the people of the state of California, binding all successors and assignees, and shall be irrevocable for a period of twenty-one years, such period running from the date of recording.

H. Management Plan Minimum Requirements. A management plan may be required in conjunction with a dedication of public access in any case where there is substantial evidence of potential conflicts between public access use and other uses on or immediately adjacent to the site. Examples include access in areas of sensitive habitats, agricultural resources, or significant hazards, or adjoining residential neighborhoods or military security areas. The plan shall be prepared by the accepting agency and approved by the city prior to the opening of the access to public use. Where applicable, the plan should specify management controls on time and intensity of use, standards for privacy buffers, and requirements for maintenance of aesthetic values through such measures as litter control.

I. Privacy Buffers Minimum Requirements. Separation between a public access way and adjacent residential use may be provided when necessary to protect the landowner's privacy or security as well as the public's right to use of the access way. Any such buffer shall be provided within the development area. Access should not be sited closer to any residential structure than ten feet. The buffer can be reduced where separation is achieved through landscaping, fences or grade separation.

J. Implementation.

1. A dedicated access way shall not be required to be opened to public use until a public agency or private association approved in accordance with subsections (G)(1) through (3) of this section agrees to accept responsibility for maintenance and liability of the access, except in cases where immediate public access is implemented through a deed restriction.

2. In any case where the size and character of a development would impose very substantial burdens on public access, such as a large resort development on the shoreline, and where the applicant has the capacity to operate and maintain the access way or recreation area, a deed restriction may be required instead of an offer to dedicate in order to assure immediate public use of the area and maintenance of the area by the applicant and successors in interest. In any such case, all other applicable provisions of this ordinance shall apply.

3. Access facilities constructed on access easements (e.g., walkways, paved paths, boardwalks, etc.) should be no wider than necessary to accommodate the numbers and types of users that can reasonably be expected. Width of facilities can vary for ramps or paved walkways, depending on site factors.

K. Title Information. As a requirement for any public access condition, prior to the issuance of the permit or other authorization for development, the applicant shall be required to furnish a title report and all necessary subordination agreements. Title insurance may also be required where easements are being granted. The amount of insurance shall reflect the estimated cost to acquire an equivalent access way or recreational use elsewhere in the vicinity. All offers shall be made free of all encumbrances which the approving authority pursuant to subsections (G)(1) through (3) of this section determines may affect the interest being conveyed. If any such interest exists which could erase the access easement, it must be subordinated through a written and recorded agreement. (1996 zoning code (part)).

18.40.050 Public access dedication findings and support.

A. Required Overall Findings. Written findings of fact, analysis and conclusions addressing public access must be included in support of all approvals, denials or conditional approvals of projects between the first public road and the sea (whether development or new development) and of all approvals or conditional approvals of projects (whether development or new development) where an access dedication is included in the project proposal or required as a condition of approval. Such findings shall address the applicable factors identified by Section [18.40.050](#) (B)(1) through (5) and shall reflect the specific level of detail specified, as applicable. Findings supporting all such decisions shall include:

1. A statement of the individual and cumulative burdens imposed on public access and recreation opportunities based on applicable factors identified pursuant to Section [18.40.050](#)(B)(1) through (5). The type of affected public access and recreation opportunities shall be clearly described.
2. An analysis based on applicable factors identified in Section [18.40.050](#)(B)(1) through (5) of the necessity for requiring public access conditions to find the project consistent with the public access provisions of the Coastal Act.
3. A description of the legitimate governmental interest furthered by any access condition required.
4. An explanation of how imposition of an access dedication requirement alleviates the access burdens identified and is reasonably related in nature and extent.

B. Required Project--Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (3)(1) through (5) of this section, to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the dedication will alleviate or mitigate the adverse effects which have been identified and is reasonably related to those adverse effects in both nature and extent. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.

1. Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project's effects upon existing public access and recreation opportunities. Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out. Projection of the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project's cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities.

2. Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to

A-2-HMB-15-0040

EXHIBIT 6

Page 8 of 10

shoreline processes and beach profile unrelated to the proposed development.

Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas.

3. **Historic Public Use.** Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, bluff top, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvement made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use).

4. **Physical Obstructions.** Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline.

5. **Other Adverse Impacts on Access and Recreation.** Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent to which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.

C. **Required Findings for Public Access Exceptions.** Any determination that one of the exceptions of Section [18.40.030\(B\)\(2\)\(a\)](#) through (c) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:

1. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be projected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable.

2. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected.

3. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.

D. **Findings for Management Plan Conditions.** Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:

1. Identification and protection of specific habitat values including the reasons supporting the conclusion that such values must be protected by limiting the hours, seasons, or character of a public use.

2. Topographic constraints of the development site.

3. Recreational needs of the public.

4. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development.
5. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access.
6. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use. (1996 zoning code (part)).

18.40.060 Review of recorded access documents.

The following standards and procedures shall apply when reviewing access documents prior to recordation:

A. Upon final approval of a coastal development permit or other authorization for development, and where issuance of the permit or authorization is conditioned upon the applicant recording a legal document which restricts the use of real property or which offers to dedicate an interest in land for public use, a copy of the permit conditions, findings of approval and drafts of any legal documents proposed to implement the conditions shall be forwarded to the California Coastal Commission for review and approval prior to the issuance of the permit. The standards of review and approval by the Coastal Commission shall be the legal adequacy of the document to carry out the purposes of the permit conditions or certified land use plan; the uniform application of the document with other documents required throughout the coastal zone; and the document's consistency with the requirements of potential participating agencies. If requested, and if provided with copies of the permit conditions, findings and the applicant's name, address and telephone number, the Coastal Commission will prepare the documents and forward copies to the city for processing.

B. The Coastal Commission shall have fifteen working days from the receipt of the documents where review is requested and thirty working days where preparation is requested to complete the review or preparation and notify the applicant and city of recommended revisions, if any.

C. If the city does not receive notification of the inadequacy of documents it has prepared within the fifteen working day period, the documents are deemed approved and the permit may be issued upon proof that the documents have been recorded free of prior liens and encumbrances which the executive director determines may affect the interest being conveyed, in accordance with the provisions of the certified local coastal program.

D. Where the Coastal Commission prepares the legal documents, the city may issue the permit after the thirty day preparation period has expired, or the applicant has signed a document that meets the standards of this section, and the document has been recorded free of prior liens and encumbrances which the executive director determines may affect the interest being conveyed, in accordance with the provisions of the certified local coastal program.

E. Where revisions are required to meet the standards of this section, the permit shall not be issued until the local government has been notified that all issues of adequacy, uniformity and consistency have been resolved and the document has been recorded free of prior liens and encumbrances, in accordance with the provisions of the certified local coastal program. (1996 zoning code (part)).

From: [Jimmy Benjamin](#)
To: [Rexing, Stephanie@Coastal](#)
Cc: ["Mike Ferreira"](#); ["Lennie Roberts"](#); [Cave, Nancy@Coastal](#); [Carl, Dan@Coastal](#)
Subject: Appeal A-2-HMB-15-0040 -- supporting the recommendation of Commission staff
Date: Thursday, August 06, 2015 3:09:51 PM

Item F7a

Support CCC Staff Recommendation

Dear Chair Kinsey and Commissioners:

I cannot attend the Commission's Chula Vista meeting next week to speak on Appeal A-2-HMB-15-0040, and so I write to support your staff's recommendation for a finding of substantial issue and approval of subdivision with the added conditions presented in the 30 July 2015 Commission staff report.

If the coastal development permit includes the recommended special conditions, then this subdivision would protect coastal access (including the public's historical trail usage in the northern parcel), and would neither harm coastal resources nor adversely impact the farming on nearby prime agricultural soils, as required by policies in chapters 2, 3 and 8 of Half Moon Bay's Local Coastal Program and corresponding sections of the City's LCP Implementation Plan.

I urge the Commission to accept the recommendations of its staff, whom I thank for a thorough analysis of issues associated with this subdivision.

Respectfully,

James Benjamin, Appellant
400 Pilarcitos Avenue
Half Moon Bay, CA 94019



COMMITTEE FOR
GREEN FOOTHILLS



F7a

August 6, 2015

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

Item F7a
Support Staff Recommendation

Re: Item F7a: A-2-HMB-15-0040; Appeal of City of Half Moon Bay approval of Subdivision of one parcel into two parcels located in the R-1, U-R and OS-A Zoning Districts, 135 Kelly Avenue, Half Moon Bay; APN 056-048-020

Dear Chair Kinsey and Commissioners,

On behalf of Committee for Green Foothills and Loma Prieta Chapter, Sierra Club, Appellants of this project, we write in strong support of the staff recommendation for Finding that Substantial Issue Exists, and Approval with Conditions.

The proposed project is a subdivision of a portion of the historic Ocean Shore Railroad Right of Way. The northern portion of the property (proposed Parcel B) is zoned Urban Reserve (U-R) and Open Space-Active (OS-A). A large portion of Proposed Parcel B is currently used (and has been used historically) as an equestrian and pedestrian trail. The trail is clearly evident on aerial views, and was raised as an issue by Planning Commissioner Rick Hernandez at the May 26, 2015 Planning Commission meeting.

Absent conditions protecting this historic and current public recreational use, the proposed subdivision would not be not in conformity with the HMB LCP Section 18.40 and Coastal Act Chapter 3 public access and recreation policies.

We support Special Condition 2 that applies to the portion of Parcel B zoned Urban Reserve; development is restricted to facilities associated with agricultural use and allows limited recreational uses including trails, sufficiently buffered from agricultural operations to avoid adverse impacts to agriculture. Condition 2 is essential to ensure that the project is consistent with the Urban Reserve zoning.

We also support Special Condition 3 that applies to the portion of Parcel B zoned Open Space-Active; allowable uses include public trails, interpretive display, ancillary parking lots, rest rooms, benches, and other ancillary uses that are in conformance with the resource conservation standards of the HMB LCP. This condition is also essential to ensure that the project is consistent with the Open Space-Active zoning and that historic and current recreational uses are protected.

Approval of these Conditions will also ensure that the cumulative impacts of this land division, in conjunction with other divisions of land in Half Moon Bay and the urban Midcoast area, do not

exceed the capacity of Highways 1 and 92 to accommodate visitors during peak recreational periods. Already approved land divisions in the City (including Pacific Ridge, Carnoustie, and Gibraltar Capital) have required traffic mitigation. As conditioned, this project will not increase the potential for new residential development beyond the one currently allowable single-family residence, therefore no traffic mitigation would be required.

We commend the staff for its thorough review of this Appeal. Unfortunately, we are unable to attend your August meeting in person as Chula Vista is not a convenient or affordable meeting venue for hearing on items in the North Central District.

In conclusion, we urge your finding of Substantial Issue and approval with conditions per staff.

Sincerely,

Signature on file

Lennie Roberts, Legislative Advocate

Signature on file

Michael J. Ferreira, Conservation Chair
Loma Prieta Chapter, Sierra Club

August 10, 2015

Stephanie R. Rexing

Coastal Planner

California Coastal Commission

Re: **135 Kelly Avenue
Half Moon Bay, California**

Dear Ms. Rexing:

This letter is in regards to the staff recommendation for Finding that Substantial Issue exists and Approval with Conditions. As the applicant for the subdivision, I agree to the conditions stated in the staff recommendation.

Sincerely,

Jack Hamilton

Signature on file