

**CALIFORNIA COASTAL COMMISSION**

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Filed: March 1, 1999  
49th Day: April 19, 1999  
Staff: Jack Liebster  
Staff Report: March 31, 1999  
Hearing Date: April 16, 1999  
Commission Action:

STAFF REPORT: APPEALSUBSTANTIAL ISSUE

LOCAL GOVERNMENT: County of San Mateo

DECISION: Approval with Conditions

APPEAL NO.: A-1-SMC-99-014

APPLICANTS: **Judy Taylor and Linda Banks**

PROJECT LOCATION: 910 Ventura, El Grenada, San Mateo County, APN 047-293-050

PROJECT DESCRIPTION: Construction of a 1-story, 1,294-square-foot single-family modular home.

APPELLANTS: Garret Crispell; C. Morris Gaede; Barbara Mauz

SUBSTANTIVE FILE DOCUMENTS: San Mateo County Local Coastal Program; San Mateo County Coastal Development Permit No. CDP 98-0010.

SUMMARY OF STAFF RECOMMENDATION: NO SUBSTANTIAL ISSUE

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed, project incompatibility with neighborhood density and scale, because the appellants have not raised any substantial issue with the local government's action and its consistency with the certified LCP.

A large part of the appellants' concerns involve the potential consequences and impact of widespread development of substandard lots such as the one involved in this appeal. Such development could result in an unanticipated and unplanned level of buildout since the LCP's original buildout estimates did not take into account development of the substandard lots. The appellants have made a strong case that the LCP's shortcomings in this respect could result in serious impacts on community character, coastal resources and the existing and planned infrastructure capacities of the area. However, the Coastal Act limits this appeal to the much narrower issue of whether the appealed project, as approved by the County, raises issues of conformity with the certified LCP as it stands today. Thus, the staff concluded that concerns raised about the shortcomings of the existing LCP policies do not constitute valid grounds for an appeal.

Although the density of the approved house, as well as its mass and scale, may affect the appearance of a coastal neighborhood, it will not, in and of itself, significantly affect coastal resources and the appellants have not demonstrated that a substantial issue is raised regarding the conformance of the project as approved with the relevant LCP policies and standards. The project represents compatible infill in a developing subdivision. The LCP provides for approval of houses on substandard lots such as the subject parcel, pursuant to a use permit. In this case, a use permit was granted and the design of the house was modified to enhance compatibility of the house with the neighborhood. Furthermore, the County's approval of the house does not rise to a level of regional or statewide significance, and will not have great precedential value for interpretations for the LCP. For these reasons the staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal was filed.

The Motion to adopt the Staff Recommendation of No Substantial Issue is found on Page 4.

STAFF NOTES:

1. Appeal Process.

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

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff.

Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments, which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access and public recreation policies set forth in the Coastal Act.

The subject development is appealable to the Commission because it requires a use permit, and thus is a conditional use, rather than a principal permitted use.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. Unless it is determined that there is no substantial issue, the Commission would continue with a full public hearing on the merits of the project, which may occur at a subsequent meeting. If the Commission were to conduct a de novo hearing on the appeal, because the proposed development is between the first road and the sea, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program and with the public access and public recreation policies of the Coastal Act.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, the appellant and persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

2. Filing of Appeal.

The appellant filed an appeal (Exhibit 10) to the Commission in a timely manner on March 1, 1999, subsequent to the County's issuance of the Notice of Final Action, which was received in the Commission's offices on February 16.

Pursuant to Section 30261 of the Coastal Act, an appeal hearing must be set within 49 days from the date an appeal of a locally issued coastal development permit is filed. In accordance with the California Code of Regulations, on March 2, 1999, staff requested all relevant documents and materials regarding the subject permit from the County, to enable staff to analyze the appeal and prepare a recommendation as to whether a substantial issue exists. These materials were received on March 15, 1999.

**I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE**

Pursuant to Section 30603(b) of the Coastal Act and as discussed in the findings below, the staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal has been filed. The proper motion is:

**MOTION:**

I move that the Commission determine that Appeal No. A-1-SMC-99-014 raises NO substantial issue with respect to the grounds on which the appeal has been filed pursuant to Section 30603 of the Coastal Act.

Staff recommends a YES vote. To pass the motion, a majority vote of Commissioners present is required. Approval of the motion means that the County permit action is final and effective.

**II. FINDINGS AND DECLARATIONS.**

The Commission hereby finds and declares:

**A. APPELLANTS' CONTENTIONS**

The Commission received an appeal of the County of San Mateo's decision to approve the project from Garret Crispell, C. Morris Gaede, and Barbara Mauz. The project as approved by the County is a new one-story, 1,294-sq.-ft. home on a 25-foot-wide, 3,000-sq.-ft. legal nonconforming parcel in the El Granada area of northern San Mateo County.

The full text of the appellants' contentions as submitted to the Commission is included in Exhibit 10. This text, in turn, states additional contentions in part by referencing numerous documents that are part of the local record (Exhibits 11 – 13). Many of the contentions are

repeated in somewhat different form in the various referenced documents. For purposes of the analysis, staff has summarized and consolidated the contentions into general categories as discussed below.

The remaining contentions allege inconsistency with the County's existing LCP provisions regarding the local decision-making process, density, design and related zoning and use permit standards, and the protection of sensitive habitats.

### **1. Adequacy of the LCP Regarding Substandard Lots**

The first category addresses the appellants' contentions that place the appeal in a broader context that essentially concerns the adequacy of the existing LCP itself in addressing issues of areawide planning and cumulative impact .

"Broader issues regarding development on 25-foot lots have surfaced as a result of the proposed project... (Ex. 8, pg. 2, item 7)

"Approval of this project, as proposed, will create thousands of entitlements. This in turn will exacerbate a multitude of problems related to the existing infrastructure deficiencies... sub-standard lots are not included in the LCP build out numbers...[therefore] the assumptions and provisions of the LCP regarding build out, density, capacity, proportionality and design are not accurate and do not reflect the changing landscape of the Mid Coast Communities." (Ex. 7, pg.1)

"25 foot non-conforming lots have not been counted and included in the build out numbers. Policies regarding development on these non-conforming lots have not been certified by the Coastal Commission. Thus any permits issued are not in compliance with the Local Coastal Plan." (Ex. 8, pg. 2, item 6)

(See also Ex. 12, pg. 2, items 6 and 7)

### **2. Local Decision-Making Process**

The second category of contentions allege inconsistencies with the County 's existing LCP provisions regarding the local decision-making process.

"Applicant arranged (through Planning Commission staff) for the hearing to be scheduled without the knowledge of the assigned project planner who we contacted for information, as directed. This resulted in inadequate time to prepare a full and complete presentation. In addition, the hearing did not proceed as scheduled, resulting in Mr. Crispell having to leave without being able to present critical information to the Commission." (Ex. 8, pg. 2, item 1)

“Issues and concerns regarding potential drainage problems were sarcastically dismissed by a Commissioner as a ‘red herring.’ These problems are real and a matter of serious concern.” (Ex. 8, pg. 2, item 4)

“The applicant has cited 5th amendment constitutional issues regarding the ‘taking’ concept as authoritative grounds for approval by the County. Approval of the permits in question will establish precedents that will have far reaching consequences for the County. Until such time that the courts find that the ‘taking’ principle is applicable to this project, there is no factual basis for approval on legal or constitutional grounds.” (Ex. 8, pg. 2, item 8)

“The Board of Supervisors should initiate a full review by the County Counsel of the issues raised by this project and have these matters adjudicated in the federal courts before approving any further permits for development on 25-foot non-conforming lots.” (Ex. 8, pg. 2, item 9)

“The applicant has misrepresented the facts and engaged in activities that give the appellants good cause for concern that, as a result, special privilege is granted.” (Ex. 8, pg. 2, item 10)

“Finally, appellants have good cause for alarm due to our previous experience with County zoning and planning agencies during the J. L. Johnson saga. Our neighborhood was adversely impacted when a speculator/developer was allowed to trample the rights of the property owners and no one would act on our behalf until it was too late. We implore the Board to recognize our rights and act now to prevent irreparable harm to our neighborhood by denying the permits in question.” (Ex. 8, pg. 2, item 11)

(See also Ex. 12, pg. 1 and pg. 2, items 1,4, and 8-11)

### **3. Alternate Locations**

The third category of contentions allege inconsistencies of the project as approved with LCP provisions regarding alternate locations for the development.

“There are alternative properties where this project could be developed without harm to the neighborhood and sensitive coastal resources...The larger issues regarding the impact of development of 25 foot lots on density, parks, traffic, and visitor serving resources will remain but can be addressed in an orderly and proactive manner.” (Ex. 7, Section IV, pg.3)

#### 4. Density

The fourth category of contentions allege inconsistencies of the project as approved with LCP density requirements.

“Section 1.3 thru 1.5 of the LCP governs issues relevant to development patterns. 1.3 essentially says established patterns must preserve and protect the environmental features which form the unique natural setting of the community...”

“...the Community Plan govern[s] land use densities. Further development at the density levels represented by this project will result in a change from medium to high density residential. The potential impact on the coast from this outcome is obvious.”  
(Ex. 7, Section IV, pg.2)

#### 5. Design and Related Zoning and Use Permit Standards

##### a. Scale, Character and Proportionality

The fifth category of contentions allege inconsistencies of the project as approved with design and related zoning and use permit standards of the certified LCP, including neighborhood impacts and lot consolidation requirements.

“In the process of approving the USE and CDP permits...local government failed to enforce the letter and intent of the sections of the LCP that are based on sections 30210 through 30264 of the Coastal Act...” (Ex. 7, Section IV, pg.1)

“The County cites LCP Policy 8.13 in support of this project. It is accurate in its representation of the first three of the sections of the policy, but misses the intent of paragraph d:

*d. Design structures which are in scale with the character of their setting and blend rather than dominate or distract from the overall view of the urban scape.*  
(Ex. 11, pg.4)

“Sections 1.2, 4.1, 7.1, 7.2, 7.2(a) and (b), 7.3, 7.8, 7.11, 7.12 and 7.13 of the Local Community Plan detail the goals and objectives of the mid-coast area that includes Montara, Moss Beach, and El Granada. This project, as proposed, is incompatible with the scale and character of the neighborhood in which it is located. It does not comply with the design guidelines of the “Community Design Manual”. (Ex. 7, Section IV, pg.2)

“This project is in the “sphere of influence” of Half Moon Bay. Thus, policy issues of the Half Moon Bay LCP are equally applicable to the area in question. The proportionality

and floor area ratio standards addressed by Half Moon Bay are based on widely accepted and reasonable planning formulas. Following these guidelines, this project grossly exceeds the standards for non conforming lots. Philosophically, building guidelines call for small homes on small lots. **1325 Square feet with 49% lot coverage is not a small house.** The proportionality and floor area ratio formulas would limit the house on this lot to 900 square feet. Compliance with this standard would substantially mitigate the problems and concerns. Provided it also conformed to a standard front set back, complied with parking requirements (it does not comply now), and did not exceed the 35% lot coverage standard applicable to other homes in the area, the project would then be proportional and less injurious to existing homeowners. In its present form, this project even exceeds the standard established in urban areas over the hill." (Ex. 7, Section IV, pg.2-3)

b. Neighborhood Impacts

"Section 1.3 thru 1.5 of the LCP governs issues relevant to development patterns. As a result of the 50% lot coverage allowed, this project **will not...** [preserve and protect the environmental features which form the unique natural setting of the community]... Consequently, it does not qualify for a Coastal Development Permit." (Ex. 7, Section IV, pg.2)

"The proposed project will be detrimental to the public welfare and injurious to the property and improvements in the said neighborhood. The conditions imposed by the Zoning Hearing Officer and affirmed by the majority of the Planning Commissioners do not mitigate this fact." (Ex. 8, pg. 1)

"The siting and topography of the lot in question renders any development on this parcel detrimental to the surrounding property owners." (Ex. 8, pg. 2, item 2)

"The approved 5-foot front setback will result in irreparable harm to the adjoining property, and is out of character with the conforming properties in the immediate area." (Ex. 8, pg. 2, item 3)

"Other issues involving the historical use of said property, parking, infrastructure, and other factors that jeopardize the health and safety of the existing residents have not been adequately addressed." (Ex. 8, pg. 2, item 5)

(See also Ex. 12, pg. 1 and pg. 2, items 2, 3, and 5)

**6. Lot Consolidation**

“Another issue... involves the affirmative obligation to exhaust all potential means for merging sub-standard lots before considering development. Mr. Crispell made an attempt to purchase and merge this lot in 1997 (See Real Estate Purchase Contract.) Any claims of hardship by the applicants are fallacious as they knowingly and willfully prevented the desired merger which would have prevented all of the ensuing problems and potential harm to the neighbors and coastal area. Appellants were prevented from presenting evidence and testimony regarding these facts. If a Coastal Development Permit for this project is denied, **merger remains a viable option.**” (Ex. 7, Section IV, pg.2)

## 7. Sensitive Habitats

The sixth category of contentions allege inconsistencies of the project as approved with the LCP provisions regarding the protection of sensitive habitats.

“LCP Policy 7.3 requires protection of sensitive habitats. The county has acknowledged that severe drainage problems exist in the area that pose a risk to the health and safety of the residents and rise to potential civil liability levels... Similar development in this area will exacerbate drainage problems. Drainage from the area in question flows into the Mirada Surf area which has been identified as sensitive wetlands habitat in a recent EIR. Drainage from the area in question flows through garages and other areas containing toxic substances. Although the Zoning hearing Officer added conditions relating to drainage impact on the adjoining properties, the potential impact on non-adjoining properties and the sensitive habitat have not been addressed. Drainage also flows into the ocean...” (Ex. 7, Section IV, pg.2)

## B. LOCAL GOVERNMENT ACTION

On September 3, 1998 the San Mateo County Zoning Hearing Officer approved with conditions (see section C below) the application for a Use Permit and Coastal Development Permit to allow the construction of a new single-family residence with non-conforming setbacks on the subject 3,000-sq.-ft. non-conforming size parcel. On September 11, 1998 an appeal was filed by Garret Crispell, C. M. Gaede, Barbara Mauz, et al. On December 9, 1998, the Planning Commission denied the appeal and upheld the Zoning Hearing Officer's decision on a 3-2 vote, approving the project subject to the conditions applied by the Zoning Hearing Officer. The two dissenting Commissioners (Nobles and Silver) based their decision on the location of the parcel within the neighborhood. Their concerns focused on the impact of this project on the preservation of health, safety, and welfare of the neighborhood. The Commission majority brought up the fact that the Board of Supervisors has considered the development of substandard parcels and found that there would not be a threat to the buildout calculations in Mid-Coast, although the Board did require mergers when substandard lots are jointly developed to ensure that the lots cannot be subsequently separated. In addition, the Commission, brought

up the fact that they (the Commission) are obligated to allow a homeowner a reasonable use of their land.

On December 23, 1998, the appellants filed an appeal to the Board of Supervisors. The Board of Supervisor held a public on the project on February 9, 1999, and on a 4 to 1 vote, denied the appeal, upholding the Planning Commission and approving the project subject to the conditions previously applied.

The County then issued a Notice of Final Action on the Coastal Development Permit, which was received by Commission staff on February 16, 1999 (see Exhibit 6). The project was appealed to the Coastal Commission in a timely manner on March 1, 1999, within the 10-working day appeal period. On March 2, 1999, staff requested all relevant documents and materials regarding the subject permit from the County; these materials were received on March 15, 1999.

### C. PROJECT SETTING AND DESCRIPTION, AND HISTORY.

The subject parcel is located at 910 Ventura, in El Grenada, an unincorporated community north of the downtown area of the City of Half Moon Bay. The parcel is east of Highway One and consists of a 3,000-sq.-ft. lot (25 feet wide by 120 feet deep) and has not been merged with any contiguous parcels. The parcel is zoned R-1/S-17, with a minimum lot size of 5,000 square feet. The neighborhood was originally subdivided into 25-foot by 120-foot lots, most of which have been combined and developed as standard 5,000+ sq. ft. parcels. Most adjacent properties are developed with single-family homes. However, there are two 25-foot wide vacant parcels adjacent to the south of the subject parcel.

The project site slopes to the rear and is covered with weeds and grasses. There is a large eucalyptus tree near the front of the parcel. No sensitive habitat exists on the site. The site slopes away from the road on approximately a 13 % average slope. The front half of the lot has an average slope of approximately 16%.

The project as approved by the County consists of the placement and development of a new one-story, 1,294-sq.-ft. modular home on a subject 3,000-sq.-ft. legal nonconforming parcel. (The originally proposed lot coverage was 1,325 square feet, but with the deletion of the proposed deck, the coverage was reduced). The original site plan is attached as Exhibit 3. As conditioned and approved by the County, however, the following changes are required: (1) the use of horizontal wood siding for the entire structure, (2) deletion of the proposed deck and compliance with a 20-foot rear yard setback, (3) redesigning the roof to increase the proposed 3:12 pitch to a 4:12 pitch, and adding a dormer on each side of the house (4) repositioning the structure to be no higher than 16 feet in average height. Nearby residences also are mostly 2-story, wood-sided structures. A photograph (looking west) of the site, with story poles in place indicating the structure's height, is attached as Exhibit 4.

**D. SUBSTANTIAL ISSUE ANALYSIS.**

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

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

As discussed below several of the contentions raised in the appeal do not present potentially valid grounds for appeal in that they do not allege the project's inconsistency with policies and standards of the certified LCP. These contentions fall into two groups: those that concern the alleged inadequacy of the LCP to address broader issues of the development of substandard lots, and those that present allegations about the local decision-making process.

**1. Appellants Contentions That Are Not Valid Grounds for Appeal**

**a. Adequacy of the LCP Regarding Substandard Lots**

A principal issue underlying many of the appellants contentions is concern about the consequences and impact of widespread development of substandard lots such as the one involved in this appeal. The appellants contend that development of a substantial number of substandard lots could ultimately result in an unanticipated and unplanned level of buildout since the original LCP buildout estimates did not take into account development of the substandard lots. Such development could result in serious impacts on community character, coastal resources and the existing and planned infrastructure capacities of the area. As stated by the appellants:

"Broader issues regarding development on 25-foot lots have surfaced as a result of the proposed project. These issues are being investigated by a variety of agencies and concerned individuals. These issues need to be addressed and resolved by the County before any further permits are issued." (Ex. 8, pg. 2, item 7)

"Approval of this project, as proposed, will create thousands of entitlements. This in turn will exacerbate a multitude of problems related to the existing infrastructure deficiencies. For example, recent major traffic modeling studies prove that the Coast Side is already past build out. (See Capacity Report)..."

A major focus in our appeal(s) has been the fact that sub-standard lots are not included in the LCP build out numbers. (See the "Perkovic Report") Simple logic leads to the

conclusion that the assumptions and provisions of the LCP regarding build out, density, capacity, proportionality and design are not accurate and do not reflect the changing landscape of the Mid Coast Communities.” (Ex. 7, pg.1)

“25 foot non-conforming lots have not been counted and included in the build out numbers. Policies regarding development on these non-conforming lots have not been certified by the Coastal Commission. Thus any permits issued are not in compliance with the Local Coastal Plan.” (Ex. 8, pg. 2, item 6)

(See also Ex. 12, pg. 2, items 6 and 7)

In support of their contentions, the appellants submitted a “Capacity Report” compiling data from studies done about development in the area. This report summarizes concerns about substandard lots as follows:

There has been no definitive planning around the issue of how to manage land use and impacts for thousands of vacant, substandard lots created by Coastside subdivisions more than 90 years ago. Not only are substandard lots uncounted for in the LCP buildout total (19000 sewer connections worth of buildings), but the number of lots is unknown.

The magnitude of this uncertainty can be seen by comparing the number of substandard lots (5000) manually counted for the Montara Sanitary District (Montara and Moss Beach) [Ref. 15: 8/97 MSD Ltr] with the number of lots (2000) the County gets from statistical sampling of the entire Midcoast. [Ref. 16: 3/98 County Staff Rpt]...

Letting market forces and court cases alone determine what happens on such a large, unknown number of substandard lots, introduces so much uncertainty into what the LCPs can accomplish, that the basic LCP assumptions may no longer be applicable.

These are serious concerns. The consequences of higher buildout totals and overloading infrastructure capacities could include: (1) increased levels of congestion on Highways 1 and 35, with consequent adverse impacts on opportunities for recreational access to the coast, (2) increased demands for already strained water supplies, and the heightened problems associated with overdraft of the groundwater basins, including reduced water flows for streams and wetland areas, and (3) exceeded water treatment capacities, with consequent hazards of renewed pollutant discharges to the ocean.

The Commission itself has already expressed concern that extensive development of substandard lots could exceed development levels anticipated in the LCP. As one part of LCP Amendment 1-97-C, the County submitted amendments to the certified zoning non-conformities use permit section of the LCP that were intended to address the substandard lot

question. The amendments more or less incorporated the lot coverage and floor-area ratio (FAR) provisions of the "San Mateo County Policy: Use Permits for Construction on Non-Conforming (25-foot-wide) Residential Parcels" (Exhibit 17). This Policy was adopted in March, 1992, but was never submitted for certification as part of the LCP. In the hearings on Amendment 1-97-C, numerous community members raised concerns that the standards in the existing Policy and the proposed amendment permitted houses too large for such small lots, causing undesirable impacts to community character. Moreover, there was concern that making such small lots more marketable would increase the incentive to develop them as individual building sites, rather than to combine them into building sites that meet zoning standards. This in turn would result in an unanticipated level of buildout of small lots, with the potential impacts discussed above.

For these reasons, the Commission's action on LCP Amendment 1-97-C rejected the approach offered by the County to resolve the substandard lot problem. The Commission recognized that simply rejecting the County's proposed amendment would not solve the problem, and directed staff to encourage the County to determine the exact magnitude of the problem, and develop an effective means to deal with it.

The County subsequently reviewed its previous estimates of the total number of substandard lots on the Coastside. Based in part on this information, the County Board approved a new policy for review of substandard lots that provides for the merger of contiguous, commonly owned substandard lots in the R-1/S-17 zoning district when a house on such lots is constructed, enlarged, or demolished. In addition, the policy provides that if the median parcel size for newly developed parcels in the R-1/S-17 zoning district drops below 5,000 sq. ft. for two consecutive years, the County would reconsider establishing a comprehensive merger program. It should be noted that this policy has not been submitted to the Commission for incorporation into the LCP. The County did not choose to resubmit revised design standards for home on substandard lots, but did offer County planning staff assistance to the Mid-Coast Community Council if it demonstrated broad community support for such more restrictive standards. The Midcoast Community Council is comprised of community members elected to represent the interests of the Midcoast area.

There has been much subsequent public debate about the adequacy of the approach the County has taken. The Midcoast Community Council has actively raised the issue of potential problems associated with buildout of substandard lots; their letter is included as Exhibit 19. Another local public agency, the Grenada Sanitary District has been so concerned with the potential impact on its facilities of buildout of substandard lots that it has commissioned a study in part to specifically count the substandard lots in its jurisdiction.

Indeed, some of the facts related to this appeal raise serious concerns over the efficacy of the County's approach to substandard lots. As discussed further in section 2c, page 26 below, the subject parcel was recently one of three "contiguous, commonly owned substandard lots" held

by Richard Shimek and Shannon Marquard. The 8,000-sq.-ft. total area of the three lots, if merged, would have met the minimum 5,000-sq.-ft. parcel size required by the zoning district. However, in the period leading up to the submittal of the subject development proposal to the County, two of the three lots were sold to different neighbors, leaving the remaining 3,000-sq.-ft. lot to be sold to yet another purchaser, the present applicant. That three contiguous lots in a single, common ownership could be sold off in a manner that necessitated developing a substandard building site rather than merged into a parcel meeting minimum lot requirements, poses real questions about the workability of the County's approach.

Commission staff had expressed concern to County staff during the formulation of its substandard lot consolidation policy that precisely this kind transfer of title could be used as a loophole to avoid the consolidation requirements. Staff further cautioned that it would be very difficult to tell if such transfers were happening on a large scale, because such sales or transfers do not require any permit. Moreover, once done, the "creation" of substandard lots by this means is very difficult, if not impossible, to reverse. If the breakup of the original property involved in this project is a harbinger of what may come, and indeed what may already be happening, on the MidCoast, a substantial number of substandard lots may soon be on their way to becoming building sites. Given this scenario, the concerns of the appellants and others over a potential substantial future increase in the development of substandard lots may well warrant development of an LCP amendment by the County.

In the contentions listed above, the appellants essentially question the appropriateness of the current standards in the certified LCP governing development of substandard lots, and imply that these standards should be changed. As noted, such changes may only be made through an LCP amendment, an entirely separate process from the review of this appeal. Coastal Act Section 30603(b)(1) specifically limits the grounds for appeal to the question of whether the proposed development conforms to the public access and public recreation policies of the Coastal Act or, as is the issue here, **to the standards of the certified local coastal program as it stands**. Therefore the appellants' contentions related to the adequacy of the LCP's policies with regard to substandard lot are not grounds for appeal.

The appellants also contend that the project as approved is not properly proportioned in part as follows:

"This project is in the "sphere of influence" of Half Moon Bay. Thus, policy issues of the Half Moon Bay LCP are equally applicable to the area in question. The Half Moon Bay proportionality and floor area ratio formulas would limit the house on this lot to 900 square feet." (Ex. 7, Section IV, pg.2-3)

This contention is not grounds for appeal because, even if the project is in the "sphere of influence" of Half Moon Bay, the applicable LCP is the County's, not Half Moon Bay's.

Moreover, the cited formulas appear to have been a matter of discussion, and have not yet been adopted by Half Moon Bay, nor certified by the Commission as an amendment to its LCP.

Nevertheless, the information offered by the appellants is relevant to the larger issue of substandard lots if the County were to pursue an LCP amendment. In fact, the City of Half Moon Bay shares concerns about a large number of substandard lots, and some amount of consistency in approach between the County and the City would be warranted. The formula considered by the City states:

Development on Substandard Lots would require the application of a proportionality rule ratio to determine the standard for review for any City of Half Moon Bay permit. The proportionality rule ratio for a substandard lot would be established by dividing the square footage of the substandard lot by the Zoning District's standard lot size. This ratio would be applied to the residential standards for development for lot coverage and floor area ratio (FAR).

Under this definition of proportionality, only a house of 900 square feet would be allowed.

The Commission has recognized this issue of proportionality of development on small lots, and adopted its own definitions in other areas, most notably the Santa Monica Mountains. There, the Commission's current formula would provide for a "Gross Structural Area" (GSA) of 1136 square feet, less than that of the project as approved.

The size of houses permitted has a direct effect on the economic incentives for developing substandard lots, and is likely to substantially affect how many lots are voluntarily consolidated, and how many are developed as individual building sites. However, again, the question of whether the proportionality provisions of the current LCP should be changed is not a valid ground for appeal.

Other issues discussed below as valid for appeal, also contribute to the concern over the broader issues of development of substandard lots, including affects on density and community character

Yet as significant as these issues are, in the action currently before it, the Commission is limited to determining whether the project as approved meets the *existing* LCP standards, in isolation from the broader planning concerns over the adequacy of the LCP.

The Commission therefore finds that the appellants' contentions with regard to the LCP's general approach to the question of substandard lots are not valid grounds for appeal.

**b. Public Hearing Process**

Among other concerns, the appellants contend that they had inadequate time to prepare a presentation at the local hearings and the local hearings didn't occur at the time of day that was anticipated. The appellants list a number of contentions regarding the project review and public hearing process and the deliberations of various decision-makers at the County level (see section II.A.2 above).

### LCP policies

Chapter 20B of the County's Zoning Code sets out the requirements for review of a coastal development permit (CDP). These requirements include specific procedures for notice, public hearings, criteria for decisions and where applicable, procedures for appeal.

### Discussion

The County states in the record that "the hearing was scheduled and noticed in accordance with normal procedures and in compliance with State law and County ordinances. Notice was mailed to all owners within 300 feet and published in the San Mateo Times and Half Moon Bay Review." The appellants contend the hearing did not proceed as scheduled, and that their representative had to leave prior to making a presentation. The certified LCP hearing procedures do not require specific speakers to be given a time certain to speak, and unfortunately it is rare that anyone can actually foretell the specific time a given public hearing item will come up. These difficulties are inherent in the public hearing process. The applicants do not allege that they were not provided the required notice, nor that any other specific LCP procedural requirement was unmet. Neither do the appellants cite a specific LCP policy or standard that they feel the County's actions did not conform with in this regard. As the concerns raised by the appellants do not allege the project's inconsistency with policies and standards of the certified LCP, the Commission finds that the contention is not a valid ground for appeal.

### c. Alternate Locations

The appellants contend "There are alternative properties where this project could be developed without harm..." (Ex. 7, Section IV, pg.3). Obviously, there are many other vacant parcels that could be developed with a home, but that statement could apply to almost any proposed project. The appellants do not cite any LCP provision that the project is inconsistent with in this regard, and thus this contention is not a valid ground for appeal.

## 2. Appellants Contentions That Are Valid Grounds for Appeal.

The contentions discussed below present potentially valid grounds for appeal in that they allege the project's inconsistency with policies and standards of the certified LCP. These contentions allege that the approval of the project by the County raises issues related to LCP provisions

regarding density, design and related zoning and use permit standards, and the protection of sensitive habitats.

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

*With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.*

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question. (Cal. Code Regs., tit. 14, section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

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

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development as approved by the County raises no substantial issue with regard to the appellants' contentions regarding density, design and related zoning and use permit standards, and the protection of sensitive habitats.

a. Densities

The appellants contend that Section (Policy) 1.3 through 1.5 of the LCP govern issues relevant to development patterns and state that Policy 1.3 "essentially says established patterns must preserve and protect the environmental features which form the unique natural setting of the community."

The appellants also contend that construction on the subject lot violates the requirements for density in urban areas as stated in the County's LCP land use and zoning provisions, including LCP.

The appellants additionally state:

The "Substandard Lot Study" released by the County in Jan. 1999 reveals that 20% of the S-17 lots and 70% of the S-9 lots developed in 1998 were below the zoned minimum size....If the trend in the Substandard Lot Study continues the residential areas will be in the "medium high density" (8.8 to 17.4 d.u./ac). "The subject...parcel would equate to 14.5 dwelling units per acre,..." Many nonconforming parcels are as small as 2500 sq. ft. and would create densities equivalent to 17.4 dwelling units per acre. (Ex. 7A, pg.1,2)

LCP Policies

Policies 1.3 to 1.5 state in part:

1.3 Definition of Urban Areas

a. *Define urban areas as those land suitable for urban development because the area is either: (1) developed, (2) subdivided and zoned for development at densities greater than one dwelling unit/5 acres, (3) served by sewer and water utilities, and/or (4) designated as an affordable housing site in the Housing Component.*

b. *Recognize, however, that in order to make a logical urban/rural boundary, some land has been included within the urban boundary which should be restricted to open space uses and not developed at relatively high densities (e.g., prime agricultural soils, and sensitive habitats).*

1.4 Designation of Urban Areas

*Designate as urban those lands shown inside the urban/rural boundary on the Land Use Plan Maps. Such areas include Montara, Moss Beach, El Granada, Princeton and Miramar.*

1.5 Land Uses and Development Densities in Urban Areas

*(a) Incorporate the adopted Montara-Moss Beach-El Granada Community Plan into the land use plan for the Mid-Coast, but amend it where necessary to meet Local Coastal Plan objectives.*

*(b) Permit in urban areas land uses designated in the Land Use Plan Maps and conditional uses at densities specified in Tables 1.2 and 1.3.*

Discussion

The appellants contend that "Section [Policy] 1.3 of the LCP essentially says established patterns must preserve and protect the environmental features which form the unique natural setting of the community." Policy 1.3 does not say this, but rather sets out the criteria for which areas will be designated as "urban" in the LCP. Policy 1.3a provides that areas meeting any one of the four enumerated criteria (see above) are "urban." Moreover, Policy 1.4 specifically designates the El Grenada area, where the parcels lies, as an urban area. The reference in Policy 1.3(b) to land within designated urban areas which should be restricted to open spaces uses and not developed at relatively high densities" refers to land in the area which specifically contains "prime agricultural soils and sensitive habitats." The subject parcel does not have these characteristics and the development as approved represents infill development within an existing developed neighborhood. Therefore, the Commission finds that this contention does not raise a substantial issue with regard to the project's conformance with Policies 1.3 and 1.4.

The appellants also contend that project as approved is inconsistent with the zoning densities specified in LCP Policy 1.5. The LCP Land Use Maps designate densities for most areas of the County. However, the LCP Land Use Maps do not show density designations for the subject area; instead, notes on the LCP Land Use Maps refer to the maps in the Montara-Moss Beach-El Granada Community Plan, consistent with the incorporation of that Plan into the LUP through Policy 1.5. The Community Plan land use maps, in turn, designate the density for the area as "medium density" (6.1-8.7 d.u./ac). LCP Table 1.2. additionally defines "Medium" density as 6.1 to 8.0 du/ac. The parcel's zoning is R-1/S-17, Single Family Residential with a 5,000-square-foot minimum lot size. This zoning district does not specifically identify an allowed density.

The appellants calculate the density as approved by the County for the subject parcel as 14.5 dwelling units per acre. This density is higher than those prescribed for the area by the

Community Plan land use maps. However, the LCP does not contain a policy or standard that states that an already existing legal lot cannot be developed for an allowed use if such development would not meet the designated density for the area where the lot is found. In fact, other provisions of the LCP specifically allow the development of lots at this higher "density." Section 6133 of the Zoning Code, Non-Conforming Parcels, (Exhibit 20) establishes a Use Permit process that provides for exceptions to minimum lot area (i.e. density) standards. The County Board of Supervisors approved such a Use Permit for the project's "density" exception, as required by the LCP. Thus the project as approved does not raise a substantial issue of conformance to the certified LCP's policies related to density.

The conformance of the project as approved to the specific additional requirements of Section 6133 is discussed in further detail below.

**b. Community Design Policies and Related Zoning and Use Permit Requirements**

The appellants make a number of contentions regarding the project's conformance with LCP Implementation Program standards concerning a project's proportionally to its site and its compatibility with the scale and character of the neighborhood.

LCP Policies

Policy 8.13 states in part:

*8.13 Special Design Guidelines for Coastal Communities.*

*The following special design guidelines supplement the design criteria in the Community Design Manual:*

*a. Montara-Moss Beach-El Grenada*

- (1) Design structures which fit the topography of the site and do not require extensive cutting, grading, or filling for construction.*
- (2) Employ the use of natural materials and colors which blend with the vegetative cover of the site.*
- (3) Use pitched, rather than flat, roofs which are surfaced with non-reflective materials except for the employment of solar energy devices.*
- (4) Design structures which are in scale with the character of their setting and blend rather than dominate or distract from the overall view of the urbanscape...*

The appellants also cite sections of the Montara-Moss Beach-El Granada Community Plan, which, as noted above, is incorporated into the LCP by LUP Policy 1.5. The Community Plan policies (Exhibit 16) are generally reflected in Policy 8.13, but also include specific policies that “new structures [be] designed to harmonize with their surroundings” (policy 7.3), “ apply the DR (Design Review) Overlay Zoning District ... to provide for design compatibility with surrounding development...”(policy 7.11), and to “apply the S-17 Overlay Zoning District to reduce building size and lot coverage for new structures, and to insure that new residential development is in scale with its surroundings.” (policy 7.13).

The subject parcel is in the S-17 Combining District which prescribes the minimum lot size, height, setback and other requirements for standard lots. As noted above, where an existing lot does not conform to these requirements, it becomes subject to Zoning Code section 6133 of the LCP Implementation Program (Exhibit 20).

Section 6133.3 of the Zoning Regulations requires a use permit for development on nonconforming parcels less than 3,500 sq. ft. where 5,000 sq. ft. is required. Section 6133.3.b(3) establishes findings that are required to be made in order to approve a use permit as follows:

- a. *That the project is proportioned to the size of the parcel on which it is being built.*
- b. *That all opportunities to acquire additional contiguous land in order to achieve conformity with the zoning regulations currently in effect have been investigated and proven to be infeasible.*
- c. *That the project is nearly in conformance with the zoning regulations currently in effect as is reasonably possible.*
- d. *That the establishment, maintenance, and/or conducting of the proposed use will not, under the circumstances of this particular case, result in a significant adverse impact to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in the said neighborhood.*
- e. *That the use permit approval does not constitute a granting of special privileges.*

(1) Scale, Character and Proportionality

In their addendum to the appeal, the appellants agree that the project as approved meets the first three standards of Policy 8.13(a) concerning fitting the topography of the site, the use of natural materials and colors, and the use of pitched roofs. However, they contend the project does not conform to Policy 8.13(a)(4), the cited Community Plan policies, the “Community

Design Manual” guidelines and specific zoning and use permit requirements. These contentions include:

“The County cites LCP Policy 8.13 in support of this project. It is accurate in its representation of the first three of the sections of the policy, but misses the intent of paragraph d:

d. Design structures which are in scale with the character of their setting and blend rather than dominate or distract from the overall view of the urban *scape*. (Ex. 10, pg.4)

“Sections 1.2, 4.1, 7.1, 7.2, 7.2(a) and (b), 7.3, 7.8, 7.11, 7.12 and 7.13 of the Local Community Plan detail the goals and objectives of the mid-coast area that includes Montara, Moss Beach, and El Granada. This project, as proposed, is incompatible with the scale and character of the neighborhood in which it is located. It does not comply with the design guidelines of the “Community Design Manual”. (Ex. 10, Section IV, pg.2)

“This project is in the “sphere of influence” of Half Moon Bay. Thus, policy issues of the Half Moon Bay LCP are equally applicable to the area in question. The proportionality and floor area ratio standards addressed by Half Moon Bay are based on widely accepted and reasonable planning formulas. Following these guidelines, this project grossly exceeds the standards for non conforming lots. Philosophically, building guidelines call for small homes on small lots. **1325 Square feet with 49% lot coverage is not a small house.** The proportionality and floor area ratio formulas would limit the house on this lot to 900 square feet. Compliance with this standard would substantially mitigate the problems and concerns. Provided it also conformed to a standard front set back, complied with parking requirements (it does not comply now), and did not exceed the 35% lot coverage standard applicable to other homes in the area, the project would then be proportional and less injurious to existing homeowners. In its present form, this project even exceeds the standard established in urban areas over the hill.” (Ex. 10, Section IV, pg.2-3)

### Discussion

In the scheme of the LCP, most of the design policies of the Land Use Plan are made more specific and implemented through the Zoning Standards and other implementing measures. In other words, the determination of whether the project conforms with Policy 8.13(a)(4)’s mandate to “*design structures which are in scale with the character of their setting,*” as well as the similar policies of the Community Plan, and the guidelines of the Community Design Manual, is measured to a large extent by the degree that the project is consistent with the Zoning Standards, as modified by the relevant portions of Section 6133 for a non-conforming

lot. As discussed further below, by each of these specific measures, the project as approved does not raise a substantial issue of conformance with the certified LCP. Therefore the contentions related to Policy 8.13(a)(4), the Community Plan, and the guidelines of the Community Design Manual do not raise a substantial issue.

(a) Proportionality

Section 6133.3(b)(3)(a) requires that *"the project is proportioned to the size of the parcel on which it is being built."* The appellants contend that the project as approved is not properly proportioned, and cite proportionality standards of Half Moon Bay among others. As discussed in section \_\_ above, the only proportionality standards that are valid grounds for appeal are those in the certified San Mateo County LCP.

The County's approval under the LCP did find that the house is proportioned to the size of the parcel (Exhibit 6). Nowhere in the certified LCP is the concept of "proportionality" defined. This ambiguity raises an issue, but it is an issue of the adequacy of the LCP as a whole (and is addressed in that section of this report). While not explicitly stated, the County's finding appears to be based upon the fact that even though the subject lot is smaller than a standard lot, its approved building coverage, expressed as a percentage of lot area, is comparable to that allowed for larger lots. At 44% lot coverage, the project as approved is within the maximum 50% coverage limits generally applicable to single-story houses in the S-17 Zoning District. The "35% lot coverage standard applicable to other homes in the area" referenced by the appellants is not applicable. The Sept. 3, 1998 County staff report (Exhibit 15) recommended denial under the "proportional" criterion because at the original proposed height of 17 feet, the S-17 regulations specify a coverage limit of 35%. When the applicant agreed to reduce the height to 16 feet, the project met the S-17 regulation for the 50% coverage allowed for a single story house. Absent a specific LCP definition of "proportionality" to the contrary, the County's approval of the project as proportional to its parcel does not raise a substantial issue of conformance of the project as approved to Section 6133.3(b)(3)(a) of the certified LCP.

(b) Neighborhood Impacts and Conformance with Setback and Parking Requirements

The appellants contend that:

"The approved 5-foot front setback will result in irreparable harm to the adjoining property, and is out of character with the conforming properties in the immediate area." (Ex. 8, pg. 2, item 3)

"Other issues involving the historical use of said property, parking, infrastructure, and other factors that jeopardize the health and safety of the existing residents have not been adequately addressed." (Ex. 8, pg. 2, item 5)

Provided it ... complied with parking requirements (it does not comply now), the project would then be... less injurious to existing homeowners.” (Ex. 10, Section IV, pg.2-3)

Section 6133.3.b(3)(c) requires that:

*The proposed development is nearly in conformance with the zoning regulations currently in effect as is reasonably possible.*

Under Section 6411 of the Zoning Regulations, a garage can be placed to the front property line where the slope of the front half of the parcel exceeds a 14% slope. This site contains a 13% average slope but the front half of the parcel has a 16% average slope. This project was designed to “stairstep” down the hill. The front contains the one-car garage and the one-story home is 5 feet lower than the garage. Under Section 6411 of the Zoning Regulations, a garage can be placed to the front property line where the slope of the front half of a parcel exceeds a 14% slope. As the front half of the parcel exceeds the 14% criteria for allowing a garage to be placed to the property line, the project as approved raises no substantial issue of conformance with Section 6411 of the Zoning Regulations.

The appellants also contend that the project as approved has only one parking space, and not the additional uncovered space required by ordinance for standard lots. Because there are no impacts on coastal resources, including public access, and because this is a primarily local issue to be addressed by the county, the Commission applies its discretion and determines that, while this is an issue, it does not rise to the level of a substantial issue.

(c) Adverse Impact to Public Welfare and the Neighborhood: The appellants have raised a number of issues about whether the project as approved meets the Policy 8.13(a)(4) requirement that structures be:

*... in scale with the character of their setting and blend rather than dominate or distract from the overall view of the urban scape, ...*

They also cite various similar Community Plan policies, as well as Section 6133.3.b(3)(d)’s requirement that:

*...the establishment, maintenance, and/or conducting of the proposed use will not, under the circumstances of this particular case, result in a significant adverse impact to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in the said neighborhood.*

The appellants also specifically contend that the “siting and topography of the lot in question renders any development on this parcel detrimental to the surrounding property owners.”

The appellants raise serious concerns that development on a substantial number of substandard lots could ultimately result in a level of buildout that would exceed the infrastructure and have a significant adverse impact to community character and coastal resources. As noted before, however there are concerns with regard to the overall appropriateness of the policies of the certified LCP. The standard of review for this appeal is whether this project, in and of itself, as approved by the County raises a substantial issue of conformance to the certified LCP policies as they presently exist.

Under that standard, the appellants have raised one issue regarding potential adverse impact of the project itself on coastal resources: its possible effects on sensitive habitats. That issue is addressed in a separate section below.

With regard to the impact of the approved project on the public welfare and the local neighborhood character, the County approval of the project included conditions to address compatibility with the surrounding neighborhood as required by Policy 8.13 and Section 6133.3.b(3)(d). Specifically, these conditions include redesigning the home to reflect a more traditional design by increasing the roof pitch, adding dormers and requiring that there are just two different size of windows on each side of the home. The conditions also reduce the height to 16 feet to lower the profile, require horizontal wooden siding for the entire exterior and require landscaping to soften the appearance of the long side walls, delete the proposed rear deck to comply with rear yard setback requirements and incorporate shingles on the portion of the garage visible from the street. The County's finding did note that since the development is a manufactured house, Government Code Section 65852.3 limits the architectural modifications it can require without the voluntary concurrence of the applicant/owner of the development. However the applicant's agent, Judy Taylor, has submitted a fax to the Commission staff attesting to the fact that the applicant accepts the County's conditions.

The project steps down from the garage to achieve the 16-foot height limit, and thus further conforms to the existing topography. This 16-foot height of the project would be substantially lower than the surrounding two-story homes and lower than the 28-foot height permitted in the S-17 Zoning District.

While the long, narrow design of the project, with its garage as the dominant feature visible from the street is not typical of newer construction in the neighborhood, the project as approved is not located between the first public road and the sea, and is not particularly visible or prominent in ways that would adversely affect coastal views.

The issues the appellants have raised with regard to community character and neighborhood compatibility are not substantial issues in terms of the factors the Commission considers in appeals, as listed in section D.1 above. The extent and scope of this development as approved by the County is limited; no significant coastal resources are affected by the project itself; and

the issue of neighborhood compatibility is largely a local issue to be dealt with by the County, rather than one of regional or statewide significance. Therefore, the Commission finds that the project as approved does not raise a substantial issue with regard to provisions of the LCP for community character contained in Policy 8.13(a)(4), the Community Plan policies, and Section 6133.3.b(3)(d) of the Zoning Code.

c. Lot Consolidation to Meet Zoning Regulations:

Section 6133.3.b(3)(b) requires that "*all opportunities to acquire additional contiguous land in order to achieve conformity with the zoning regulations currently in effect have been investigated and proven to be infeasible.*"

The County made the following finding that the applicant met this requirement:

The applicant has made an offer to purchase both adjacent nonconforming lots from the current owner and has submitted copies of correspondence to prove that this option has been investigated. As shown in Attachment G, the applicant's agent, Judy Taylor, has attempted to purchase the contiguous lots or to sell the project parcel to a contiguous owner. The potential contiguous buyers have not been agreeable to this. However, the property was sold at a tax sale on August 12, 1998. The selling price was \$60,000. This was beyond the applicant's financial capability. Therefore, staff believes this finding can be made. (Exhibit 15, pg. 6)

However, the appellants contend that appellant Crispell, a contiguous land owner had far earlier offered to purchase the lot from its original owners:

...[He] made an attempt to purchase and merge this lot in 1997 (See Real Estate Purchase Contract.) Any claims of hardship by the applicants are fallacious as they knowingly and willfully prevented the desired merger which would have prevented all of the ensuing problems and potential harm to the neighbors and coastal area.

Indeed the appellants have submitted information that indicates that Mr. Crispell, on or about April 16, 1997, made a bona fide offer to purchase the subject parcel so that it would not be separately developed as a substandard lot (Exhibit 21). His offer was for \$32,000, the price the applicant Ms. Banks later paid for it, but this offer was not accepted. Finally, on February 26, 1999, Mr. Crispell renewed his offer to purchase the lot "at fair market value,...\$32,000" plus "a bit more [for]...development fees" (Exhibit 22). By this time, however, the applicant's agent cited additional costs that had been incurred, substantially raising the price of the lot beyond Mr. Crispell's offer (Exhibit 24). This chain of events illustrates the difficulties in making a finding that combination with a contiguous lot has been "proven infeasible."

Moreover, at the time of Mr. Crispell's offer, the subject parcel was one of three contiguous lots in the ownership of Richard Shimek and Shannon Marquard (Exhibit 22). Together, the area of the three lots totalled 8000 square feet, an area which if merged would have met the minimum parcel size required by the zoning district. However, two of the three lots comprising this 8000-sq.-ft. parcel were sold to different purchasers. One was successfully purchased by Mr. Crispell, in contrast to his unaccepted offer to purchase the subject parcel. The other was purchased by the adjacent neighbor (Ware) to resolve an issue of an encroachment on to that property of a few feet.

Mr. Crispell's proposed purchase of the non-conforming lot, and consolidating it with his existing lot would have achieved conformity with the minimum lots sizes required by the zoning regulations.

However, Section 6133.3.b(3)(b) is only applicable when a property's current owner applies for a Use Permit for development. Thus, as presently stated, it requires the owner of the substandard lot proposed for development to attempt to acquire contiguous land. It places no obligation on the substandard lot owner to accept reasonable offers by neighboring owners to purchase and consolidate the substandard lot into a parcel meeting zoning lot size minimums, as was offered by Mr. Crispell.

The County Planning Commission's substandard lot policy appears to have recognized this problem and offered a potential solution (Exhibit 17, pg. 1, paragraph 1):

...A property owner shall explore the feasibility of selling their lot to an adjacent property owner. If the adjacent lot is also substandard, it is highly recommended that both owners negotiate to place these parcels under one ownership.

However, this policy has not been certified as part of the LCP, and thus cannot be grounds for an appeal. The Commission therefore concludes that the appeal raises no substantial issue with respect to conformance of the approved project the certified LCP requirement of Section 6133.3.b(3)(b) that "all opportunities ...to achieve conformity with the zoning regulations have been investigated and proven to be infeasible."

**d. Sensitive Habitats, LCP Policy 7.3**

The appellants contend that severe drainage problems exist in the area, posing a risk to the health and safety of the residents and potentially leading to civil liability lawsuits. They contend that continued development in this area will exacerbate these problems. They further contend that drainage from the area in question flows through garages and other areas containing toxic substances, and then into the Mirada Surf area which has been identified as sensitive wetlands habitat and into the ocean, and assert that LCP Policy 7.3 requires protection of these sensitive habitats. Finally they contend that while the conditions of

approval address drainage impact on the adjoining properties, they do not address the potential impact on non-adjoining properties and the sensitive habitats. (Ex. 10, Section IV, pg.2)

### LCP Policies

Policy 7.3 states:

#### *7.3 Protection of Sensitive Habitats.*

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

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

### Discussion

This neighborhood lacks a storm drain system. However, the approved project has been conditioned to ensure that any proposed development will not amplify any drainage problems that may currently exist on a property. The condition states: "Prior to issuance of a building permit, the applicant shall submit a drainage plan to ensure that water drainage will not be exacerbated on the adjoining lots, and incorporate design recommendations into their building permit application." By preventing new runoff from flowing on to adjoining lots, this condition will assure there will be no new runoff flowing beyond those lots onto other properties in the area, or to sensitive habitats.

Therefore, the Commission finds that the project as approved does not raise a substantial issue with regard to the sensitive habitat policies of the certified LCP.

### 3. Conclusion

The Commission finds that, for the reasons stated above, that the appeal raises no substantial issue with respect to conformance of the approved project with the certified LCP

EXHIBITS:

1. Regional Location Map
2. Site Location and Parcel Map
3. Original Elevations and Site Plan
4. Site Plan as approved
5. Elevations indicating County Conditions
6. Notice of Final Action and Findings and Conditions of Approval
7. Appeal to Commission
8. Appeal reference: Appellant's Appeal to the Board of Supervisors, Dec. 22, 1998
9. Appeal reference: Appellant's Appeal to the Planning Commission
10. Appeal Addendum, March 22, 1999
11. Appeal reference: County Staff Report to the Board of Supervisors (Jan. 27, 1999)
12. Appeal reference: Appellants' Rebuttal to County Staff Report of Jan. 27, 1999
13. Appeal reference: Recommended Findings for Denial, T. Burnes, Feb. 9, 1999
14. County Staff Report to the Planning Commission (Dec. 9, 1998)
15. Appeal reference: Recommended Findings for Denial, Jeff Merz, Sept. 3, 1998
16. Montara-Moss Beach-El Granada Community Plan excerpts
17. San Mateo County Policy: Use Permits for Construction on Non-Conforming (25-foot-wide) Residential Parcels
18. Capacity Report
19. Midcoast Community Council letter, March 18, 1999
20. Zoning Nonconformities, Section 6130 et seq.
21. Crispell Offer to Purchase Subject Lot, April 1997
22. Crispell February 1999 Offer to Purchase Subject Lot
23. Agent's Response to Feb. 1999 Purchase Offer
24. Original Parcel Configuration

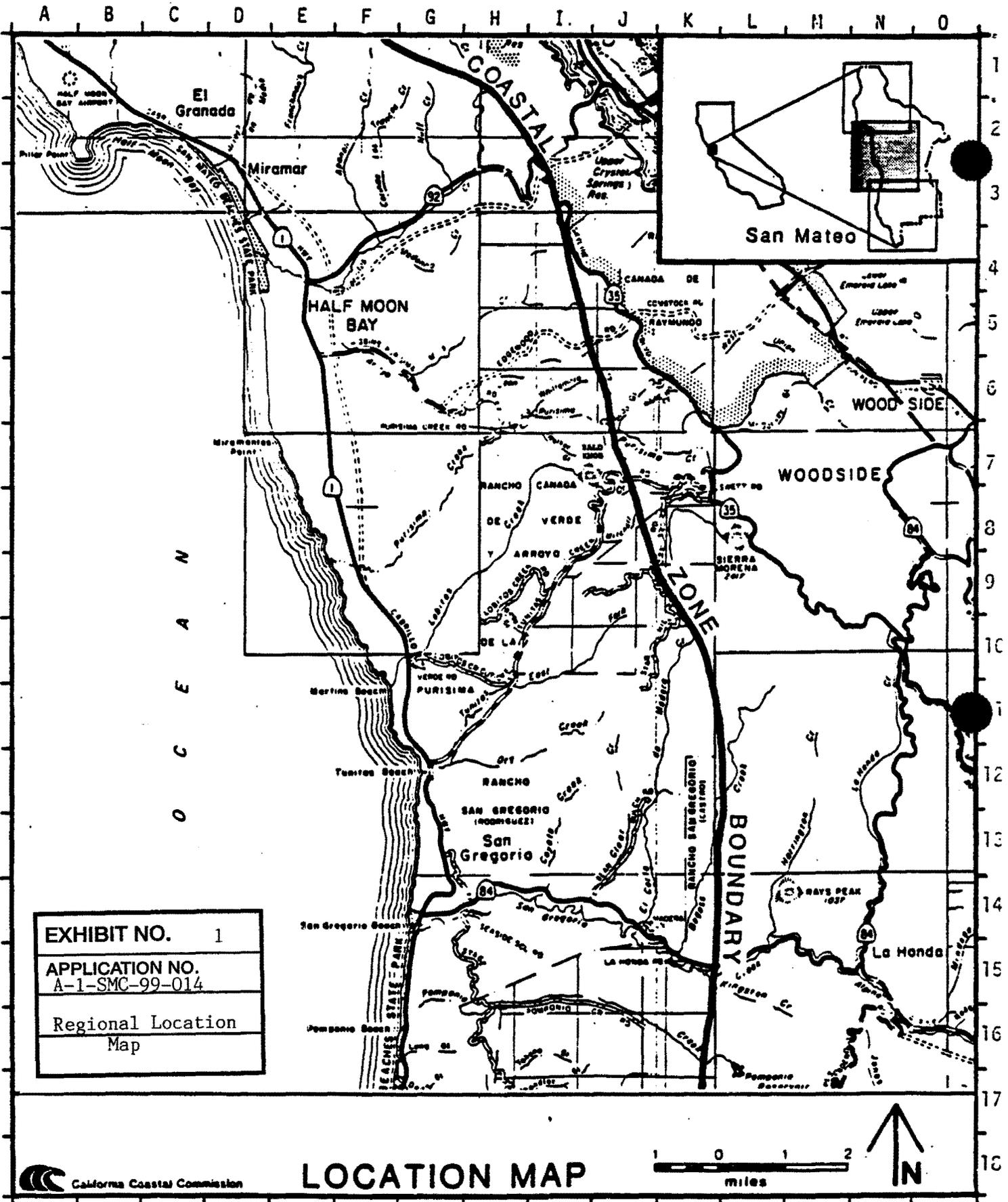
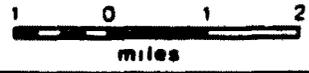


EXHIBIT NO.	1
APPLICATION NO.	A-1-SMC-99-014
Regional Location	Map

 California Coastal Commission

# LOCATION MAP



County of San Mateo

Sheet 2 of 3

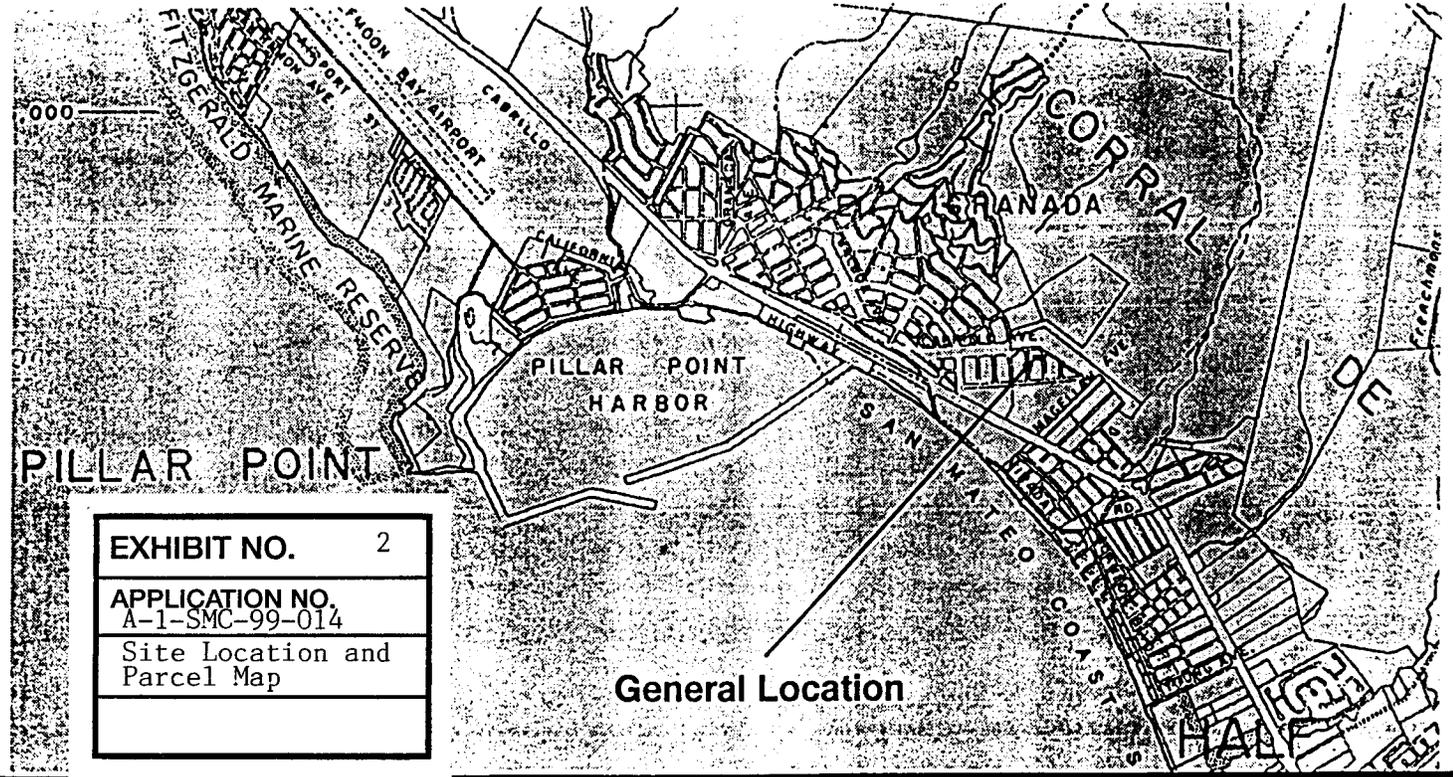
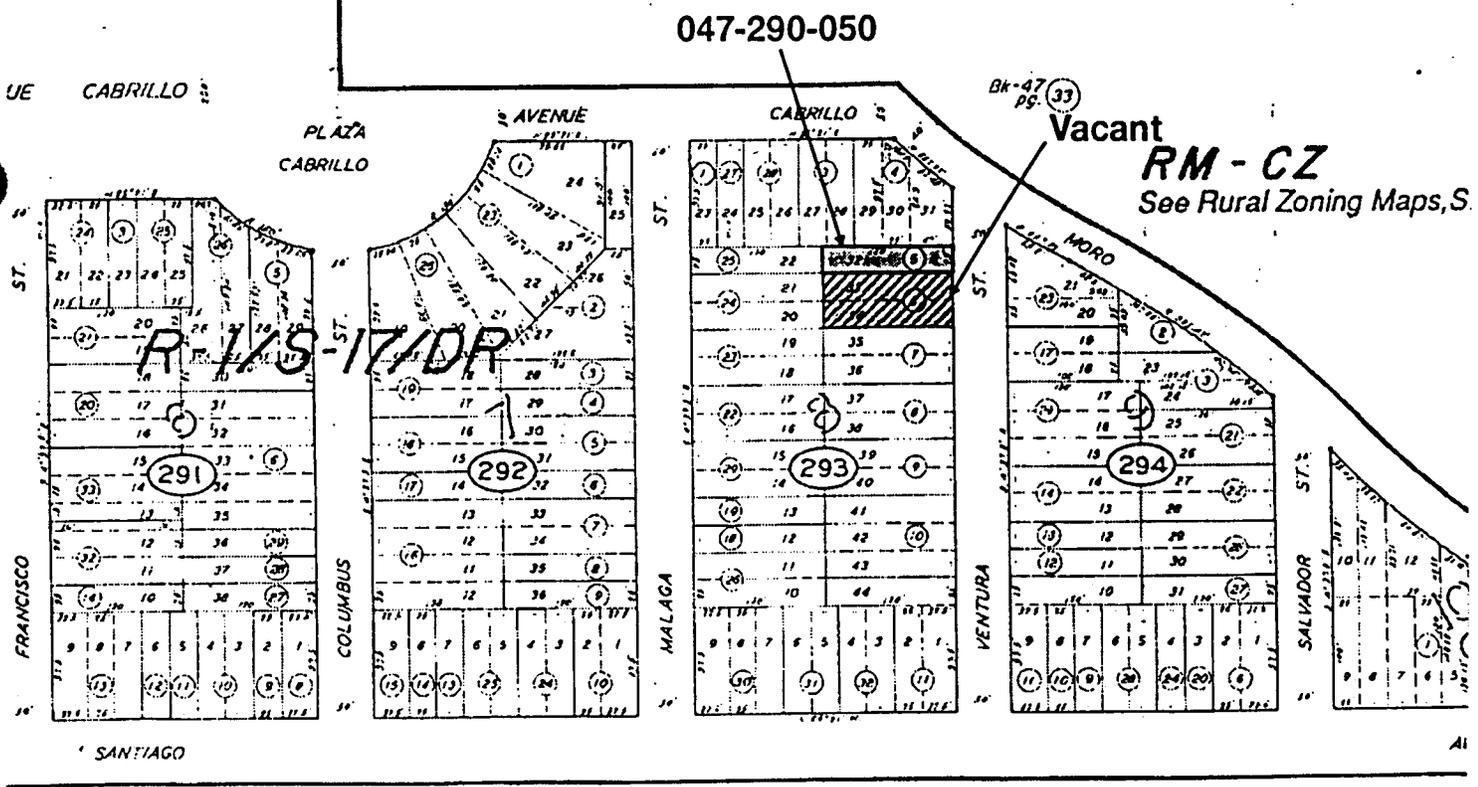


EXHIBIT NO.	2
APPLICATION NO.	A-1-SMC-99-014
Site Location and Parcel Map	

General Location



San Mateo County Board of Supervisors Meeting

Applicant: JUDY TAYLOR Attachment: C  
 File Numbers: USE98-0006 & CDP98-0010

Proposed Manufactured Home

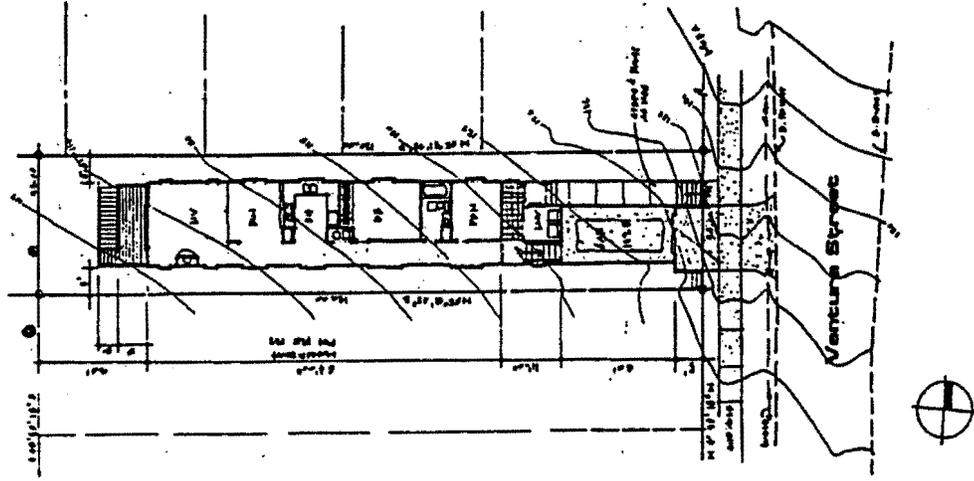
# Home

Venture Stripes  
Overhead, California  
Normal, Florida  
310 Main Street  
Half Moon Bay, Ca

## Summary

APN: 015-078-00  
Lot Area: 0.15 ac ±  
Zoning: R-10

## Location



Site / Floor

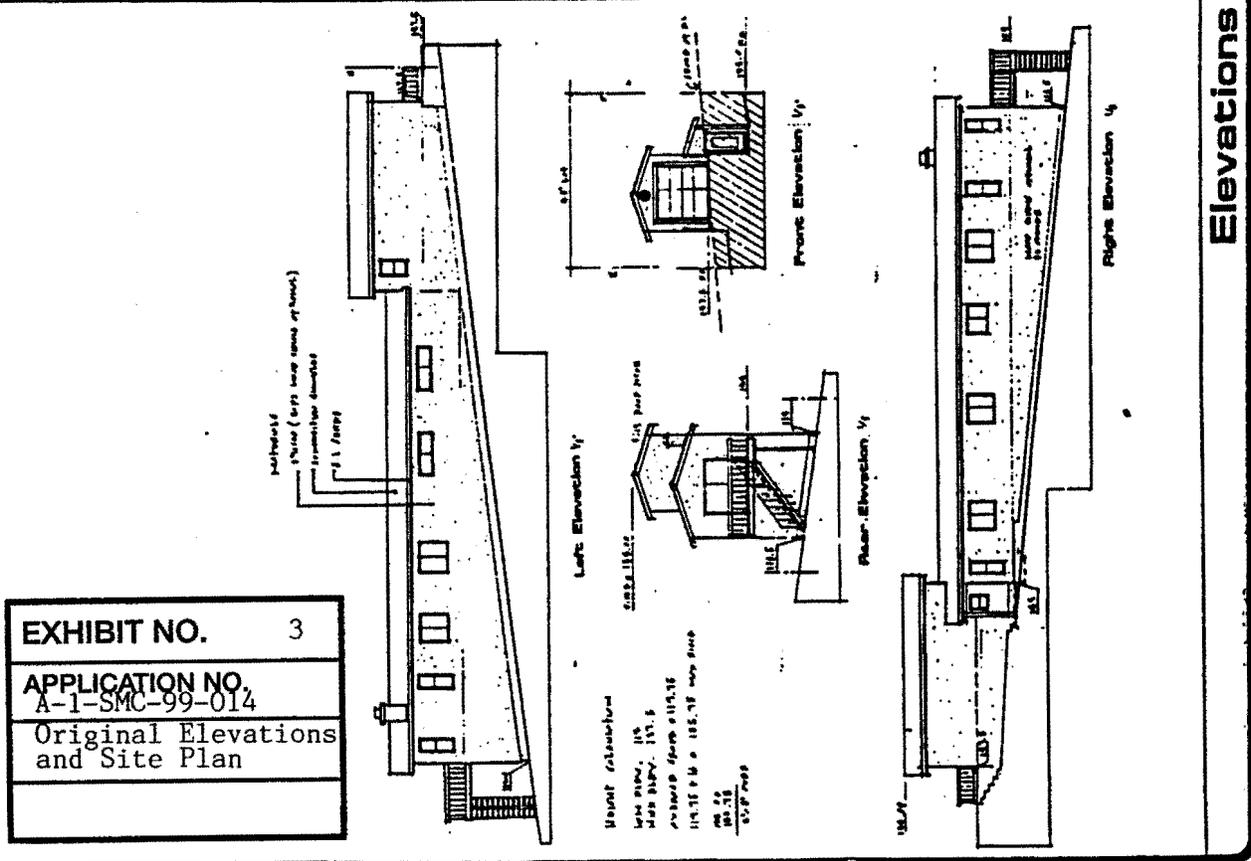


EXHIBIT NO.	3
APPLICATION NO.	A-1-SMC-99-014
Original Elevations and Site Plan	

### San Mateo County Board of Supervisors Meeting

Applicant: JUDY TAYLOR

Attachment: E

File Numbers: USE98-0006 & CDP98-0010

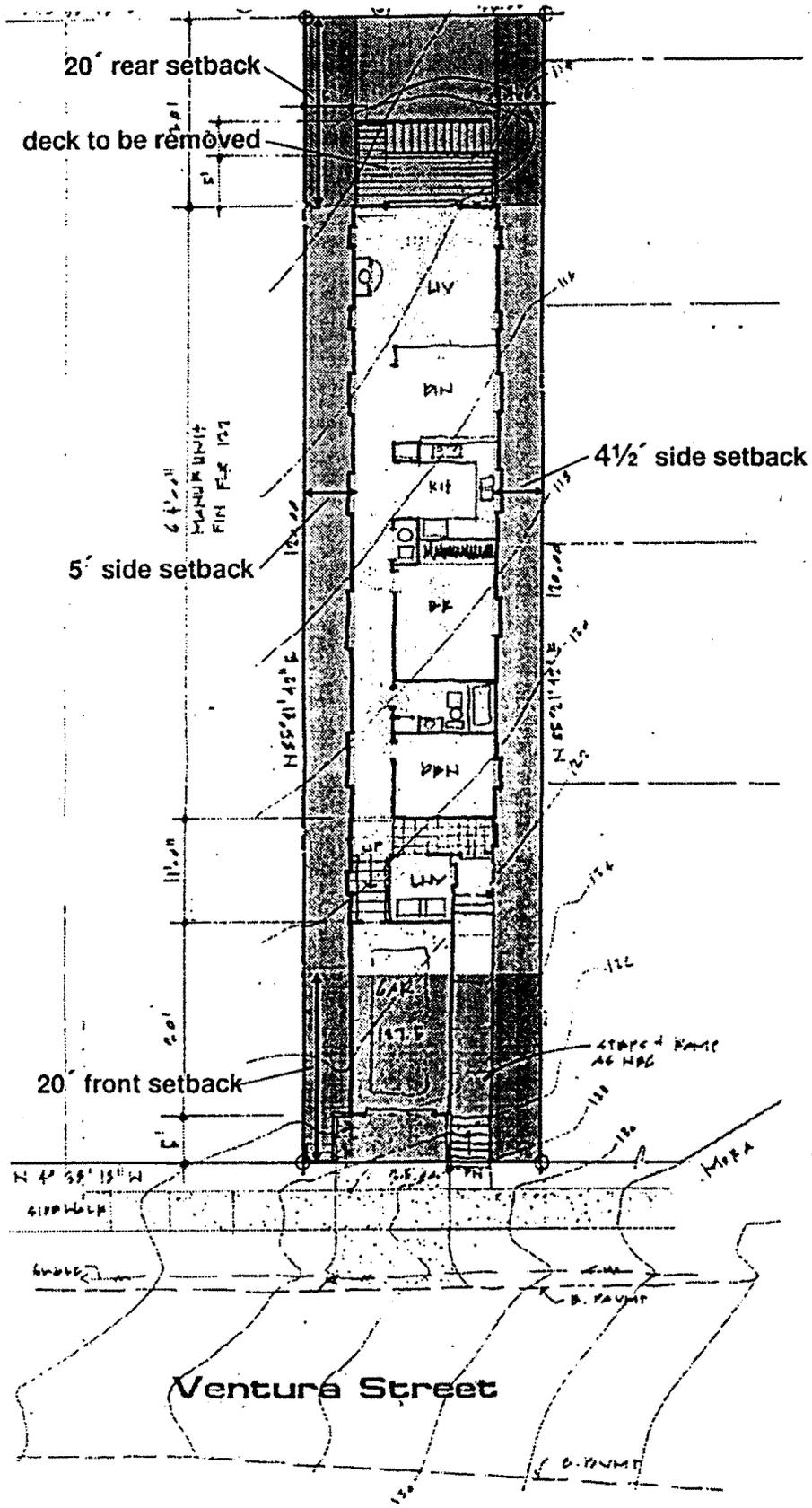


EXHIBIT NO.	4
APPLICATION NO.	A-1-SMC-99-014
Site Plan as Approved	

**San Mateo County Board of Supervisors Meeting**

Applicant: JUDY TAYLOR

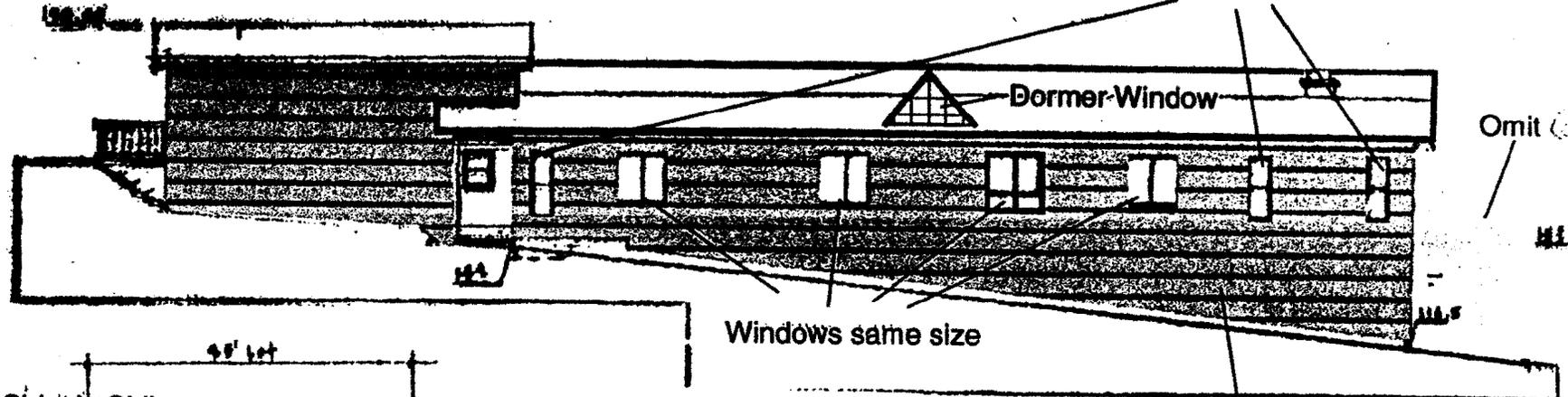
Attachment: D

File Numbers: USE 98-0006 & CDP 98-0010

Windows same size

Dormer-Window

Omit (check)



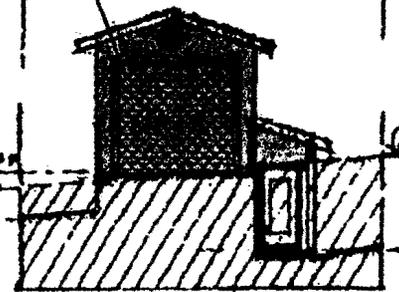
Shingle Siding on garage

Windows same size

Windows same size

Horizontal Siding  
Paint: Tan Color

EXHIBIT NO.	5
APPLICATION NO.	A-1-SMC-99-014
Elevations indicating County Conditions	

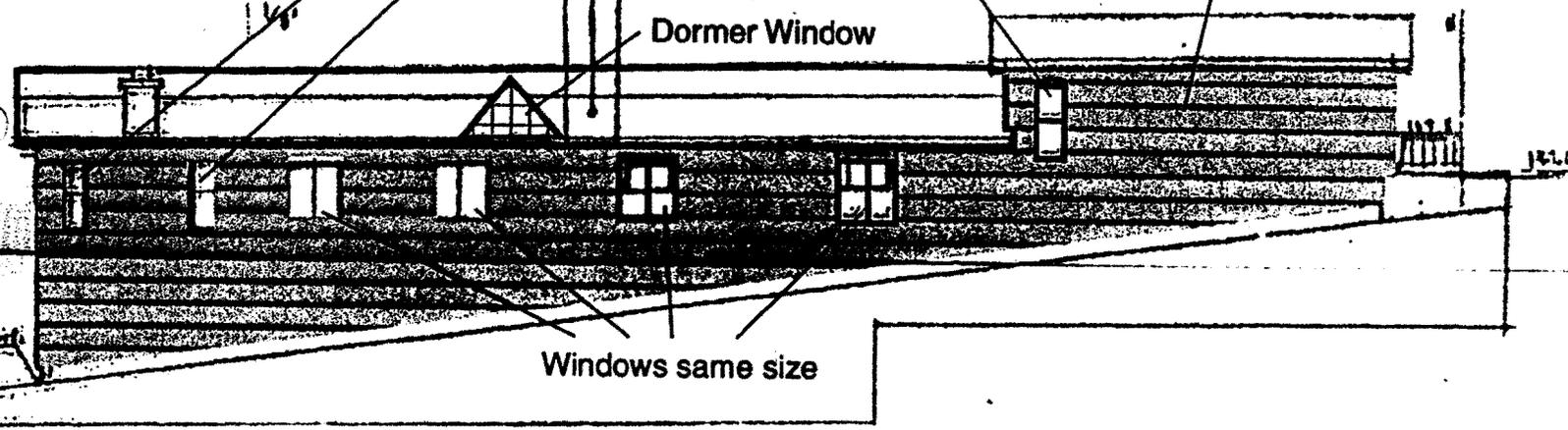


Front Elevation

Materials  
 Siding (Waps hard siding optional)  
 composition shingles  
 8-1/2" Jamb

Dormer Window

Omit (check)



Windows same size

Left Elevation



Planning and Building Division

County of San Mateo

Mail Drop PLN122 · 455 County Center · 2nd Floor · Redwood City  
California 94063 · Telephone 650/363-4161 · Fax 650/363-4849

Board of Supervisors  
Rose Jacobs Gibson  
Richard S. Gordon  
Mary Griffin  
Jerry Hill  
Michael D. Nevin

Director of  
Environmental Services  
Paul M. Koenig

Planning Administrator  
Terry L. Burnes

Please reply to: Lily Toy  
(650) 363-1841

February 10, 1999

Ms. Judy Taylor  
210 Main Street  
Half Moon Bay, CA 94019

Dear Ms. Taylor:

SUBJECT: Use Permit, File No. USE 98-0006  
Coastal Development Permit, File No. CDP 98-0010  
910 Ventura, El Granada  
APN: 047-293-050

On February 9, 1999, the Board of Supervisors considered an appeal of the Planning Commission's approval for a Use Permit and Coastal Development Permit pursuant to Sections 6133.3.b and 6328.4 of the County Zoning Regulations and the Planning Commission Policies for Non-Conforming Parcels, to allow the construction of a new single-family residence on a non-conforming 25-foot wide, 3,000 sq. ft. parcel where the minimum parcel size is 5,000 sq. ft. This project is appealable to the California Coastal Commission.

The Board of Supervisors on a vote of 4 to 1 denied the appeal and upheld the decision of the Planning Commission and made the following findings for this project and approved this project subject conditions of approval listed below.

**FINDINGS**

Regarding the Environmental Review, Found:

1. That this project is exempt from environmental review under Section 15303, Construction of Small Structures, of the California Environmental Quality Act.

EXHIBIT NO.	6
APPLICATION NO.	A-1-SMC-99-014
Notice of Final Action	
Page 1 of 5	

Ms. Judy Taylor  
February 10, 1999  
Page 2

Regarding the Coastal Development Permit. Found:

2. That the project, as described in the application and accompanying materials required by Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms with the plans, policies, requirements and standards of the San Mateo County Local Coastal Program.
3. That the project conforms to the specific findings required by the policies of the San Mateo County Local Coastal Program, specifically those related to design in Policy 8.13.
4. That the number of building permits for construction of single-family residences other than for affordable housing, issued in the calendar year, does not exceed the limitations of Policies 1.22 and 1.23 as stated in Section 6328.19.

Regarding the Use Permit. Found:

5. That the project is proportioned to the size of the parcel on which it is being built.
6. That all opportunities to acquire additional contiguous land in order to achieve conformity with the zoning regulations currently in effect have been investigated and proven to be infeasible.
7. That the project is nearly in conformance with the zoning regulations currently in effect as is reasonably possible.
8. That the establishment, maintenance, and/or conducting of the proposed use will not, under the circumstances of this particular case, result in a significant adverse impact to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in the said neighborhood.
9. That the use permit approval does not constitute a granting of special privileges.
10. That the proposed building is scaled to the lot on which it is being built.

CONDITIONS OF APPROVAL

Planning Division

1. The permit shall be valid for one year. Any extension of this permit shall require submittal of an application for permit extension and payment of applicable permit extension fees by February 10, 2000.

Ms. Judy Taylor  
February 10, 1999  
Page 3

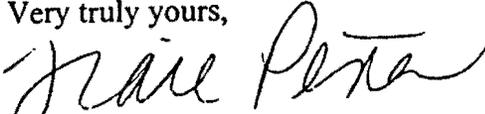
2. The applicant shall submit exterior earthtone color samples of the residence for review and approval by the Planning Director prior to issuance of the building permit. The approved colors shall be verified by the Planning and Building Division prior to a final inspection for the building permit. The garage shall be painted the same color as the body of the home.
3. The applicant shall use a horizontal wood siding for all sides of the house and garage. This siding shall extend all the way to the grade level on all sides.
4. The project shall be constructed pursuant to the plans and any changes approved by the Zoning Hearing Officer; any deviation from the approved plans shall be reviewed and approved by the Planning Director or Zoning Hearing Officer as necessary.
5. At the building permit stage, the applicant is required to submit revised plans showing that the deck on the rear of the house has been removed and that the home complies with the rear yard setback of 20 feet.
6. If the applicant intends to keep the significant tree in the front of the property, prior to issuance of the building permit and commencement of construction, the applicant shall erect snow fencing or other effective barrier around the drip line of the significant tree located in the front of the property. This fencing shall be maintained during the construction period, and no equipment shall encroach between the fencing and the tree trunk. If pruning of significant branches (measured 6 inches or greater) is required during construction, such pruning shall be conducted by a licensed arborist or landscape architect. The applicant shall notify the Planning Director, in writing, at the time the snow fencing is erected around the tree, and if pruning of the significant pine tree is required. If the applicant wishes to remove this tree, a tree removal permit shall be secured through the Planning Division.
7. No grading-related work shall commence prior to the issuance of the building permit, and no work shall be permitted on site between October 15 - April 15, unless a winterization plan is approved by the Planning Director and implemented on site. Such winterization plan shall include procedures to be adhered to for grading, vegetation removal, installation of silt fencing, covering exposed graded areas, reseeded and revegetating the site upon completion of construction.
8. All utilities associated with this property shall be installed underground.
9. During construction activities, the applicant shall be required to implement the following erosion and sediment control practices:

- a. No construction activities shall commence until the applicant has been issued a building permit by the Building Inspection Section of the County of San Mateo.
  - b. Prior to issuance of a building permit, the applicant shall prepare and submit an "erosion and sediment control plan" to be approved by the Planning Director. Prior to commencement of construction, the applicant shall install the approved erosion and sediment control plan. During construction, it shall be the responsibility of the applicant to regularly inspect the erosion control measures and determine that they are functioning as designed and that the proper maintenance is being performed. Deficiencies shall be immediately corrected.
10. Construction activities shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. Construction operations shall be prohibited on Sunday and any national holiday. Noise levels produced by the proposed activities shall not exceed 80 dbh level at any one time.
  11. Prior to issuance of a building permit, the applicant shall agree in writing and shall redesign the home so that the roof is increased from a 3:12 to a 4:12 pitch. A minimum of one dormer on each side of the home shall be added to this increased pitch roof. This will provide a visual break for the long sides of the home.
  12. Prior to issuance of a building permit, the applicant shall agree in writing and shall redesign the home so that there are no more than two different sizes of windows on each side of the home.
  13. The home shall be repositioned on the project site to be no higher than 16 ft. in average height.
  14. Prior to issuance of a building permit, the applicant must submit a landscape plan to the Planning Division for review and approval to address screening the proposed home on the south side. The approved landscape plan shall be implemented and reviewed by planning staff prior to a final approval for the building permit.
  15. Prior to issuance of a building permit, the applicant shall submit a drainage plan to ensure that water drainage will not be exacerbated on the adjoining lots, and incorporate design recommendations into their building permit application.
  16. In order to add character to the structure, the applicant shall add shingle siding to the front side of the garage.

Ms. Judy Taylor  
February 10, 1999  
Page 5

This item is appealable to the California Coastal Commission. An additional Coastal Commission ten (10) working day appeal period will begin after the Board of Supervisors hearing. A project is considered approved when this appeal period has expired and no appeals have been filed.

Very truly yours,



Fiare Pena  
Acting Planning Commission Secretary  
BOS0209J.tp

cc: Public Works  
Building Inspection  
California Coastal Commission  
Half Moon Bay Fire  
MCCC  
Coastside Community Water  
Granada Sanitary District  
Cabrillo Unified School District  
Ms. Linda Banks  
C.M. Gaede  
Barbara Mauz  
Garrett D. Crispell



CALIFORNIA COASTAL COMMISSION  
NORTH COAST AREA  
EMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
(415) 904-3260

RECEIVED  
MAR 01 1999



APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT

CALIFORNIA  
COASTAL COMMISSION

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

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):		
<u>GARRETT CRISPELL</u>	<u>POB 808</u>	<u>EL GRANADA CA 94018</u> (650) 726 1714
<u>C.M. GARDNER</u>	<u>POB 1286</u>	<u>EL GRANADA CA 94018</u> (650) 726 4550 405
<u>BARBARA MAUZ</u>	<u>POB 1284</u>	<u>EL GRANADA</u> (650) 726-4013
	Zip	Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: SAN MATEO COUNTY

2. Brief description of development being appealed: 1325 SQ. FT. MODULAR HOME ON 25 FT. SUB-STANDARD LOT 15 FT. FRONT SETBACK FROM STREET WITH NO STORM DRAIN/SIDE WALK IMPROVEMENTS. AS PROPOSED, PROJECT HAS 49% LOT COVERAGE.

3. Development's location (street address, assessor's parcel no., cross street, etc.): 910 VENTURA ST., EL GRANADA, CA.  
APN #047-293-050 CDP FILE # CDP '99-0010

4. Description of decision being appealed:
- a. Approval; no special conditions: \_\_\_\_\_
  - b. Approval with special conditions: SEE ATTACHMENT
  - c. Denial: \_\_\_\_\_

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-SMC-99-014

DATE FILED: 3/1/99

DISTRICT: North Coast

H5: 4/88

EXHIBIT NO.	7
APPLICATION NO.	A-1-SMC-99-014
Appeal to Commission	
Page 1 of 8 pages	

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

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

- a.  Planning Director/Zoning Administrator
- c.  Planning Commission
- b.  City Council/Board of Supervisors
- d.  Other \_\_\_\_\_

6. Date of local government's decision: 9 FEB 99

7. Local government's file number (if any): 1-SMC-98-173

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:  
JUDITH A. TAYLOR  
210 MAIN STREET  
HALE MOON BAY, CA 94019

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

- (1) SEE ATTACHMENT 3 SECTION III b
- (2) \_\_\_\_\_
- (3) \_\_\_\_\_
- (4) \_\_\_\_\_

SECTION IV. Reasons Supporting This Appeal

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, which continues on the next page.



**To: California Coastal Commission**

**Subject: Appeal; Section IV Reasons Supporting This Appeal.**

We are appealing to the Coastal Commission for relief due to the fact that the established appeal processes broke down and our local government system failed to act to protect the residents of our neighborhood and the citizens of the coast.

In the process of approving the USE and CDP permits for the project in question, local government failed to enforce the letter and intent of the sections of the LCP that are based on sections 30210 through 30264 of The Coastal Act. The concerns of the residents of the area regarding the far reaching precedents embodied in this project were not addressed. **(See appellants appeal and rebuttal to staff report.)** These concerns have also been presented to the Planning Commission and Board of Supervisors by the duly elected representatives of the Mid Coast Community Council and the Mid Coast Sanitary Districts to no avail. **(See attachments)**

We have submitted a MCTV video of the Board of Supervisors appeal hearing which is outlined under separate cover. This video provides evidence that planning staff advised The Board that there were grounds to deny the permits. **(See "Recommended Findings for Denial" prepared by Terry Burns.)** This is a remarkable document that supports, in part, our issues of appeal. For this to be recognized publicly by the Planning Department is highly unusual and validates our assertion that the Zoning Hearing Officer and the Planning Commission failed to consider evidence and issues unique to the coast in rendering their decisions. It should be noted that planning staff recommended denial in the initial report to the Zoning Hearing Officer. None of the conditions of approval have significantly altered these findings. **( See report by Jeff Merz dated 9/3/98.)** The video also provides evidence that The Board was reminded that they had discretionary power to deny and devoted no time or discussion to the issue.

Approval of this project, as proposed, will create thousands of entitlements. This in turn will exacerbate a multitude of problems related to the existing infrastructure deficiencies. For example, recent major traffic modeling studies prove that the Coast Side is already past build out. **(See capacity report).**

A major focus in our appeal(s) has been the fact that sub-standard lots are not included in the LCP build out numbers. **(See the "Perkovic Report")** Simple logic leads to the conclusion that the assumptions and provisions of the LCP regarding build out, density, capacity, proportionality and design are not accurate and do not reflect the changing landscape of the Mid Coast Communities. These issues and concerns have been brought to the attention of the Planning Commission and the Board of Supervisors prior to their decision(s) on this particular project. **(See letters and reports from the Mid Coast Community Council)** The Mid Coast Community Council, as the duly elected representative voice of the coastal community is not being heard by the local government entities. As residents of the coast, these

## Section IV, Page 2

representatives are knowledgeable and have expertise in matters of land use, the LCP and Mid Coast Community Plan. This expertise should be weighted above that of distant local government representatives who are primarily responsive to constituents and special interest forces who reside outside of the coastal area.

Sections 6.1 through 17.4 du/ac of the Community Plan govern land use densities. Further development at the density levels represented by this project will result in a change from medium to high density residential. The potential impact on the coast from this outcome is obvious. The county has inadequate controls to prevent this from happening. It is essential that the Coastal Commission intervene before irreparable harm occurs.

Sections 1.2, 4.1, 7.1, 7.2, 7.2(a) and (b), 7.3, 7.8, 7.11, 7.12, and 7.13 of the Local Community Plan detail the goals and objectives of the mid-coast area that includes Montara, Moss Beach, and El Granada. This project, as proposed, is incompatible with the scale and character of the neighborhood in which it is located. It does not comply with the design guidelines of the "Community Design Manual". Consequently, it does not meet the requirements for approval of a coastal development permit.

LCP Policy 7.3 requires protection of sensitive habitats. The county has acknowledged that severe drainage problems exist in the area that pose a risk to the health and safety of the residents and rise to potential civil liability levels. **(See video of hearing)** The Board of Supervisors declined to consider testimony regarding development patterns. Similar development in this area will exacerbate drainage problems. Drainage from the area in question flows into the Mirada Surf area which has been identified as sensitive wetlands habitat in a recent EIR. Drainage from the area in question flows through garages and other areas containing toxic substances. Although the Zoning hearing Officer added conditions relating to drainage impact on the adjoining properties, the potential impact on non-adjoining properties and the sensitive habitat have not been addressed. Drainage also flows into the ocean and is washed back onto the beaches. The area impacted is designated "Urban RM/CZ Park land."

Section 1.3 thru 1.5 of the LCP governs issues relevant to development patterns. 1.3 essentially says established patterns must preserve and protect the environmental features which form the unique natural setting of the community. As a result of the 50% lot coverage allowed, this project **will not**. Consequently, it does not qualify for a Coastal Development Permit.

This project is in the "sphere of influence" of Half Moon Bay. Thus, policy issues of the Half Moon Bay LCP are equally applicable to the area in question. The proportionality

## Section IV, Page 3

and floor area ratio standards addressed by Half Moon Bay are based on widely accepted and reasonable planning formulas. **(See sub-standard lot report dated 11-17-98)** Following these guidelines, this project grossly exceeds the standards for non conforming lots. Philosophically, building guidelines call for small homes on small lots. **1325 Square feet with 49% lot coverage is not a small house.** The proportionality and floor area ration formulas would limit the house on this lot to 900 square feet. Compliance with this standard would substantially mitigate the problems and concerns. Provided it also conformed to a standard front set back, complied with parking requirements **(it does not comply now)**, and did not exceed the 35% lot coverage standard applicable to other homes in the area, the project would then be proportional and less injurious to existing homeowners. In its present form, this project even exceeds the standard established in urban areas "over the hill".

Another issue of relevant concern that was not considered by the Planning Commission or Board of Supervisors involves the affirmative obligation to exhaust all potential means for merging sub-standard lots before considering development. Mr. Crispell made an attempt to purchase and merger this lot in 1997. **(See real estate purchase contract.)** Any claims of hardship by the applicants are fallacious as they knowingly and willfully prevented the desired merger which would have prevented all of the ensuing problems and potential harm to the neighbors and coastal area. Appellants were prevented from presenting evidence and testimony regarding these facts. If a Coastal Development Permit for this project is denied, **merger remains a viable option.**

There are alternative properties where this project could be developed without harm to the neighborhood and sensitive coastal resources. The larger issues regarding the impact of development of 25 foot lots on density, parks, traffic, and visitor serving resources will remain but can be addressed in an orderly and proactive manner. Reactive policy and precedent that will be established through approval of this project will lead to further conflict and confusion.

There are a multitude of other issues related to the potential adverse impact on the Local Coastal Program including those mentioned above. Local groups and agencies are actively working on these problems, changes in policy and procedure, and possible amendment of the Local Coastal Program. Appellants have pleaded with the local government agencies to defer approval of controversial permits until these issues are resolved. Mid Coast agencies have, in fact, established two moratoria on permits while issues regarding development of sub-standard lots are reviewed and viable policy is implemented. **(See Perkovic study and Granada Sanitary District data.)**

The issues in this case go far beyond the impact of one house on one little lot. The

Section IV, Page 4

residents of the coast and the people of the State of California depend on the Coastal Commission to protect our irreplaceable resources. You are our last line of defense against those predatory speculators and developers who have no interest or investment in protecting the coastal resources. Their objective is hit and run profiteering through creating and benefiting from "loop holes" in the law. They know that they will eventually be restrained but can create irreparable harm before they are exposed and stopped. This is the primary concern regarding the precedents embodied in this project. In fairness, we must point out that there are ethical local developers who value the unique qualities of the coast and conduct business accordingly. We support them and their right to proceed with orderly development that is consistent with the provision of The Coastal Act.

Your decision in this case will have far reaching impact and long term consequences. Although we have a personal investment in the outcome of the appeal, careful analysis will reveal that this is not a simple conflict between individual parties. The applicant in this case is a well known real estate speculator who represents development special interests. There are no issues of hardship as speculation is by definition, gambling. No evidence has been submitted to show that denial of this project, as proposed, will result in harm beyond that already suffered by all parties as a result of this seriously flawed endeavor.

We have been joined in our appeal by acknowledged leaders, respected authorities and coastal representatives who are dedicated to the preservation of our coastal resources. On balance, we believe our position is consistent and compliant with the letter and intent of the Coastal Act and the provisions of the Local Coastal Program. The applicants is not. That is in itself adequate grounds to deny a Coastal Development permit.

Consequently, we respectfully request that The Coastal Commission fulfill it's responsibility for implementing the Coastal Act by denying the Coastal Development Permit in question, without prejudice. Hopefully, this will lead to a renewed effort by the local government bodies and citizens groups to work together to ensure that coastal resources are preserved while providing for orderly growth and development

We will be submitting additional supporting evidence and testimony for your consideration prior to the hearing. The foregoing is not intended to be a complete or exhaustive articulation of our appeal. Rather, it is an outline of the salient issues and identifies some of the supporting evidence that is being submitted.

There is always the hope and possibility that the matter can be resolved prior to the hearing. We will work closely with our elected representatives in good faith if there is an effort to achieve a mutually acceptable resolution to this situation through

**Section IV, Page 5**

collaborative problem solving. We will not, however, compromise the rights of our neighbors or the welfare of the residents of the Mid Coast area by withdrawing for the sake of convenience or personal gain.

Thank you for your consideration.

C.M. Gaede, Gary Crispell, and Barbara Mauz, et. al.

# Application for Appeal

- To the Planning Commission
- To the Board of Supervisors

## 1. Appellant Information

Name: GARRETT D. CRISPELL,  
C.M. GAEDE, BARBARA MAUZ, IET AL  
Phone. W: 726-4013 H: 726-1714

Address: P.O. BOX 808 - OR  
P.O. BOX 1284 (MAUZ)  
EL GRANADA. Zip: 94018

## 2. Appeal Information

Permit Numbers involved:  
USE 98-0006  
COP 98-0010

I have read and understood the attached information regarding appeal process and alternatives.  
 yes  no

I hereby appeal the decision of the:

- Staff or Planning Director
- Zoning Hearing Officer
- Design Review Committee
- Planning Commission

Appellant's Signature:

C.M. Gaede  
Date: 22 DEC. 98

made on DECEMBER 9 1998 to approve/deny the above-listed permit applications.

## 3. Basis for Appeal

Planning staff will prepare a report based on your appeal. In order to facilitate this, your precise objections are needed. For example: Do you wish the decision reversed? If so, why? Do you object to certain conditions of approval? If so, then which conditions and why?

WE APPEAL TO THE BOARD OF SUPERVISORS TO REVERSE THE DECISION(S) OF THE ZONING HEARING OFFICER AND THE PLANNING COMMISSION AND DENY THE ABOVE REFERENCED PERMITS. THE PROPOSED PROJECT WILL BE DETRIMENTAL TO THE PUBLIC WELFARE AND INJURIOUS TO THE PROPERTY AND IMPROVEMENTS IN THE SAID NEIGHBORHOOD. THE CONDITIONS IMPOSED BY THE ZONING HEARING OFFICER AND AFFIRMED BY THE MAJORITY OF THE PLANNING COMMISSIONERS DO NOT MITIGATE THIS FACT.

WE FURTHER APPEAL ON THE GROUNDS THAT DUE TO THE ACTIONS OF THE APPLICANT WE WERE UNABLE TO PRESENT FULL AND COMPLETE EVIDENCE TO THE COMMISSIONERS, WE SUBMIT THE FOLLOWING FACTORS FOR CONSIDERATION BY THE BOARD OF SUPERVISORS:

EXHIBIT NO.	8
APPLICATION NO.	A-1-SMC-99-014
Appeal to the Board 12/22/98 (pg. 1 of 2)	

1. Applicant arranged (through Planning Commission staff) for the hearing to be scheduled without the knowledge of the assigned project planner who we contacted for information, as directed. This resulted in inadequate time to prepare a full and complete presentation. In addition, the hearing did not proceed as scheduled, resulting in Mr. Crispell having to leave without being able to present critical information to The Commission.
2. The siting and topography of the lot in question renders any development on this parcel detrimental to the surrounding property owners.
3. The approved 5 foot front set back will result in irreparable harm to the adjoining property, and is out of character with the conforming properties in the immediate area.
4. Issues and concerns regarding potential drainage problems were sarcastically dismissed by a commissioner as a "red herring." These problems are real and a matter of serious concern.
5. Other issues involving the historical use of said property, parking, infrastructure, and other factors that jeopardize the health and safety of the existing residents have not been adequately addressed.
6. 25 foot non-conforming lots have not been counted and included in the build out numbers. Policies regarding development on these non-conforming lots have not been certified by the Coastal Commission. Thus, any permits issued are not in compliance with the Local Coastal Plan.
7. Broader issues regarding development on 25 foot lots have surfaced as a result of the proposed project. These issues are being investigated by a variety of agencies and concerned individuals. These issues need to be addressed and resolved by the county before any further permits are issued.
8. The applicants have cited 5th amendment constitutional issues regarding the "taking" concept as authoritative grounds for approval by the county. Approval of the permits in question will establish precedents that will have far reaching consequences for the county. Until such time that the courts find that the "taking" principle is applicable to this project, there is no factual basis for approval on legal or constitutional grounds.
9. The Board of Supervisors should initiate a full review by the County Counsel of the issues raised by this project and have these matters adjudicated in the federal courts before approving any further permits for development on 25 foot non-conforming lots.
10. The applicants have misrepresented the facts and engaged in activities that give the appellants good cause for concern that, as a result, special privilege is being granted.
11. Finally, appellants have good cause for alarm due to our previous experience with county zoning and planning agencies during the J.L. Johnson saga. Our neighborhood was adversely impacted when a speculator/developer was allowed to trample the rights of the property owners and no one would act on our behalf until it was too late. We implore The Board to recognize our rights and act now to prevent irreparable harm to our neighborhood by denying the permits in question.

Garrett Crispell, C.M. Gaede, Barbara Mauz, et al.

# Application for Appeal

- To the Planning Commission
- To the Board of Supervisors

Name: GARRETT D. CRISPELL,  
C. M. GAEDE, BARBARA MAUZ, ET AL  
Phone. W \_\_\_\_\_ H \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Zip: \_\_\_\_\_

Permit Numbers involved:  
USE 98-0006  
CDP 98-0010

I have read and understood the attached information regarding appeal process and alternatives.  
 yes       no

- I hereby appeal the decision of the:
- Staff or Planning Director
  - Zoning Hearing Officer
  - Design Review Committee
  - Planning Commission

Appellant's Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

made on 9-3- 1998 to approve/deny the above-listed permit applications.

Planning staff will prepare a report based on your appeal. In order to facilitate this, your precise objections are needed. For example: Do you wish the decision reversed? If so, why? Do you object to certain conditions of approval? If so, then which conditions and why?

WE ARE APPEALING TO THE PLANNING COMMISSION TO REVERSE THE DECISION OF THE ZONING HEARING OFFICER AND DENY SAID PERMITS. REGARDING THE CDP, WE CONTEST FINDINGS NUMBERED (2), (3) AND (4) IN THE ATTACHED DOCUMENT. REGARDING THE USE PERMIT, WE CONTEST FINDINGS NUMBERS (5), (6), (7), (8), (9), AND (10)  
WE CONTEND THE FINDINGS ARE NOT VALID AS THE DECISIONS WERE BASED ON IRRELEVANT AND ERRONEOUS ASSUMPTIONS REGARDING THE ADJOINING VACANT LOT OWNED BY THE WALFORDS.  
THE PLANNING STAFFS RECOMMENDATION FOR DENIAL WAS APPROPRIATE. THE CONDITIONS IMPOSED DO NOT PROVIDE RELIEF TO THE APPELLANTS PRIMARY ASSERTION THAT THIS PROJECT WILL RESULT IN IRREPERABLE HARM TO THE INDIVIDUAL HOMEOWNERS AND NEIGHBORHOOD, AS A WHOLE.

( OVER )

EXHIBIT NO.	9
APPLICATION NO.	A-1-SMC-99-014
Appeal to Planning Commission	
Page 1 of 2 pages	

WE FURTHER APPEAL ON THE GROUNDS THAT :

- 1.) THE CONDITION REGARDING DRAINAGE DOES NOT ADEQUATELY ADDRESS THE HEALTH, SAFETY AND PUBLIC WELFARE ISSUES REGARDING THE SERIOUS PROBLEMS THAT EXIST IN THE IMMEDIATE AREA. ANY FURTHER DEVELOPMENT PRIOR TO THESE PROBLEMS BEING CORRECTED WILL RAISE LIABILITY ISSUES FOR THE COUNTY.
- 2.) THE HISTORICAL USE AND NEIGHBORHOOD STANDARDS RELEVANT TO THE LOT IN QUESTION WERE NOT ADDRESSED OR CONSIDERED BY THE HEARING OFFICER.
- 3.) THE ISSUES REGARDING INFRASTRUCTURE RAISED BY THE RESIDENTS HAVE NOT BEEN ADDRESSED BY THE RESPONSIBLE PUBLIC AGENCIES. ISSUANCE OF ANY PERMITS BEFORE THESE MATTERS ARE RESOLVED IS UN-ACCEPTABLE. THE DEFICIENCIES IN THE STREETS AND THE IMPACT ON DRAINAGE POSSESS A SERIOUS THREAT TO THE HEALTH AND SAFETY OF THE RESIDENTS (CURRENT).
- 4.) THE APPLICANTS HAVE ENGAGED IN ACTIVITIES THAT VIOLATE THE SPIRIT AND POSSIBLY THE LETTER OF THE LAW. THIS PRECLUDES RESOLUTION THROUGH MEDIATION AND HAS FORCED THE APPELLANTS TO TAKE ACTION(S) TO PROTECT THEIR PROPERTY AND WELL BEING. THIS IS A SOURCE OF DISTRESS THAT PRECLUDES PURSUING OUR OBJECTIVES IN GOOD FAITH.
- 5.) THE APPLICANTS HAVE MISREPRESENTED THE FACTS AND OBSCURED THE TRUTH IN THEIR PRESENTATION(S). THIS RENDERS ANY DECISIONS INVALID. UNTIL SUCH TIME THAT THE RESPONSIBLE AGENCIES FULL AND COMPLETE FACTUAL INFORMATION, APPROVAL OF SAID PERMITS IS PREMATURE. ISSUANCE OF THESE PERMITS WILL OPEN THE DOOR TO FURTHER APPEAL LITIGATION WHICH IS NOT IN THE BEST INTEREST OF ALL INVOLVED.
- 6.) THE PROPOSED PROJECT HAS RAISED MANY QUESTIONS REGARDING MATTERS OF LAW THAT ARE BEING INVESTIGATED BY A VARIETY OF COASTAL AGENCIES AND RECOGNIZED ORGANIZATIONS. NO PERMITS SHOULD BE APPROVED OR ISSUED UNTIL SUCH TIME THAT THESE ISSUES ARE AUTHORITATIVELY RESOLVED BY THE COUNTY AND STATE GOVERNMENT AGENCIES OR THE COURTS.

WE PRAY THAT THE PLANNING COMMISSION WILL PUT THIS MATTER TO REST BY DENYING THE PERMITS IN QUESTION AND ALLOW THE CURRENT RESIDENTS TO MAINTAIN THE QUALITY OF LIFE IN THE NEIGHBORHOOD WHILE FREEDING THE APPLICANTS TO MOVE ON TO PURSUE THEIR GOALS IN ANOTHER AREA.

C.M. Fuedo

Please attach this as an amendment to the appeal: A-1-SMC-99-014.

Hard Copy to follow.

Sincerely,

Kathryn Slater-Carter

**R E C E I V E D**  
MAR 22 1999

**CALIFORNIA  
COASTAL COMMISSION**

This project has been appealed because there is concern in the community that the ability of the special districts to plan for infrastructure improvements is crippled by the County's continuing approvals of residential development on lots smaller than the minimum used in calculating the LCP build out numbers. The County has not kept cumulative records of lot size for permitted residential development (e-mail from J. Eggemeyer 16, Mar. 99, to K. Slater-Carter). Development of substandard lots will result in huge disparities between infrastructure and population. Buildout in excess of the LCP numbers will create destructive demands on the coastal environment.

Further, this project, as approved, it not in conformance with the Montara-MossBeach-El Granada Community Plan, the San Mateo County Local Coastal Program (LCP) or the zoning ordinance.

The "Substandard Lot Study" released by the County in Jan. 1999 reveals that 20% of the S-17 lots and 70% of the S-9 lots developed in 1998 were below the zoned minimum size. As an example, currently our roads, which under the LCP are to be kept to two lanes in the rural areas are at Cal Trans service level F in spite of moratoria on new water and sewer connections for approximately the last 10 years. These moratoria have substantially reduced the amount of new residential units constructed on the in this time period.

Additionally in this instance the approval does not meet the off street parking requirement or others in "Policy: Use permits for Construction on Non-Conforming (25-foot-wide) Residential Parcels" necessary for granting a use permit for residential development on a substandard lot.

The practice of permitting development of substandard lots will effectively increase the specific development densities allowed in the urban R-1 districts of the Midcoast under the approved LCP without doing the necessary investigation of environmental effects.

In the mid 1970's San Mateo County began the planning process for the Montara-Moss Beach-El Granada area. A community plan was created by the County and the area stakeholders. One of its objectives was "to meet the requirements of the California Coastal Act of 1976" (M-MB-EG COASTAL PLAN EIR p. 13)

Although adopted in the 1980, the current San Mateo County (SMC) LCP specifically incorporates the Montara-Moss Beach-El Granada Community Plan in policy 1.5:

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(a) Incorporate the adopted Montara-Moss Beach-El Granada Community Plan into the land use plan for the Mid-Coast, but amend it where necessary to meet Local Coastal Plan objectives.

(b) Permit in urban areas land uses designated in the Land Use Plan Maps and conditional uses at densities specified in Tables 1.2 and 1.3.

The M-MB-EG Community Plan land use maps for the area designate the density to be "medium density" (6.1-8.7 d.u./ac). The current LCP Table 1.2. and the General Plan also use this density for this area

If the trend in the Substandard Lot Study continues the residential areas will be in the "medium high density" (8.8 to 17.1 d.u./ac).

The EIR for the Montara-Moss Beach-El Granada Community Plan, Nov. 1978, evaluated the environmental impacts of the proposed Community Plan on the area. At the time the M-MB-EG Community Plan was finished

"Most of the developed areas are zoned R-1/S-7 (Single-family residential--5000 sq. ft. minimum lot size per dwelling unit)." (M-MB-EG COASTAL PLAN EIR p. 20).

According to the County Planning department the State limited the ability of the County to enforce the minimum lot size zoning requirements sometime in the mid to late 1980's, yet apparently the County has never evaluated this change for its' impact on the LCP or the State Coastal Act.

Although the Community Plan EIR did not investigate higher residential densities for the greatest extent of residentially zoned lands, it did investigate a higher population. It rejected the greater population

"Because this alternative projects a larger population , the amount of land use, services, community facilities, etc. required would be greater.....This alternative was rejected in favor of the Plan because of Planning Commission and local support, and because it did not meet the criteria of State Coastal Zone Conservation Commission (Coastal Plan)." (M-MB-EG COASTAL PLAN EIR p.57).

We request that the Coastal Commission use its' oversight of County coastal development to require an evaluation of the impact of higher density development on all coastal resources.

In order for local special districts to continue to meet the LCP Policy \*2.6:

Limit development or expansion of public works facilities to a capacity which does not exceed that needed to serve buildout of the Local Coastal Program.

it is essential to have an accurate buildout number. The practice of approving higher densities than planned will change the buildout number, but only the County can control land use policy and then predict what this population will be.

It is interesting to note that there is currently an appeal to the Coastal Commission of a water system pipeline to serve the Midcoast that has the capability of serving a population five times greater than the buildout number. Perhaps this is as a result of the uncertainty of the buildout number that is required to be the planning goal.

Approval of this project by the County gives incentive to develop others on substandard lots. This lot was once part of a group of 3 contiguous lots in one ownership. Over the past year or two they have been disaggregated into 3 separate ownership's. The potential exists for each to be developed into a separate house while the LCP and Community Plan examined likelihood of only one. By its' own admission there has been no comprehensive study of the real potential for exceeding the LCP buildout numbers by the County.

A San Mateo County staff report (6/15/93) used a sampling process to calculate that there are approximately 1,997 undeveloped substandard lots on the urban midcoast. Using LCP Table 2.3, footnote 2, there are 2.6 people per single residential household. Using LCP Table 2.21 the Estimated Buildout Population of the LCP Land Use Plan projects the Midcoast build out population to be 15,500 people. Thus the potential for exceeding the buildout population is 33.49 percent (5,192 people)

A significant number of the lots exist in the Midcoast area: 80 % in Montara; 76% in Moss Beach; 27% in El Granada; and 19% in Princeton. Not all lot separations were counted in the 1993 estimate, thus the potential for exceeding the buildout number may be far worse. Indeed, during the hearing process for LCP amendment 1-97C the Coastal Commission recommended denial of the "Development of Residential Substandard Parcels" until a comprehensive study could be done.

We request that the Coastal Commission place a moratorium on the construction of residential units on any substandard lot until a comprehensive evaluation of the effects on coastal resources is completed and new policies adopted, if necessary.

#### \*7.3 Protection of Sensitive Habitats

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

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

According to the draft EIR for the Mirada Surf proposed development and the County aerial topo maps the drainage from this neighborhood flows directly onto Mirada Surf wetlands. Significant changes in the density of total development and significant additions to the runoff flow caused by greater lot coverage's will have a significantly deleterious effect on the sensitive habitats due to changes in quantity of runoff as well as quality.

The staff report states that there is no drainage system for the area. We could not find any Urban Storm water Runoff Management Plan for the neighborhood.

There was significant oral testimony to both the Planning Commission and the Board of Supervisors detailing the existing flood problems experienced by existing homeowners. The only condition placed on this project is to develop a drainage plan to protect the adjacent lands--there has been no mention of protecting the wetland or other homes or home sites downhill from the increased runoff. This is a cumulative problem causing harm to an area identified as a wetland by Coastal Commission reports.

The County cites LCP Policy 8.13 in support of this project. It is accurate in its representation of the first three of the sections of the policy, but misses the intent of paragraph d:

d. Design structures which are in scale with the character of their setting and blend rather than dominate or distract from the overall view of the urban scape.

The staff report discussion concentrates on the increased roof pitch, the addition of dormers, and the regulations of window sizes. It does not mention that no other home or garage on this street is only five feet from the front property line; nor that all have much larger side setbacks and all others meet the 35% lot coverage criteria (staff report, 3, Sept. 1998). All are two stories in conformance with the requirement to conform to the natural topography.

This house will be "out of scale". It will "intrude" into the street rather than blending with the setbacks of all other homes on Ventura and thus will "distract from the overall view of the urban scape".

Montara, Moss Beach, El Granada Community Plan Issues:

Land Use: Residential

a. Preservation of Residential Character

Preservation of the community's existing character is important to the residents because it gives the locale a sense of identity and distinguishes it from other areas. However, since 1970, new residential development has changed the small town character of this coastal community. Many of the new houses are built to maximum building standards and exceed the size and scale of older houses. The site design of the newer houses is another concern. Often during construction the natural terrain characteristics are ignored.

Policy 1.2: Design Characteristics

Encourage good design in new construction which reflect the character, and is compatible with the scale, of the neighborhood in which it is located.

Goal 4.1 Housing Design

Build housing which relates to its physical setting, does not destroy the natural features of the land, and is compatible with the neighborhood scale and coastal character of the community.

This project is incompatible with the scale and character of the neighborhood in which it is located. It is incompatible with surrounding development due to its lack of proportionality in relation to the underlying lot: the residence and the garage have a 49% lot coverage. The existing homes in the neighborhood have meet the 35% coverage limit.

This project has been granted an extra 18% (15') in length with the approval of the decrease of the front setback to 5' from 20'. There was no compensating increase in the rear setback from 20 to 35 feet. Although the rear deck was removed at this time, there is no condition limiting the addition of a deck with a variance at a later date.

It does not comply with the design guidelines set forth in the current Community Design Manual as it does not conform to the site topography. The house is only one level but the lot slopes away from the street. A more appropriate design, as illustrated in the Community Design Manual, would have the house step down the hill along with the slope.

#### Goal 7.1 Preserving Visual Quality

Preserve and enhance the visual qualities of the coastal community which give it a unique character and distinguish it from other places.

#### Urban Design (Policies)

##### 7.2 Preserving Community Character

a. Maintain community character and ensure that new developments are compatible with existing homes in scale, size and design.

b. Maintain the small-town character of the area by preventing the construction of massive structures out of scale with the community.

##### 7.3 Preserving Natural Amenities

Preserve the natural amenities of the community through the appropriate location of new structures designed to harmonize with their surroundings.

##### 7.8 Preservation of Landforms and Vegetation

Preserve existing landforms and vegetation.

##### 7.11 Design Review

Apply the DR (Design Review) Overlay Zoning District in the urbanized areas of the community to regulate siting of structures, to protect natural features, and to provide for design compatibility with surrounding development.

##### 7.12 Community Design Manual

a. Employ the design guidelines set forth in the "Community Design5

Manual".

### 7.13 S-17 Overlay Zoning District

Apply the S-17 Overlay Zoning District to reduce building size and lot coverage for new structures, and to insure that new residential development is in scale with its surroundings.

The development pattern established by allowing this amount of coverage on extremely small lots WILL NOT preserve and protect the environmental features which form the unique natural setting of the community.

There are a significant number of vacant lots of similar size in this neighborhood; as many of 6 on this one block; 20 in the immediate neighborhood. This entire neighborhood is within the "design review overlay district". If such development continues on this street, in this neighborhood, the "small-town character" will be replaced by homes only six feet apart and very close to the street; it will more closely resemble the urban areas of Daly City than a "unique coastal community". The County is not exercising the controls it has to prevent this from happening.

The County Document referred to in the project staff report "Policy: Use Permits for Construction on Non-Conforming (25-foot-wide) Residential Parcels" (Document # 23028) details the County standards necessary for a use permit on a 25 foot wide lot. This document will be sent with the hard copy of this letter.

Prior to applying for a variance to construct on a substandard lot, a property owner shall explore the feasibility of selling their lot to an adjacent property owner. If the adjacent lot is also substandard, it is highly recommended that both owners negotiate to place these parcels under one ownership.

When applying for a variance to build on a substandard lot, a primary concern is that the proposed buildings are scaled to the lot they are built on.

3. Off-street parking for the proposed residence shall consist of a minimum of one covered parking space and one uncovered parking space. Neither shall be located within the front yard setback. The property owner shall construct minimal width driveway curb cuts and these shall be placed as close as possible to nearby curb cuts so that maximum space is available for street parking.

4. a. As much as possible, site new buildings on a parcel in locations that: (1) minimize tree removal, ...

b. Design buildings with shapes that respect and conform to the natural topography of the site by requiring them to step up or down the hillsides in the same direction as the natural grade.

This parcel was, until recently one of three contiguous lots in one ownership. The purchaser of one of the contiguous lots has repeatedly attempted to 6

purchase this lot. He has been repeatedly refused. Gary Crispell will submit the documentation.

There is only a single, covered parking space. The garage is five feet from the front property line, thus fifteen feet of the garage lie within the twenty foot front yard setback, contrary to the substandard lot requirement. As a result there is inadequate street parking to accommodate another without having the car encroach upon neighboring street frontages.

Contrary these standards condition of approval #6 allows the applicant choice : "If the applicant intends to keep the significant tree in the front of the property.....If the applicant wishes to remove this tree, a tree removal permit shall be secured...." In this case there is no condition minimize tree removal.

Although there is a step down between the house and the garage, there is no further attempt to make the house conform to the natural steep grade of the lot. Instead, it is called a single story structure but there is enough room for another floor at the downhill side of the structure.

In conclusion, at the very least this project must be redesigned to conform to the neighborhood. It should be reduced in size so that it will conform with the immediate neighborhood. It should have the requisite number of off street parking spaces to keep the sidewalk less streets safe for pedestrians. It should be conditioned to cause no drainage problems for any neighbors or downstream properties, not just those who are adjacent.

Under the use permit criteria, if a project is determined to be harmful to the neighborhood its use permit may be revoked. When a residence is given a use permit it will never be removed, even if subsequent harm is discovered. Thus the County has an obligation to evaluate all potential impacts under a use permit including those impacts on the neighborhood from this house. And also before more homes are built, evaluating if the policy of increasing the density and the population of the midcoast is harmful.

Currently its policy of finding the most lenient zoning ordinance and ignoring those more protective of coastal resources in contrary to the intent and model of the CA Coastal Act Policy 30007.5 in which:

The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is most protective of significant coastal resources.

At best, the Coastal Commission would find that it does not conform to the surrounding neighborhood and so decrease the size of this project by increasing the front setback and causing it to meet the parking standard. Further, it would use its power to cause the County to change its zoning to meet the intent of the Community Plan and thus the LCP and to direct that an accurate assessment of the substandard lot development potential is conducted such that policies "most protective of coastal resources" can be enacted.

COUNTY OF SAN MATEO  
PLANNING AND BUILDING DIVISION  
*INTERDEPARTMENTAL CORRESPONDENCE*

Date Submitted: January 27, 1999  
Date of Hearing: February 9, 1999

To: Honorable Board of Supervisors

From: Planning Commission, PLN 122; Telephone 363-1859  
via Terry Burnes, Planning Administrator; Telephone 363-1861

Subject: Consideration of an appeal of the Planning Commission's approval for a Use Permit and Coastal Development Permit pursuant to Sections 6133.3.b and 6328.4 of the County Zoning Regulations and the Planning Commission Policies for Non-Conforming Parcels, to allow the construction of a new single-family residence on a non-conforming 25-foot wide, 3,000 sq. ft. parcel where the minimum parcel size is 5,000 sq. ft. This project is appealable to the California Coastal Commission.

File Numbers: USE 98-0006 and CDP 98-0010 (Banks/Taylor)

**RECOMMENDATION**

Deny the appeal and approve USE 98-0006 and CDP 98-0010 by making the required findings and subject to the conditions of approval listed in Attachment A.

**PROPOSAL**

The applicant proposes to construct a new one-story, 1,325 sq. ft. home on a 25-foot wide, 3,000 sq. ft. legal nonconforming parcel in the El Granada area of the County. The applicant is proposing a 4 1/2 foot side yard setback on one side where 5 feet is required.

**BACKGROUND**

Report Prepared By: Lily Toy, Project Planner, Telephone 650/363-1841

Applicant: Judy Taylor

Owner: Linda Banks

Appellants: Garrett Crispell, C. M. Gaede, Barbara Mauz, et al.

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Staff Report to Board of Supervisors	
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Location: 910 Ventura Street, El Granada

APN: 047-293-050

Parcel Size: 3,000 sq. ft. (25 feet wide)

Existing Zoning: R-1/S-17, Single-Family Residential with 5,000 sq. ft. minimum lot size

General Plan Designation: Medium-Density Residential (6.1 to 8.7 dwelling units per acre)

Sphere-of-Influence: City of Half Moon Bay

Existing Land Use: Vacant

Environmental Evaluation: Categorically Exempt under Section 15303 of the California Environmental Quality Act Guidelines regarding construction of new small facilities including single-family residences.

Setting: The neighborhood was originally subdivided into 25-foot x 120-foot lots, most of which have been combined and developed as standard 5,000+ sq. ft. parcels. However, the subject parcel consists of 3,000 sq. ft. and has not been merged with any contiguous parcels. The project site slopes to the rear and is covered with weeds and grasses. There is a large eucalyptus tree near the front of the parcel. Most adjacent properties are developed with single-family homes. However, there are two 25-foot wide vacant parcels adjacent to the south of the subject parcel.

Chronology:

<u>Date</u>	<u>Action</u>
September 3, 1998	- The Zoning Hearing Officer approves the application for a Use Permit and Coastal Development Permit to allow the construction of a new single-family residence with non-conforming setbacks on a non-conforming size parcel of 3,000 sq. ft.
September 11, 1998	- Appeal filed by Garret Crispell, C. M. Gaede, Barbara Mauz, et al.
December 9, 1998	- Planning Commission denies the appeal and upholds the Zoning Hearing Officer's decision with a 3-2 vote.
December 23, 1998	- Appeal filed by Garret Crispell, C. M. Gaede, Barbara Mauz, et al.
February 9, 1999	- Board of Supervisor public hearing.

## DISCUSSION

### A. DECISION OF THE PLANNING COMMISSION

The Planning Commission voted 3-2 on December 9, 1998, to deny the appeal of the proposed new single-family residence on a non-conforming parcel that was approved by the Zoning Hearing Officer on September 3, 1998. The two dissenting Commissioners (Nobles and Silver) based their decision on the location of the parcel within the neighborhood. Their concerns focused on the impact of this project on the preservation of health, safety, and welfare of the neighborhood. The Commission majority brought up the fact that the Board of Supervisors has considered the development of substandard parcels and found that there would not be a threat to the buildout calculations in Mid-Coast, although the Board did require mergers when substandard lots are jointly developed to ensure that the lots cannot be subsequently separated. In addition, the Commission, brought up the fact that they (the Commission) are obligated to allow a homeowner a reasonable use of their land.

### B. APPEAL ISSUES *(Indicated below in bold type style are the key issues of the appeal, followed by staff's response. Included as Attachment "B" is a complete copy of the appeal.)*

1. **"The proposed project will be detrimental to the public welfare and injurious to the property and improvements in the said neighborhood. The conditions imposed by the Zoning Hearing Officer and affirmed by the majority of the Planning Commissioners do not mitigate this fact."**

**Staff's Response:** The Zoning Hearing Officer initially made the finding, "That the establishment, maintenance, and/or conducting of the proposed use will not, under the circumstances of this particular case, result in a significant adverse impact to coastal resources or be detrimental to the public welfare or injurious to property or improvements in the neighborhood." The Planning Commission also made the finding and as a part of the initial approval by the Zoning Hearing Officer included conditions of approval related to compatibility with the surrounding neighborhood, to ensure that this finding could be made: Specifically, these conditions include: redesigning the home so that there are no more than two different size of windows on each side of the home to reflect a more traditional design, reducing the height to not exceed 16 feet to lower the profile, submitting a landscape plan which softens the long side walls, removing the rear deck from the design to comply with rear yard setback requirements and incorporating shingles on the facing of the garage since this is the only visible feature from the street. With implementation of these conditions, the Planning Commission made the above finding.

2. **“Applicant arranged (through Planning Commission staff) for the hearing to be scheduled without the knowledge of the assigned project planner who we contacted for information, as directed. This resulted in inadequate time to prepare a full and complete presentation. In addition, the hearing did not proceed as scheduled, resulting in Mr. Crispell having to leave without being able to present critical information to the Commission.”**

**Staff's Response:** We attempt to process all appeals promptly. The hearing was scheduled and noticed in accordance with normal procedures and in compliance with State law and County ordinances. Notice was mailed to all owners within 300 feet and published in the San Mateo Times and Half Moon Bay Review.

3. **“The siting and topography of the lot in question renders any development on this parcel detrimental to the surrounding property owners.”**

**Staff's Response:** The Zoning Hearing Officer initially conditioned and the Planning Commission retained the condition of approval so that the profile of the home would be reduced to a 16-foot average height. This ensures that the design will meet setbacks for one-story structures and will further conform to the existing topography. This 16-foot height limit will be substantially lower than the surrounding two-story homes and lower than the 28-foot height permitted in the S-17 Zoning District. Denying all development would expose the County to liability for an inverse condemnation claim.

4. **“The approved 5-foot front setback will result in irreparable harm to the adjoining property, and is out of character with the conforming properties in the immediate area.”**

**Staff's Response:** This site contains a 15% average slope (20% front half average slope). This project was designed to “stairstep” down the hill. The front contains the one-car garage and the one-story home is 5 feet lower than the garage. Under Section 6411 of the Zoning Regulations, a garage can be placed to the front property line where the slope of a parcel exceeds a 14% slope. This property conforms with these criteria.

5. **“Issues and concerns regarding potential drainage problems were sarcastically dismissed by a Commissioner as a ‘red herring.’ These problems are real and a matter of serious concern.”**

**Staff's Response:** This neighborhood lacks a storm drain system. The Public Works Department has reviewed this project and as with all new residences, drainage issues are addressed as part of the building permit process. Building Inspection and the Public Works Department review plans to ensure that any proposed development will not amplify any drainage problems that may currently exist on a property. Proposed

development is not responsible for any existing drainage problems. However, due to concerns raised by the neighbors at the Zoning Hearing Officer's public hearing, the Zoning Hearing Officer added the following condition: **"Prior to issuance of a building permit, the applicant shall submit a drainage plan to ensure that water drainage will not be exacerbated on the adjoining lots, and incorporate design recommendations into their building permit application."** This was deemed adequate to address drainage issues and any drainage plan will be reviewed by the Public Works Department prior to issuance of a building permit. This condition of approval is included in Attachment "A" as Condition #15.

6. **"Other issues involving the historical use of said property, parking, infrastructure, and other factors that jeopardize the health and safety of the existing residents have not been adequately addressed."**

**Staff's Response:** The Zoning Hearing Officer initially imposed and the Planning Commission retained the conditions of approval which mitigate these issues.

7. **"Broader issues regarding development on 25-foot lots have surfaced as a result of the proposed project. These issues are being investigated by a variety of agencies and concerned individuals. These issues need to be addressed and resolved by the County before any further permits are issued."**

**Staff's Response:** Between December 1997 and March 1998, both the Planning Commission and the Board of Supervisors gave extensive consideration to the issue of developing substandard lots in the Mid-Coast. This included modification of adopted policies and procedures governing development of these lots, with which this project complies.

8. **"The applicant has cited 5th amendment constitutional issues regarding the 'taking' concept as authoritative grounds for approval by the County. Approval of the permits in question will establish precedents that will have far reaching consequences for the County. Until such time that the courts find that the 'taking' principle is applicable to this project, there is no factual basis for approval on legal or constitutional grounds."**

**Staff's Response:** As noted in staff's response to appeal issue #7, the County has adopted procedures to address the processing of Use Permits and Coastal Development Permits for non-conforming parcels. The information contained in this staff report outlines the criteria used by staff and the Commission to review this project. It also discusses the conditions added to this project to ensure that the findings for approval could be made by the Planning Commission. It is a well-established fact that denial of all reasonable use of a property can lead to a taking's claim.

9. **"The Board of Supervisors should initiate a full review by the County Counsel of the issues raised by this project and have these matters adjudicated in the federal courts before approving any further permits for development on 25-foot non-conforming lots."**

**Staff's Response:** The Planning staff cannot address this issue. If the Board of Supervisors desires to pursue this request, they will forward the issues raised by this project to County Counsel for review. It should be noted again, however, that the County has recently completed a comprehensive study of this issue.

10. **"The applicant has misrepresented the facts and engaged in activities that give the appellants good cause for concern that, as a result, special privilege is granted."**

**Staff's Response:** Staff knows of no misrepresentation of relevant planning-related information, concerning the processing of this Use Permit and Coastal Development Permit.

11. **"Finally, appellants have good cause for alarm due to our previous experience with County zoning and planning agencies during the J. L. Johnson saga. Our neighborhood was adversely impacted when a speculator/developer was allowed to trample the rights of the property owners and no one would act on our behalf until it was too late. We implore the Board to recognize our rights and act now to prevent irreparable harm to our neighborhood by denying the permits in question."**

**Staff's Response:** The Planning Commission has included conditions of approval related to compatibility with the surrounding neighborhood to ensure that under the circumstances of this particular case, the proposal will not result in a significant adverse impact to coastal resources or be detrimental to the public welfare or injurious to property or improvements in the said neighborhood.

**B. ENVIRONMENTAL REVIEW**

This project is exempt from review under the California Environmental Quality Act (CEQA), pursuant to Class 3, Section 15303, which exempts new single-family residential construction not built in conjunction with two or more units.

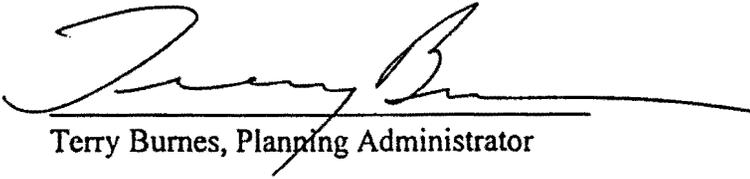
**C. REVIEWING AGENCIES**

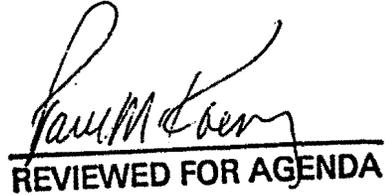
Department of Public Works - Roads  
Building Inspection Section  
Mid-Coast Community Council  
Coastal Commission

ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Letter of Appeal dated December 23, 1998 and attachments submitted by appellants
- C. Area Map
- D. Site Plan
- E. Floor Plans/Elevations
- F. Planning Commission approval letter dated December 11, 1998
- G. Planning Commission Staff Report with selected attachments dated December 9, 1998
- H. Correspondence concerning the purchase/sale of contiguous properties

Respectfully submitted,

  
Terry Burnes, Planning Administrator

  
**REVIEWED FOR AGENDA**

TB:LT:fc - LLTJ0091.6FU

To: Honorable Board of Supervisors  
County of San Mateo

From: Morris Gaede

cc: Lily Toy, Planner II

Date: 2/8/99

Subject: Appeal of Taylor/ Banks: Use Permit, File No. USE 09-0006  
CDP Permit, File No: CDP 09-0010  
Location: 910 Ventura St. El Granada (APN, 047-293-050)

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**Honorable Supervisors:**

**Introduction:** As one of the appellants of the proposed project referenced above, I am submitting this to you to supplement our presentation at the hearing scheduled for 9 Feb. 99. It is hoped that this information will be helpful to you in considering the merits of our appeal and result in the rendering of a decision to deny the permits without prejudice. Essentially, this will serve as a rebuttal to the "staff report" recommending denial of our appeal.

**Background:** We became aware of this proposed project when we received a notice of the scheduled public hearing. We contacted the project planning staff and were advised to attend the hearing. I took time off from work to attend. After registering to speak, I was informed that the matter had been continued at the request of the applicant and would be advised of the rescheduled hearing.

We obtained a copy of the staff report and were pleased to discover that the individual who had studied the matter, done the hands on research, and made numerous site visits to the lot in question and our neighborhood, had found the project to be unacceptable and recommended denial of the permits. Specifically, he found that the project **would be detrimental to neighborhood properties and constituted the granting of special privilege.** (See Attachment D)

As simple homeowners, tax payers, and constituents with no knowledge or expertise in the the real estate and building field, we naively believed that the Zoning Hearing Officer would follow the staff recommendations. We were shocked when the Hearing Officer quickly dismissed the staff report and over-ruled the findings without any evidence to the contrary being presented. We are no longer naive and have educated ourselves in an attempt to preserve our rights and the character of our neighborhood. Although a number of conditions were imposed, this does not mitigate the over-riding fact that **this project will be detrimental to the neighborhood and the coastal community.** (See Mid Coast Council reports and letters from concerned neighbors. The letters from Lynn Ware and Morgan Waldford are especially instructive as they are immediate neighbors) To date, no one has presented any evidence to the contrary or offered an explanation of how they arrived at the conclusion that this project, as proposed will not have an adverse impact on the immediate neighbors. The fact that two Planning Commissioners voted to approve our appeal in spite of the limited opportunity we had to present full and complete information is evidence that there is merit to this argument.

The applicant for the permits is a well known real estate professional, speculator and developer who has "insider" access to information and influential individuals in the planning, zoning and building fields. The applicant is also associated with individuals known to be powerful, special interest representatives. This has produced an uneven playing field in favor of the applicant. For example,

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having connections in the Planning Dept. resulted in having the hearing advanced without the knowledge of the assigned staff planner. This could only have been done by someone in a position of authority. We are not alleging wrong doing by anyone. We are simply pointing out that we have not been on a level playing field and are appealing to the Board of Supervisors for relief. In short, this appeal has become necessary because the process has failed. Our case is evidence that there needs to be a review of the current policies and procedures before further permits are granted.

**Appeal Issues:** The following is a brief rebuttal to the staff reports response to the appeal issues that are found on pages 3-6 in the "Executive Summary" report to The Board of Supervisors dated 27 January 99.

1. Addressed in part, above. The overwhelming majority of the homeowners in our neighborhood have registered their concerns individually and collectively by signing the petition, sending letters and appearing at the hearings. In addition to the Planning Staff findings and recommendation for denial, evidence has been submitted by the Mid Coast Community Council Planning and Zoning Committee that were not included in the evidence provided to the Planning Commission for unknown reasons. (See letters from Chuck Kozac and Laura Stein. Note address is incorrectly listed as 917 Ventura. This may explain why these important documents were purged from the file.) The staff response does not directly address the issue raised.
2. Addressed above. The staff do not respond to the issue raised. It ignores the specific suggestion that the applicant was granted special privilege by someone in the Planning Department.
3. We submit that any reasonable person who views the site and topography will come to the conclusion that development of this lot will, in fact be detrimental. We are not, however, asking that the Board of Supervisors deny all development. In April 98 The Board decided that development of 25 foot lots should be reviewed on a case by case basis. That decision implies that there may be instances where development may be inappropriate. We are only suggesting that this may be one of them. The staff conclusion that denying development would expose the County to liability may be valid. However, staff cannot conclude that adjudication would uphold such a claim. There are unique actors in this case that would mitigate staffs assumptions. (See pictures of the site)
4. A 5-foot front setback is completely out of character with all of the adjoining properties in the area, will seriously impact the future development of Walfords adjoining lot, and create parking problems and safety hazards on Ventura Street. (See letters from Morgan Walford and Lynn Ware. Also slides and photos provide clear evidence of this concern.) Staff response is technical and unresponsive to the appeal issue.
5. The drainage issues in our neighborhood are serious. There are no storm drains. Malaga Street is where the water from the lot in question will drain to. Evidence has been submitted showing damage and the fact that until such time that the infrastructure problems are corrected by the County, any development on the adjoining properties will exacerbate the problem. The LCP requires revocation of use permits when drainage impacts a remote property. Jean Kelly has suffered the most damage and is the most in jeopardy. Her property does not adjoin the proposed project. When Jean has several inches of water running through her garage, we are out in the rain digging ditches to get the water to drain away from our homes and have to call the Fire Department for assistance, there is no doubt that this problem is real and serious. To have this issue dismissed by a Planning Commissioner in a demeaning manner does not inspire confidence that Public Works will be any more responsive to our needs. They, in fact, created the problem on Malaga Street. (See photos, letters from Kim Harris and Kathryn Carter.) Once built, it is too late. This would expose the County to significant liability. The potential cost to the County from this issue far exceeds the liability concerns raised by planning staff in item 3.
6. Staff response is again inadequate and does not respond to the issues. The fact that these issues were not mitigated by the conditions imposed is a major focus of this appeal. Specifics will be addressed in other sections and by community agencies. (See letters from the Mid Coast Community Council)

7. We are well aware of the issues regarding development on ( ) lot lots have been visited by the Board of Supervisors and County agencies. Times change and this project has raised numerous questions related to broader coastal community issues. The Montara and Granada Sanitary Districts and reviewing policy and procedure relevant to a count of these lots and the impact on the sewer permit process when the new plant goes on line. The Mid Coast Community Council is investigating issues related to build out impact and the California Coastal Commission is reviewing the need for modification or amendment to the LCP to address changing conditions. The problems created by this project, as proposed, is evidence of the need for further review and revision. This appeal has resulted from the fact that the process is flawed or broke down. There is a real risk that as these projects surface, the Board of Supervisors will become the default planning commission. Staff response does not acknowledge the changing conditions. (See The Perkovic Report, Mid Coast Community Council exhibits, letters from Chuck Kozak, Laura Stein, and Kathryn Carter.)
8. The citing of the "taking" issue by the applicant as the reason why "the County will approve this project" in advance of hearing or a ruling by a trier of fact is either an attempt to intimidate or blackmail the County into granting approval. Approving this project under this type of duress will essentially validate this claim and establish a precedent that will limit the County in dealing with these applications in the future. We believe it is in the County's best interest to test this in a count of law now. We believe the courts will find that there is a substantial difference between a speculative project and a landowner being denied the use of their property. Staff does not recognize or acknowledge this fact in their responses to relevant issues. (See letter from Judy Taylor dated 8-31-98 and letter from Ream, et al.)
9. Staff response to this item is adequate as it rightfully recognizes The Boards rights a responsibilities protecting the best interests of the citizens of San Mateo County. It does not recognize the fact that there is agreement that the "comprehensive study" is adequate or the final authority on the issues involved. Further study and adjudication of the controversial issue is indicated before granting f further use permits and variances.
10. The misrepresentations have likely influenced the decision making process. The county encourages merger of sub-standard lots prior to considering development. Mr. Crispell attempted to purchase and merge this lot. This fact has not been acknowledged or considered. Other matters relevant to ownership has also been colored by the actions of the applicant. (See letters from Michelle Walford. Testimony will be provided at the hearing by Mr. Crispell.)
11. Staffs response to this item is understandably evasive. We are appealing to The Board as our elected representative. Since we are appealing the decision of The Planning Commission, we would expect them to justify their actions.

In Conclusion, we implore The Board to deny the permits without prejudice and allow this seriously flawed project to go back to the drawing board. The guiding principle of "small lot, small house" has been ignored. This is not a small house and seriously violated the proportionality guidelines. Following established formulas, a lot this size would support a 900 square foot house. **This is not a little house.**

At the least, The Board should enforce the relevant conditions of the LCP and established standards of 20 foot set backs and 35 per cent lot coverage required of those of us with conforming lots. We are simply appealing to you for equal protection under the law.

Respectfully,

  
Morris Gaede

cc: Members of The Board  
Lily Toy, Planner

COUNTY OF SAN MATEO  
PLANNING AND BUILDING DIVISION

**RECOMMENDED FINDINGS FOR DENIAL**

Project file Numbers:  
USE98-0006 and CDP98-0010

Hearing Date: February 9, 1999

Prepared by: Terry Burnes

For Adoption By: Board of Supervisors

**RECOMMENDED FINDINGS**

**Regarding the Use Permit. Find:**

1. All opportunities to acquire additional contiguous land in order to achieve conformity with the zoning regulations currently in effect have not been investigated and proven to be infeasible. There are two vacant lots of similar size to the south of the subject parcel, for a total of three adjoining substandard lots. If one or both of these parcels were consolidated with the subject property, it would create a standard building site. It is not clear from the correspondence on file that the applicant and the owner of those parcels have negotiated in good faith the possibility of jointly limiting development of these three adjoining substandard parcels to the development of one conforming project, perhaps with recorded restrictions addressing the adjoining owner's concerns about development at this location (siting, size, design, bulk limitations, landscaping, drainage, etc.).
2. The proposed residence is not as nearly in conformance with the zoning regulations currently in effect as is reasonably possible. The proposed substandard side yard setback of 4.5 feet could be adjusted to conform with the zoning regulations, which require 5 feet. This would result in conformance with all regulations except lot size.
3. The proposed residence will be detrimental to the public welfare by including a narrow home with a garage as the predominant feature visible from the street in a neighborhood where newer construction consists predominantly of wider homes with more architectural features visible from the street. The proposed residence could be injurious to property or improvements in the neighborhood by adding impermeable surface and surface runoff in a neighborhood without storm drainage facilities where the record shows there to be extensive existing drainage problems.
4. Approval of a use permit for the proposed development would constitute a grant of special privilege, contrary to law, by allowing the reduction of a side yard setback when that standard could be met with no significant adverse effect on the utility of the resulting project.

TB:tb  
banks.tlb

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## PROJECT FILE

Item #5 Taylor/Banks  
Regular AgendaCOUNTY OF SAN MATEO  
PLANNING AND BUILDING DIVISION

Date: December 9, 1998

To: Planning Commission

From: Planning Staff

Subject: EXECUTIVE SUMMARY: Consideration of an appeal of the Zoning Hearing Officer's approval of a Use Permit and Coastal Development Permit to allow the construction of a new single-family residence on a non-conforming 25 foot wide, 3,000 sq.ft. parcel where the minimum parcel size is 5,000 sq. ft. This project is appealable to the California Coastal Commission.

PROPOSAL

The applicant proposes to construct a new one story, 1,325 square-foot home on a 25 ft. wide, 3,000 sq. ft. legal nonconforming parcel in the El Granada area of the County. The applicant is proposing a 4 1/2 foot side yard setback on one side where 5 feet is required.

RECOMMENDATION

That the Planning Commission deny the appeal and approve USE98-0006 and CDP98-0010 by making the required findings and subject to the conditions of approval.

SUMMARY

The Zoning Hearing Officer approved this project with conditions of approval, one of which requires that the home be repositioned so that it is no higher than 16 feet in average height, thus meeting the definition of a one story structure. As a one story structure, the proposed setbacks

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are in compliance with the Planning Commission policy for development on substandard lots allowing sideyard setbacks of three and five feet respectively. In addition, the applicant is proposing a 44% lot coverage where 50% is the maximum permitted as a one story structure under the Zoning Regulations. The appellants are concerned that this approval does not adequately address drainage concerns, does not meet the design and compatibility findings and was not based on factual information. The Zoning Hearing Officer approved this project with conditions which require horizontal siding, an approved landscaping plan, removal of the rear

1

deck, exterior color approval, increased pitched roof, roof dormers, uniform window size, shingle siding on the garage door and the aforementioned 16 foot height revision. The Zoning Hearing Officer determined that with these conditions, among others, this project complies with the required findings. .

COUNTY OF SAN MATEO  
PLANNING AND BUILDING DIVISION

Date: December 9, 1998

To: Planning Commission

From: Planning Staff

Subject: Consideration of an appeal of the Zoning Hearing Officer's approval of a Use Permit and Coastal Development Permit pursuant to Sections 6133.3.b and 6328.4 of the County Zoning Regulations and the Planning Commission Policies for Non-Conforming Parcels, to allow the construction of a new single-family residence on a non-conforming 25 foot wide, 3,000 sq.ft. parcel where the minimum parcel size is 5,000 sq. ft. This project is appealable to the California Coastal Commission.

File Numbers: USE 98-0006 and CDP98-0010 (Banks/Taylor)

**PROPOSAL**

The applicant proposes to construct a new one story, 1,325 square-foot home on a 25 ft. wide, 3,000 sq. ft. legal nonconforming parcel in the El Granada area of the County. The applicant is proposing a 4 1/2 foot side yard setback on one side where 5 feet is required.

**RECOMMENDATION**

That the Planning Commission deny the appeal and approve USE98-0006 and CDP98-0010 by making the required findings and subject to the conditions of approval listed in Attachment A.

**BACKGROUND**

Report Prepared By: Jeff Merz (650/363-1831) Project Planner

Applicant: Judy Taylor

Owner: Linda Banks

Appellants: Garrett Crispell, C.M. Gaede, Barbara Mauz

Location: 910 Ventura Street, El Granada

APN: 047-293-050

Parcel Size: 3,000 square feet (25 feet wide)

Existing Zoning: R-1/S-17, Single-Family Residential with 5,000 square-foot minimum lot size.

General Plan Designation: Medium-Density Residential (6.1 to 8.7 dwelling units per acre).

Sphere of Influence: City of Half Moon Bay

Existing Land Use: Vacant

Environmental Evaluation: Categorically Exempt under Section 15303 of the California Environmental Quality Act Guidelines regarding construction of new small facilities including single-family residences.

Setting: The neighborhood was originally subdivided into 25 ft. X 120 ft. lots, most of which have been combined and developed as standard 5,000+ sq.ft. parcels. However, the subject parcel consists of 3,000 sq.ft. and has not been merged with any contiguous parcels. The project site slopes to the rear and is covered with weeds and grasses. There is a large Eucalyptus tree near the front of the parcel. Most adjacent properties are developed with single-family homes. However, there are two 25 foot wide vacant parcels adjacent to the south of the subject parcel.

## DISCUSSION

Indicated below in bold type style are the key issues of the appeal, followed by staff's response. Included as Attachment B is a complete copy of the appeal.

### A. APPEAL ISSUES

1. **"The findings are not valid as the decision was based on irrelevant and erroneous assumptions regarding the adjoining vacant lot owned by the Walfords".**

#### **Staff's Response:**

One of the findings that need to be made in order to approve this Use Permit is, **"that all opportunities to acquire additional contiguous land in order to achieve conformity with the zoning regulations currently in effect have been investigated and proven to be infeasible"**. Also, the Planning Commission Policy regarding non-conforming size parcels indicates that, **"the property owner has explored the feasibility of selling their lot to an adjacent property owner. If the adjacent lot is also substandard, it is highly recommended that both owners negotiate to place these parcels under one ownership"**.

The applicant has made an offer to purchase both adjacent nonconforming lots from the current owner and has submitted copies of correspondence to prove that this option has been investigated. The applicant's agent, Judy Taylor, has attempted to purchase the contiguous lots or to sell the project parcel to a contiguous owner. The potential contiguous buyers have not been agreeable on a sale price (see Attachment H for sales correspondence). The contiguous lot to the west was sold at a tax sale on August 12, 1998. The selling price was \$60,000. This was beyond the applicant's financial capability. Based on this information, the Zoning Hearing Officer made the above findings.

2. **"The Planning Staff's recommendation for denial was appropriate (*in the original staff report*). The conditions imposed do not provide relief to the appellants' primary assertion that this project will not result in irreparable harm to the individual homeowners and neighborhood as a whole".**

**Staff's Response:**

The Zoning Hearing Officer made the finding, **"That the establishment, maintenance, and/or conducting of the proposed use will not, under the circumstances of this particular case, result in a significant adverse impact to coastal resources or be detrimental to the public welfare or injurious to property or improvements in the said neighborhood"**. The Zoning Hearing Officer included conditions of approval related to compatibility with the surrounding neighborhood, to ensure that this finding could be made. Specifically, these conditions include; redesigning the home so that there are no more than two different size of windows on each side of the home to reflect a more traditional design, reducing the height to not exceed 16 feet to lower the profile, submitting a landscape plan which softens the long side walls, removing the rear deck from the design to comply with rear yard setback requirements and incorporating shingles on the facing of the garage since this is the only visible feature from the street. With implementation of these conditions, the Zoning Hearing Officer made the above finding.

3. **"The condition regarding drainage does not adequately address the health, safety and public welfare issue regarding the serious problems that exist in the immediate area. Any further development prior to these problems being corrected will raise liability issues for the County"**.

**Staff's Response:**

The Public Works Department has reviewed this project and as with all new residences, drainage issues are addressed as part of the building permit process. The Public Works Department reviews plans to ensure that any proposed development will not amplify any drainage problems that may currently exist on a property. Any proposed development is not held responsible for any existing drainage problems. However, due to concerns raised by the neighbors at the public hearing, the Zoning Hearing Officer added a condition as follows, **"Prior to issuance of a building permit, the applicant shall submit a drainage plan to ensure that water drainage will not be exacerbated on the adjoining lots, and**

incorporate design recommendations into their building permit application". This was deemed adequate to address drainage issues and any drainage plan will be reviewed by the Public Works Department prior to issuance of a building permit.

4. "The historical use and neighborhood standards relevant to the lot in question were not addressed or considered by the Hearing Officer".

**Staff's Response:**

The historic use of this area, in conformance with the current zoning, is for single family residences. Where a non-conformity exists or is proposed, a Use Permit is required and considered on a case-by-case basis by the Zoning Hearing Officer who considers relevant issues related to the Local Coastal Program, Design Review standards, the General Plan and Zoning Regulations. The Local Coastal Program lists the applicable criteria below for new structures proposed in El Granada and includes staff's review of the proposed project and applicable conditions of approval.

- a. Design structures which fit the topography of the site and do not require extensive cutting, grading, or filling for construction.

This site contains a 15% average slope (20% front half average slope). This project was designed to "stairstep" down the hill. The front contains the one car garage and the one story home is five feet lower than the garage. Under Section 6411 of the Zoning Regulations, a garage can be placed to the front property line where the slope of a parcel exceeds a 14% slope. This property conforms with this criteria. The original design proposed a 17.5 ft average height. As noted in the *Proposal* section of this staff report, the Zoning Hearing Officer conditioned the approval so that the profile of the home would be reduced to a 16 foot average height. This ensures that the design will meet setbacks for one story structures and will further conform to the existing topography. This 16 foot height limit will be substantially lower than the surrounding two story homes and lower than the 28 foot height permitted in this zoning district (S-17). There will not need to be extensive grading and filling for this project and the Zoning Hearing Officer believes, as conditioned, this project complies with this finding.

- b. Employ the use of natural materials and colors which blend with the vegetative cover of the site.

The Local Coastal Program stipulates that colors and materials blend with the natural surroundings and with surrounding homes. As part of the Zoning Hearing Officer approval, a condition requires that the exterior colors be approved by the Planning Division. Colors are required to be earthtone and natural. Another condition requires that the applicant use horizontal wood siding for all sides of the house and garage and that it extend all the way to the grade level on all sides. As noted in Section 2 above,

other conditions require that the applicant add shingle siding to the front facing of the garage and implement an approved landscaping plan on the site.

- c. Use pitched, rather than flat, roofs which are surfaced with non-reflective materials except for the employment of solar energy devices.

A condition of approval for this project requires that the applicant redesign the home so that the roof is increased from a 3:12 to a 4:12 pitch. While the original roof was pitched, the Zoning Hearing Officer required a steeper slope. With the increased slope, staff believes the home blends better with surrounding homes by incorporating a more traditional roof pitch.

- d. Design structures which are in scale with the character of their setting and blend rather than dominate or distract from the overall view of the urban scape.

As noted in Section 2 of this staff report a condition of approval requires that a minimum of one dormer on each side of the home be added to this increased pitched roof and that no more than two different sizes of windows on each side of the home be permitted.

To avoid the appearance of a pre-fabricated modular home, the Zoning Hearing Officer approved these conditions to "customize" the home. Regularly sized windows and dormers provide features of more traditionally constructed homes which are common in the surrounding area.

5. **"The issues regarding infrastructure raised by the residents have not been addressed by the responsible public agencies. Issuance of any of these permits before these matters are resolved, is unacceptable. The deficiencies in the streets and the impact on drainage pose a serious threat to the health and safety of the residents".**

**Staff's Response:**

As noted above in Section 3 of this staff report, the Public Works Department has reviewed this project and has determined that specific drainage concerns will be addressed as part of the review of the building permit. A building permit will not be issued until the Public Works Department is satisfied that the drainage for this development is adequate, that flow is directed to public right of ways (streets) and that flows onto contiguous properties are not amplified. The Public Works Department has reviewed the condition and is satisfied with the condition as noted in this staff report.

6. **"The applicants have engaged in activities that violate the spirit and possibly the letter of the law. This precludes resolution through mediation and has forced the appellants to take actions to protect their property and well being. This is a source of distress that precludes pursuing our objectives in good faith".**

**Staff's Response:**

While the County encourages neighbors to utilize mediation services, the County cannot require parties to mediate. The Planning Staff is not aware of any violations of law by the applicant. Staff referred to Sections 6500 and 6328 of the Zoning Regulations, Planning Commission Policies related to development of substandard lots, the Local Coastal Program and General Plan Policies to evaluate this project. The Zoning Hearing Officer based his decision on the above regulations and testimony, at the public hearing. Based on this testimony the Zoning Hearing Officer modified the project and added conditions to address concerns raised at the hearing.

7. **"The applicants have misrepresented the facts and obscured the truth in their presentations. This renders any decisions invalid. Until such time that the responsible agencies have full and complete factual information, approval of said permits is premature. Issuance of these permits will open the door to further appeal litigation which is not in the best interest of all involved".**

**Staff's Response:**

Staff knows of no misrepresentation of relevant planning-related information, concerning the processing of this Use Permit and Coastal Development Permit. The Planning Staff would welcome any proof of factual discrepancy as it relates to this project, but as of the date of publication of this report, nothing has been submitted.

8. **"The proposed project has raised many questions regarding matters of law that are being investigated by a variety of coastal agencies and recognized organizations. No permits should be approved or issued until such time that these issues are authoritatively resolved by the County and State government agencies or the courts".**

**Staff's Response:**

The County has procedures to address the processing of Use Permits and Coastal Development Permits. The information contained in this staff report outlines the criteria used by staff to review this project. It also discusses the conditions added to this project to ensure that the findings for approval could be made by the Zoning Hearing Officer. Specific information would be welcome by staff and can be addressed by staff, when it is provided by the appellant.

**B. ENVIRONMENTAL REVIEW**

This project is exempt from review under the California Environmental Quality Act (CEQA), pursuant to Class 3, Section 15303, which exempts new single-family residential construction not built in conjunction with two or more units.

C. REVIEWING AGENCIES

Department of Public Works - Roads  
Building Inspection Section  
Mid Coast Community Council  
Coastal Commission

ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Letter of Appeal dated September 11, 1998
- C. Letter of approval from the Zoning Hearing Officer dated September 4, 1998
- D. Staff Report with Attachments dated September 3, 1998
- E. Area Map
- F. Site Plan
- G. Floor Plans/Elevations
- H. Correspondence concerning the purchase/sale of contiguous properties

COUNTY OF SAN MATEO  
PLANNING AND BUILDING DIVISION

Date: September 3, 1998

To: Zoning Hearing Officer

From: Planning Staff

Subject: Consideration of a Use Permit and Coastal Development Permit pursuant to Sections 6133.3.b and 6328.4 of the County Zoning Regulations and the Planning Commission Policies for substandard lots, to allow the construction of new single-family residence (1) on a nonconforming 25-foot wide, 3,000 sq. ft. parcel where the minimum parcel size is 5,000 sq. ft., (2) with a 4 1/2-foot side yard setback where 5 feet is required, and (3) 44% lot coverage where the limit is 35%. This project is appealable to the California Coastal Commission.

File Numbers: USE 98-0006 and CDP 98-0010 (Banks/Taylor)

**PROPOSAL**

The applicant proposes to construct a new two-story, 1,325 sq. ft. home on a 3,000 sq. ft. legal nonconforming parcel in the El Granada area of the County. The applicant is proposing a 4 1/2-foot side yard setback on one side where 5 feet is required and 44% lot coverage where 35% is the maximum permitted.

**RECOMMENDATION**

That the Zoning Hearing Officer deny USE 98-0006 and CDP 98-0010 by making the required findings in Attachment A.

**BACKGROUND**

Report Prepared By: Jeff Merz, Project Planner, Telephone 650/363-1831

Applicant: Linda Banks

Owner: Judy Taylor

Location: 910 Ventura Street, El Granada

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County of San Mateo  
Planning and Building Division

**RECOMMENDED FINDINGS FOR DENIAL**

Permit or Project File Numbers:  
USE 98-0006 and CDP 98-0010

Hearing Date: September 3, 1998

Prepared By: Jeff Merz

For Adoption By: Zoning Hearing Officer

**RECOMMENDED FINDINGS**

Regarding the Use Permit, Find:

- 1. That the project is proportioned to the size of the parcel on which it is being built.**

The applicant proposes a 44% lot coverage where the Planning Commission policy (attached) governing development on 25-foot wide parcels limits lot coverage to 35%. Therefore, the proposed house is not proportioned to the parcel on which it is located. Staff believes it is also out of scale as compared to the surrounding homes on large lots (5,000 sq. ft.) which meet the 35% lot coverage limit. Therefore, this finding cannot be made and staff believes the house should be redesigned to comply with the 35% lot coverage requirement to be in proportion to the size of the parcel.

- 2. That all opportunities to acquire additional contiguous land in order to achieve conformity with the zoning regulations currently in effect have been investigated and proven to be infeasible.**

The applicant has made an offer to purchase both adjacent nonconforming lots from the current owner and has submitted copies of correspondence to prove that this option has been investigated. As shown in Attachment G, the applicant's agent, Judy Taylor, has attempted to purchase the contiguous lots or to sell the project parcel to a contiguous owner. The potential contiguous buyers have not been agreeable to this. However, the property was sold at a tax sale on August 12, 1998. The selling price was \$60,000. This was beyond the applicant's financial capability. Therefore, staff believes this finding can be made.

- 3. That the project is nearly in conformance with the zoning regulations currently in effect as is reasonably possible.**

Staff believes that this finding cannot be made and that the home could be redesigned to "stairstep" the home down the hill, add articulation to the long sides, add uniform window patterns, increase the roof pitch, comply with Planning Commission policy regarding setback and lot coverage requirements, and redesigning the garage and front entry.

4. **That the establishment, maintenance, and/or conducting of the proposed use will not, under the circumstances of this particular case, result in a significant adverse impact to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in the said neighborhood.**

Staff believes the establishment of this proposed house will be detrimental to neighborhood properties as the proposed house is out of scale for its parcel and designed to be incongruent with surrounding neighborhood development.

5. **That the use permit approval does not constitute a granting of special privileges.**

Staff believes approval of this project would constitute the granting of a special privilege because it appears the applicant could comply with the zoning criteria through a redesign of the proposed structure.

6. **That the proposed building shall be scaled to the lot on which it is being built.**

The applicant proposes a 44% lot coverage where the Planning Commission policy (attached) governing development on 25-foot wide parcels limits lot coverage to 35%. Therefore, the proposed house is not proportioned to the parcel on which it is located. Staff believes it is also out of scale as compared to the surrounding homes on large lots (5,000 sq. ft.) which meet the 35% lot coverage limit. Therefore, this finding cannot be made and staff believes the house should be redesigned to comply with the 35% lot coverage requirement to be in proportion to the size of the parcel.

Regarding the Coastal Development Permit, Find:

7. That the proposed development does not comply with Section 8.13 (Special Design Guidelines for Coastal Communities) of the Local Coastal Program because the development does not meet the criteria in the Planning Commission Policy dated March 25, 1992.

JM:fc - JDMI1337.6FU

2. Conformance with the Local Coastal Program and Design Review Criteria

The Local Coastal Program has identified specific design criteria known as Policy 8.13, "Special Design Guidelines for Coastal Communities." The project's conformance with the four applicable design standards is discussed below:

- a. **Design structures which fit the topography of the site and do not require extensive cutting, grading, or filling for construction.**

The proposed home includes an attached one car garage. The garage would be at the same elevation as the street and the house would be 5 feet below the garage (Attachment F). Because the site slopes 15%, this home would be 8 feet above the existing grade at the rear of the property. The applicant is proposing to have the living area all on one floor and the design will not stairstep with the existing grade. Therefore, staff believes the proposal does not fit the topography of the site and should be redesigned to stairstep down the existing grade, or redesigned as a two-story structure to take advantage of the topography and reduce the lot coverage to conform with the zoning regulations.

- b. **Employ the use of natural materials and colors which blend with the vegetative cover of the site.**

This applicant is proposing a stucco exterior and tan/earthtone colors. This would conform to the stated requirement. However, another option, to which the applicant agrees, is the installation of horizontal wood siding. Staff believes that this alternative would be more appropriate since most of the surrounding homes have wood siding. Should the alternative recommendation be approved, staff is recommending a condition requiring wood siding.

- c. **Use pitched, rather than flat, roofs which are surfaced with non-reflective materials except for the employment of solar energy devices.**

The garage and home roof are proposed with a pitch at 4:1. This minimally conforms with the stated requirement. A preferable roof pitch for many new homes in this area is 2:1. Staff believes a lesser pitch is appropriate when the roof has a variety of hips and valleys, creating visual interest. However, the proposed garage and house each have one long continuous roof plane with no hips or valleys. The only feature visible from the street would be the one-car garage (see Attachment F). The garage is proposed to be located 5 feet from the front property line, creating the only visually dominant feature, as seen from the street. Staff believes a better design would be to increase the roof pitch and add dormer windows on the roof to add visual interest and natural lighting.

Government Code Section 65852.3 states, "Except with respect to architectural requirements, a . . . county shall only subject the manufactured home and the lot on which it is placed to the same development standards to which a conventional single-family residential dwelling on the same lot would be subject, including, but not limited to, building setback standards, side and rear yard requirements, standards for enclosures, access and vehicle parking, aesthetic requirements and minimum square footage requirements." However, "Any architectural requirements imposed on the manufactured home structure itself, exclusive of any requirement for any and all additional enclosures, shall be limited to its roof overhang, roofing material and siding material.

Should the alternative recommendation be approved, staff is recommending conditions for increased roof pitch and the addition of dormers (see Attachment B) with the knowledge that under the California Government Code, these conditions would have to meet with the concurrence of the applicant/owner of the development.

- d. **Design structures which are in scale with the character of their setting and blend rather than dominate or distract from the overall view of the urban scape.**

The applicant proposes a 44% lot coverage where 35% is required as discussed in Section 3, below. Therefore, staff believes this project does not meet the stated requirement, being out of scale compared to the surrounding homes on larger lots which meet the 35% lot coverage limit.

This project proposes seven windows and the main entrance on the right side of the home facing the existing uphill home to the north. There are four different sizes of windows on both the right and left sides of this structure. They are arranged in no apparent pattern. The side and rear elevations lack dimension, articulation, and creativity in window placement and roof design. There is a dearth of architectural features to break the linear profile of this building. The lack of articulation along the 64-foot long solid northern and southern walls does not create shadowing or variety. Therefore, staff believes the project will distract from the overall view in the area and should be redesigned to incorporate similar size windows, window trim accents, dormer windows on the roof and increasing the roof pitch.

As stated above in Section c, Government Code Section 65852.3 limits architectural requirements to its roof overhang, roofing material and siding material.

Should the recommended alternative be approved, staff is recommending conditions for increased roof pitch and the addition of dormers (see Attachment B) with the knowledge that under the California Government Code, these conditions would have to meet with the concurrence of the applicant/owner of the development.

3. Conformance with Zoning Regulations

**Project compliance with the applicable zoning criteria and the Planning Commission Policies is summarized below:**

	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Minimum Lot Area	5,000 sq. ft.	3,000 sq. ft.	3,000 sq. ft.
Minimum Setbacks			
Front	20 ft. (1st floor) 35 ft.+ (2nd floor)	N/A	5 ft. (garage) 25 ft. (1st floor); 35 ft.+ (2nd floor)
Side	5 ft./3 ft. (1st floor); 5 ft. (2nd floor)		5 ft./3 ft. (1st floor); 5 ft./4.5 ft. (2nd floor)
Rear	20 ft.		20 ft.*
Maximum Height	28 ft.	N/A	17 ft.**
Maximum Lot Coverage	35%	N/A	44%
Parking	1 covered	N/A	1 covered
<p>*The applicant has formally agreed to remove the back deck shown on the plans, which sits within the required setback.</p> <p>**This qualifies the structure as two story since it is above 16 feet in height.</p>			

Section 6133.3 of the Zoning Regulations requires a use permit for development on nonconforming parcels less than 3,500 sq. ft. where 5,000 sq. ft. are required. Section 6133.3(b)(3) establishes findings that are required to be made in order to approve a use permit. These findings and staff's response are as follows:

- a. **That the project is proportioned to the size of the parcel on which it is being built.**

The applicant proposes a 44% lot coverage where the Planning Commission policy (attached) governing development on 25-foot wide parcels limits lot coverage to 35%. Therefore, the proposed house is not proportioned to the parcel on which it is located. Staff believes it is also out of scale as compared to the surrounding homes on large lots (5,000 sq. ft.) which meet the 35% lot coverage limit. Therefore, this finding cannot be made and staff believes the house should be redesigned to comply with the 35% lot coverage requirement to be in proportion to the size of the parcel.

- b. That all opportunities to acquire additional contiguous land in order to achieve conformity with the zoning regulations currently in effect have been investigated and proven to be infeasible.**

The applicant has made an offer to purchase both adjacent nonconforming lots from the current owner and has submitted copies of correspondence to prove that this option has been investigated. As shown in Attachment G, the applicant's agent, Judy Taylor, has attempted to purchase the contiguous lots or to sell the project parcel to a contiguous owner. The potential contiguous buyers have not been agreeable to this. However, the property was sold at a tax sale on August 12, 1998. The selling price was \$60,000. This was beyond the applicant's financial capability. Therefore, staff believes this finding can be made.

- c. That the project is nearly in conformance with the zoning regulations currently in effect as is reasonably possible.**

Staff believes that this finding cannot be made and that the home could be redesigned to "stairstep" the home down the hill, add articulation to the long sides, add uniform window patterns, increase the roof pitch, comply with Planning Commission policy regarding setback and lot coverage requirements, and redesigning the garage and front entry.

- d. That the establishment, maintenance, and/or conducting of the proposed use will not, under the circumstances of this particular case, result in a significant adverse impact to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in the said neighborhood.**

Staff believes the establishment of this proposed house will be detrimental to neighborhood properties as the proposed house is out of scale for its parcel and designed to be incongruent with surrounding neighborhood development.

- e. That the use permit approval does not constitute a granting of special privileges.**

Staff believes approval of this project would constitute the granting of a special privilege because it appears the applicant could comply with the zoning criteria through a redesign of the proposed structure.

4. Compliance with Additional Planning Commission Policy Findings

As indicated on March 25, 1992, the Planning Commission established a policy for development on 25-foot wide lots. This policy identifies development standards that would deem a house on a 25-foot wide parcel to be "proportioned" as required for nonconforming parcels (see Attachment E). In particular, the policy states that the second story of homes on 25-foot wide lots must maintain a 5-foot side yard setback for each side. Due to the slope of this parcel on which this development would sit, the first floor would actually be the second floor at the rear of the property. The applicant is proposing a 4 1/2-foot setback on the second floor on one side. In addition, as earlier discussed, maximum lot coverage is 35%. The applicant is proposing 44%. Staff believes the project could be redesigned to comply with both setbacks and lot coverage.

The Planning Commission policy for development on 25-foot wide lots specifies that two primary concerns be addressed, in addition to the LCP policies, in order to approve development on a 25-foot wide lot.

- a. **A property owner shall explore the feasibility of selling their lot to an adjacent property owner. If the adjacent lot is also substandard, it is highly recommended that both owners negotiate to place these parcels under one ownership.**

The applicant has made an offer to purchase both adjacent nonconforming lots from the current owner and has submitted copies of correspondence to prove that this option has been investigated. As shown in Attachment G, the applicant's agent, Judy Taylor, has attempted to purchase the contiguous lots or to sell the project parcel to a contiguous owner. The potential contiguous buyers have not been agreeable to this. However, the property was sold at a tax sale on August 12, 1998. The selling price was \$60,000. This was beyond the applicant's financial capability. Therefore, staff believes this finding can be made.

- b. **The proposed building shall be scaled to the lot on which it is being built.**

The applicant proposes a 44% lot coverage where the Planning Commission policy (attached) governing development on 25-foot wide parcels limits lot coverage to 35%. Therefore, the proposed house is not proportioned to the parcel on which it is located. Staff believes it is also out of scale as compared to the surrounding homes on large lots (5,000 sq. ft.) which meet the 35% lot

coverage limit. Therefore, this finding cannot be made and staff believes the house should be redesigned to comply with the 35% lot coverage requirement to be in proportion to the size of the parcel.

5. Compliance with Parking Regulations

The applicant complies with the parking requirements as noted in Section 6119 of the Zoning Regulations because only one bedroom with a build-in closet is proposed. Under this scenario, only one-covered off-street parking space must be provided. Under provisions of Section 6411 of the Zoning Regulations, where the slope of the front half of the lot is greater than 1-foot rise or fall in a distance of 7 feet from the established street elevation at the property line or where the elevation of the lot at the street line is 5 feet or more above or below the established street elevation, a garage or carport, attached or detached, may be built to the front lot line. The applicant meets these criteria and is therefore proposing the garage 5 feet from the front property line.

6. Mid-Coast Community Council

This project was referred to the Mid-Coast Community Council on February 11, 1998. The Council reviewed the proposal with Judy Taylor, the applicant, and interested neighbors. The Council recommended that this project be redesigned to address the aforementioned issues and to better comply with the Local Coastal Program and Zoning Regulations. While the applicant has agreed to remove the proposed deck at the back of the home, the applicant contends that, due to its modular nature, the design of the home cannot be significantly altered.

B. CONCLUSION

Based on the above information, staff is recommending denial of this project. Staff does not believe the required findings can be made, primarily by not conforming to lot coverage, setbacks and the design criteria.

C. ENVIRONMENTAL REVIEW

This project is exempt from review under the California Environmental Quality Act (CEQA), pursuant to Class 3, Section 15303, which exempts new single-family residential construction not built in conjunction with two or more units.

D. ALTERNATIVE ACTION

Should the Zoning Hearing Officer find that this project complies with the findings listed in Attachment B of this staff report, staff has included recommended conditions of approval (Attachment B).

E. REVIEWING AGENCIES

Department of Public Works - Roads  
Building Inspection Section  
Mid-Coast Community Council  
Coastal Commission

ATTACHMENTS

- A. Recommended Findings for Denial
- B. Alternate Action and Recommended Findings and Conditions for Approval
- C. Vicinity Map
- D. Site Plan
- E. Planning Commission Policy Site Plan
- F. Floor Plans/Elevations
- G. Letter from Judy Taylor, Real Estate Agent, dated May 29, 1998
- H. Letter from Neighbors, dated August 13, 1998
- I. Letter from Morgan and Michelle Walford, dated August 13, 1998

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VISUAL QUALITY CHAPTER

GOAL

7.1 Preserving Visual Quality

Preserve and enhance the visual qualities of the coastal community which give it a unique character and distinguish it from other places. (CA)

URBAN DESIGN

7.2 Preserving Community Character

- a. Maintain community character and ensure that new developments are compatible with existing homes in scale, size and design. (RES)
- b. Maintain the small-town character of the area by preventing construction of massive structures out of scale with the community. (CA)

7.3 Preserving Natural Amenities

Preserve the natural amenities of the community through the appropriate location of new structures designed to harmonize with their surroundings. (CA)

7.4 Undergrounding Utilities

Establish a program for undergrounding overhead utility lines in conjunction with new street improvements. (CA)

7.5 Area Restoration

Encourage the restoration of run-down areas through clean-up and fix-up campaigns sponsored by community associations and homeowners groups. (CA)

7.6 Protection of Scenic Vistas

Preserve and protect scenic vistas of ocean, beaches, and mountains for residents of the community. (CA)

7.7 Tree Planting

Encourage the planting of trees along streets and walkways. (CA)

7.8 Preservation of Landforms and Vegetation

Preserve existing landforms and vegetation. (CA)

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7.9 Landscaping Coast Highway

Encourage CalTrans to landscape portions of the Coast Highway in urbanized areas of the community. (CA)

7.10 Green Belts

Maintain green belts between urbanized areas to preserve individual community identities. (CA)

REGULATION OF APPEARANCE

7.11 Design Review

Apply the DR (Design Review) Overlay Zoning District in the urbanized areas of the community to regulate siting of structures, to protect natural features, and to provide for design compatibility with surrounding development. (RES)

7.12 Community Design Manual

- a. Employ the design guidelines set forth in the Community Design Manual. (CA)
- b. Employ the guidelines of the Community Design Manual to ensure that specific site design is sensitive to the marine orientation of the community. (RES)

7.13 S-17 Overlay District

Apply the S-17 Overlay Zoning District to reduce building size and lot coverage for new structures, and to insure that new residential development is in scale with its surroundings. (RES)

COUNTY OF SAN MATEO  
PLANNING AND BUILDING DIVISION

PLANNING COMMISSION POLICY FOR VARIANCES  
FOR CONSTRUCTION ON SUBSTANDARD (25-FOOT WIDE) RESIDENTIAL LOTS  
WITHIN THE R-1/S-7 AND R-1/S-17 ZONING DISTRICTS

Adopted March 25, 1992

Prior to applying for a variance to construct on a substandard lot, a property owner shall explore the feasibility of selling their lot to an adjacent property owner. If the adjacent lot is also substandard, it is highly recommended that both owners negotiate to place these parcels under one ownership.

When applying for a variance to build on a substandard lot, a primary concern is that proposed buildings are scaled to the lot they are being built on. To insure against possible over building, applicants are to observe the following guidelines:

1. Proposed residences may have a maximum of two stories.
2. Building Setbacks
  - a. The first story of proposed residences shall maintain front and rear setbacks as required by the underlying zoning district.
  - b. The second story of residences shall maintain a 35-foot front yard setback.
  - c. Side yard setbacks for the first story shall maintain a minimum of three feet (continuous from front yard to rear yard) on one side and five feet (continuous) on the other side. No architectural projections (chimneys, greenhouses or bay windows) may encroach into any first story setback having a width of less than five feet.
  - d. Side yard setbacks for the second story of residences shall maintain a total of 10 feet. No portion of the second story shall overhang (extend over) the first story.
3. Off-street parking for the proposed residence shall consist of a minimum of one covered parking space and one uncovered parking space. Neither shall be located within the front yard setback. The property owner shall construct minimal width driveway curb cuts and these shall be placed as close as possible to nearby curb cuts so that maximum space is available for street parking.
4. Prior to a variance hearing, plans for proposed residences must receive design review. Final approval of design rests with variance decision-maker. The County Design Review Officer shall evaluate the following and make appropriate recommendations on design to the variance decision-maker.

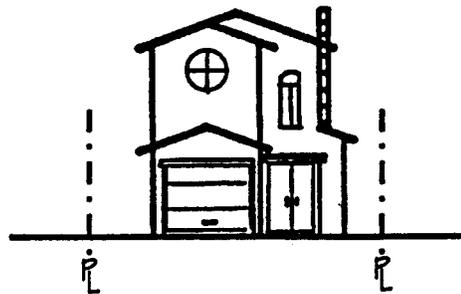
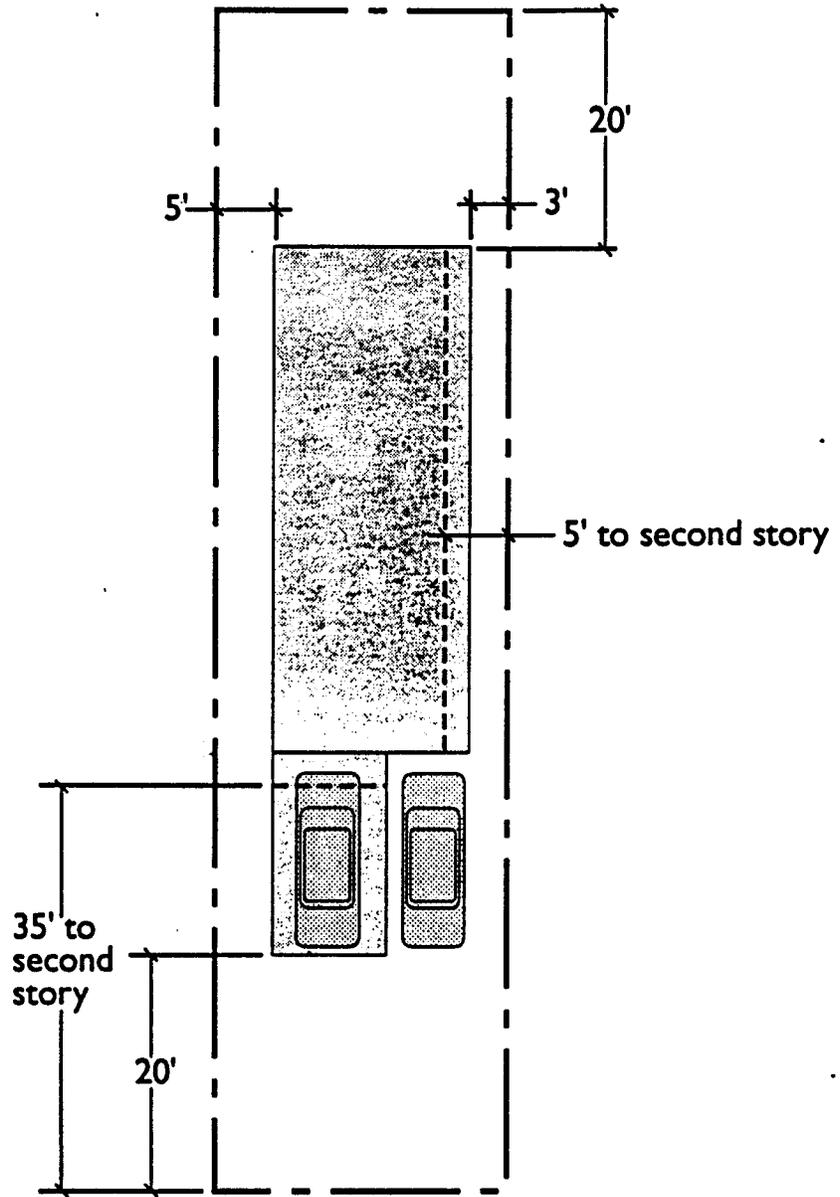
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Parcels	
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- a. As much as possible, site new buildings on a parcel in locations that: (1) minimize tree removal, (2) minimize alteration of the natural topography, and (3) minimize alteration of streams and natural drainage channels.
  - b. Design buildings with shapes that respect and conform to the natural topography of the site by requiring them to step up or down hillsides in the same direction as the natural grade.
  - c. Design well articulated and proportioned facades by: (1) creating aesthetic and proportioned patterns of windows and shadows, (2) relating the size, location, and scale of windows and doors to adjacent buildings to avoid intrusion into the privacy of adjacent structures, and (3) using trees and shrubs to soften the abrupt wall and rooflines of the residence.
  - d. Design buildings using pitched roofs with architectural styles that blend with the immediate area.
  - e. Make varying architectural styles compatible by using similar materials and colors compatible with the natural setting and the immediate area.
5. A landscaping plan will be submitted if required as a condition of variance approval. It shall include drought resistant trees and shrubs native to the area. A surety deposit will be required for both installation of landscaping and its maintenance. Maintenance shall be required for no less than two and no more than five years.

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# Side Yard Setback Alternatives

County Non-conforming Lot (25 ft. wide, 2500 sq. ft.) Policy



Residence Area (w/171 sq. ft. garage)	
1st story living (sq. ft.)	688
2nd story living (sq. ft.)	637
<b>Total Living (sq.ft.)</b>	<b>1325</b>

# Coastside Capacity Report:

## A Compilation of Public Information on the Sustainability of Current Buildout Trends

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**Version 1:**

**April, 1998**

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Capacity Report	
Page 1 of 4 pages	

## Summary of Coastside Capacity Information

### **Introduction:**

It is well recognized that the Coastside carrying capacity is to some extent limited by (1) a rugged coastline and inland geography; (2) availability and affordability of highway, water, waste treatment and other public infrastructure; and (3) state and federal environmental regulations. The interaction between these local factors and external factors like the overall economy, technological developments, and societal trends, means that City and County land use plans (LCPs) reflect both expressed and implied assumptions about the Coastside carrying capacity. Some of these assumptions are more than 20 years old.

Examples of LCP assumptions that are no longer supported by actual events and trends include:

- Highway expansion can continue to effectively keep up with peak hour traffic congestion;
- It will always be possible for the government to raise taxes to subsidize buildout;
- Enough water will continue to be available and affordable to service buildout;
- Enough urban services will continue to be available and affordable to service buildout;
- Land use based on commuter housing and transportation patterns will remain sustainable;
- Public schools can be fixed with enough State diversion of local taxes in addition to property taxes.

The fact that the accuracy of these and similar assumptions has proven to be highly questionable, is an opportunity to improve LCPs by improving their carrying capacity assumptions based on actual experience. Documentation of such experience has recently been accumulating for traffic, water, schools, services, jobs, substandard lots, public safety, and other indicators of whether the current buildout plan is working as intended.

HMB has recently responded to its experience by initiating revision of its LCP (General Plan). A community visioning document (Public Advisory Committee Report) was produced in mid-1997 and a consultant was contracted in early 1998 to represent that vision in a revised General Plan by late-1999.

Since the adjacent Midcoast experiences the same or similar land use patterns and impacts as HMB, and is deemed by LAFCO to be in HMB's "sphere of influence", the Coastside has a chance to apply new information to improve both County and City LCPs at the same time. After all, results of County and City LCPs have to play out together and make sense. On the ground is where the LCPs, regardless of what they may be separately trying to achieve, will be physically integrated under a unique set of Coastside conditions. The more actual experience is reflected in the LCPs, the more realistic and less controversial the LCPs will be.

This report summarizes recent information from City and County government, district, and other published studies, which indicates that the Coastside carrying capacity is significantly less than that assumed in the current City and County LCPs. The studies indicate that Coastside carrying capacity is particularly challenged with regard to commuter housing. With 7800 new sewer connections available in 1/99, commuter housing could double over the next 20 years according to current LCPs. If the partial (50-60%) build-out achieved to date is already encountering natural, economic, transportation, infrastructure or other key limits, the definition of 100% build-out needs serious reconsideration.

### **Traffic:**

- Especially during commute hours, SRs 1 and 92 have had high traffic volume to capacity (v/c) ratios since at least 1990, and are projected to have the highest v/c ratios in San Mateo County at LCP buildout. This translates into Caltrans Level of Service index F (prolonged gridlock; average traffic speed for affected highway segment approaches zero; SR 92 "F" segments up to 8 miles long). [Ref. 1: 6/97 CCAG Traffic Modeling Study].
- Traffic projections based on current LCPs indicate that SRs 1 and 92 are heading towards a higher v/c range, comparable to that experienced on SR 92 during the 1995 Devil's Slide closure of SR 1. These projections already take credit for both growth control and the maximum amount of public spending likely to be available for highway and transit improvements in San Mateo County (\$3.2B) between now and 2010. [Ref. 1]
- The Coastside could be either approaching or experiencing a public health and safety issue relative to traffic, especially during peak commute hours. Even with local EMS-trained people, outside emergency response times for the Coastside are already the highest in the County (37 minutes versus 9 minutes in typical cases). [Ref. 2:

1997 Pacifica COC Meeting, Presentation on Emergency Response Services] Seen broadly as the range of behavior from annoyance through violence, road rage is now playing a part in 2/3 of fatal traffic accidents. [Ref. 3: 1997 Road Rage articles from CNN and USN&WP]

#### Water:

- As reported 1/20/98 at a Joint HMB Council/CCWD Board Meeting, about 1000 "priority" (coastal-related, affordable housing, failed wells, etc) water connections remain unsold from CCWD's Phase 1 water supply. Based on a 3/10/98 County Board of Supervisors staff report on a water reallocation appeal, the actual number is about 760. Citizens Utilities (CU; private Montara and Moss Beach water utility) has little or no unused capacity. [Ref. 4: 11/96 MCC presentation on CU's Masterplan Update]
- If additional (Phase 2) CCWD water supply ever becomes available, it will continue to be limited by nature (eg. climate, terrain, aquifers), economics (eg. scarcity, competition, expense) and legal factors (eg. historic ownership, water rights, environmental protection, SFWD contract terms and conditions). [Ref. 5: CCWD 1997 and Phase II Water Supply Reports] CU's forecast supply growth is also limited, corresponding to about 0.7% per year growth in customer demand for water. [Ref. 4] This represents a Coastside residential growth "doubling time" of about 100 years, which is four times longer than the current LCP doubling time of about 24 years.
- Even approaching the Coastside's carrying capacity relative to water supply, could result in more widespread and/or severe rationing during periodic drought cycles. SFSD reserves the right to unilaterally cut back drought year water supplies by up to 25%, and local supplies are similarly reduced. [Ref. 5] For example, CCWD's maximum "safe yield" (assumed drought condition) water supply is reported to be 541 million gallons for 1998, while the production requirement is estimated to be 862 million gallons. [Ref. 5] LCPs that depend on more water than is reliably available, require current residents to either subsidize expansion or storage facilities for future residents, or risk unnecessary shortfalls and rationing for everybody during the inevitable drought years.

#### Schools:

- CUSD's recent assessment bond study stated that state maximum school fees on new residential development cover only about 1/3 of the actual cost incurred. With a state limit of about \$1.90 per square foot of new house (unless otherwise negotiated), that translates into a school district loss of \$3.80 per square foot, or \$9500 for a 2500 square foot house. [Ref. 6: CUSD Facilities Planning Report] If a higher fee is negotiated, as recently reported in the HMB Review for North Wavecrest Village (\$3.80 per square foot school fee), the loss per house is reduced (in this case to about \$5000), but rarely eliminated, since state limits are so much lower than reality.
- Proposition 198 allows the state to divert local government and special district revenue to the Educational Resource Augmentation Fund (ERAF). This fund covers what schools cost to operate beyond what they get from property taxes. The annual ERAF subsidy for the CUSD service area now averages about \$125 per residence (~\$1M of diverted local taxes, which had been paid for other services like fire protection, water and sewers by ~8000 CUSD residences). [Ref. 7: MCC presentation on ERAF local tax diversion] Since the state legislature has repeatedly not acted to either correct this diversion, or prevent it from increasing, cities and counties are now attempting to put a state constitutional amendment on the ballot. [Ref. 8: 1/98 League of CA Cities presentation on proposed constitutional amendment] In any event, continuing to add residences, which increase demand for schools without contributing to economically sustainable development, is not likely to reduce the ERAF burden.

#### Services:

- With the exception of local park and recreation services, both City and County provide a similar level of services such as police, public works, social services, etc. Experience shows that property taxes on bedroom communities no longer cover the ongoing expense of such services. [Ref. 9: 1/6/98 HMB Meas. A - Housing Impact Summary] The commuter-oriented residential development emphasized in existing LCPs, may no longer be the most economically viable option.

## **Jobs/Housing Balance:**

- In recent years, the Coastside population grew more than any other area of the County [Ref. 10: 11/97 SM Times census report], without a corresponding increase in local, high quality jobs. [Ref. 11: 7/97 HMB Baseline Data; Ref. 12: 12/97 HMB Economic Development Report] Recent information from CCAG's housing needs analysis indicates that the Coastside LCPs now calls for at least 4400 more houses than what local job growth can justify (3200 in HMB; 1200 on the Midcoast). [Ref. 13: 11/97 CCAG Housing Needs Analysis] CCAG is developing Congestion Management Program criteria to incent land use planning agencies to reconsider such practices. [Ref. 14: 2/98 CCAG Balanced Growth Program]

## **Substandard Lots**

- There has been no definitive planning around the issue of how to manage land use and impacts for thousands of vacant, substandard lots created by Coastside subdivisions more than 90 years ago. Not only are substandard lots uncouned for in the LCP buildout total (~19000 sewer connections worth of buildings), but the number of lots is unknown.
- The magnitude of this uncertainty can be seen by comparing the number of substandard lots (~5000) manually counted for the Montara Sanitary District (Montara and Moss Beach) [Ref. 15: 8/97 MSD Ltr] with the number of lots (~2000) the County gets from statistical sampling of the entire Midcoast. [Ref. 16: 3/98 County Staff Rpt] There are a few thousand more substandard lots in HMB, but most are in areas zoned Planned Unit Development (PUD). PUD means that an integrated plan is required for development of the whole area, although this could be challenged in court by individual property owners, since the old subdivisions are still legal.
- Letting market forces and court cases alone determine what happens on such a large, unknown number of substandard lots, introduces so much uncertainty into what the LCPs can accomplish, that the basic LCP assumptions may no longer be applicable.

## **Airport Safety**

- The currently under revision HMB Airport Masterplan calls for expansion of usable runway length, taxiways, hangers, parking, special navigational equipment to allow non-visual (bad weather) approaches and landings, and other "landside" facilities to handle projected growth in the annual number of "operations" (takeoffs and landings) from ~38000 in 1996 to ~54000 in 2015. [Ref 17: 1/98 Airport Land Use Plan Update]
- In recent years, the State has developed and is now recommending a new set of "safety compatibility" criteria, which in effect, recognizes that land use in the vicinity of airports is associated with some public safety risk. [Ref. 17] Previously, 1000 X 2000 foot safety zones on airport-owned land, and various decibel noise limits for the surrounding land were considered in terms of airport impact on that land. [Ref. 17]
- Based on the location of land within various safety zones, the new recommendations limit concentrations of people and building density and provide open space for emergency situations. Since the safety zones are sized based on runway length, and the HMB Airport has a 5000 foot runway, the zones extend for a mile beyond the sides and ends of the runway. [Ref. 17] This puts much of the urban Midcoast and the northern tip of HMB inside the "Traffic Pattern" and "Inner Turning" zones, including many of the Midcoast substandard lots graphically shown in the previous section.
- Failure to incorporate the State airport safety compatibility recommendations within the LCP framework could expose the City or County to liability in the event of a future accident involving people and structures on the ground, which were there in violation of such recommendations.

# Midcoast Community Council

An elected Municipal Advisory Council to the  
San Mateo County Board of Supervisors  
Serving 12,000 coastal residents

Post Office Box 64  
Moss Beach, CA 94038-0064

<http://www.montara.com>

18 March 1999

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perk@montara.com

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## Standing Committees

### **Parks and Recreation**

**Mary Hobbs, Chair**

### **Planning and Zoning**

**Ric Lohman, Chair**

### **Public Works**

**Joe Gore, Chair**

California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

re: Commission Appeal No. A-1-SMC-99-014, CDP 98-0010  
Parcel located at 910 Ventura, El Granada  
Applicants: Linda Banks and Judy Taylor

Dear Chair Sara Wan and Honorable Commissioners:

We write to you as the elected representatives of the citizens of San Mateo County's Midcoast Community to protest the County's approval of a Coastal Development Permit for a development that we believe conflicts with the requirements of our Local Coastal Program (LCP). Because the County's approval of projects such as this one threatens to undermine the LCP and silently and unlawfully amend it (Public Resources Code, § 30514, subd. (e)) by excusing compliance with the County's zoning ordinance, we beseech the Commission to disapprove the County's action.

San Mateo County's LCP projects a total population of 15,500 for the Montara - Moss Beach - El Granada Midcoast Community (hereafter M/MB/EG) at complete buildout. As of 1998, the population of this area was estimated to be 12,800. (Association of Bay Area Governments (ABAG) Projections, 1996.) This figure represented a substantial increase over the County's 1990 estimate of 10,222 as the population of not only M/MB/EG but also Princeton and Miramar. In 1990, the County also estimated that there were 3,000 undeveloped parcels in M/MB/EG that met the minimum lot size requirements in the County's zoning ordinance. The average household size in this area was computed by the County in 1990 to be 2.71 persons per household. Based on the County's 1990 figures, the addition of approximately 1948 dwelling units in M/MB/EG after 1990 will constitute full buildout under the LCP. Thus, it is clear that the County cannot permit the development of even two-thirds of the lots which *meet* the requirements of the zoning ordinance without exceeding the full buildout figures set forth in the LCP.

The reason that we are concerned with the instant appeal is that this appeal involves the County's approval of the development of a lot which *does not qualify as a buildable lot* under the County's zoning ordinance. Hence, the County's approval of this development threatens to exacerbate the already serious problem posed by the existence of far more buildable lots than can be developed under the LCP. The LCP's reasonable development restrictions are based on negative impact that population increases beyond full buildout would have on the Midcoast Community. Since the County is required to operate under the strictures of the LCP, it should be encouraging development of only those lots that are in strict compliance with its zoning ordinance rather than permitting development of non-compliant substandard lots. Although precise figures are not available on the total number of substandard lots in existence in M/MB/EG, it has been estimated that there are as many as several thousand substandard lots in this area.

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Midcoast Community Council letter,	
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The property rights of the owners of *buildable* lots are at risk when the County allows the owners of lots which do not qualify as buildable lots to develop their lots. The County is required to limit development under the LCP. As the County will not even be able to permit development of the *buildable* lots in M/MB/EG, it should not be permitting development of lots which *do not comply* with the County's zoning ordinance. Every building permit granted by the County on a non-compliant lot will inevitably preclude development of a compliant buildable lot. This is an untenable situation.

The Commission exercises independent judgment in reviewing the County's approval of this development permit. (*City of Chula Vista v. Superior Court* (1982) 133 Cal.App.3d 472, 489-490.) Consequently, the Commission need not defer to the County's inappropriate conclusion that this non-compliant lot should be developed. The County clearly has the power to deny the owner of a non-compliant lot the right to develop that lot. (*Gisler v. County of Madera* (1974) 38 Cal.App.3d 303, 308-309; see also *Avco Community Developers, Inc. v. South Coast Regional Com.* (1976) 17 Cal.3d 785, 792-798; *Palmer v. Board of Supervisors* (1983) 145 Cal.App.3d 779, 783.) Here, where the LCP limits development and the development of compliant lots alone would exceed those limits, the County *must* exercise its power to deny such owners the right to develop their undevelopable lots unless there are extremely unusual circumstances which justify a rare exception to this rule. No such circumstances are present in this case.

We urge you to protect the integrity of the LCP by disapproving the County's action and prohibiting this development.

Sincerely,

Paul Perkovic  
Chair, Midcoast Community Council

cc: San Mateo County Board of Supervisors  
San Mateo County Planning Department

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

\* \* \* \* \*

AN ORDINANCE CREATING CHAPTER 4 OF THE SAN MATEO COUNTY  
ORDINANCE CODE (ZONING ANNEX) TO ENACT ZONING  
NONCONFORMITIES REGULATIONS

\* \* \* \* \*

The Board of Supervisors of the County of San Mateo, State of  
California, ORDAINS as follows:

Section 1. San Mateo County Ordinance Code, Division VI, Part One,  
Chapter 4 is hereby enacted, as certified by the California Coastal  
Commission, to establish the Zoning Nonconformities regulations, as follows:

CHAPTER 4. ZONING NONCONFORMITIES

SECTIONS:

- 6130. PURPOSE
- 6131. APPLICATION
- 6132. DEFINITIONS
- 6133. NON-CONFORMING PARCELS
- 6134. NON-CONFORMING USES
- 6135. NON-CONFORMING STRUCTURES
- 6136. NON-CONFORMING SITUATIONS

SECTION 6130. PURPOSE. The purpose of this Chapter is to regulate zoning  
nonconformities, which are defined as any legal parcel, use, building,  
structure or other situation that does not conform with the current zoning  
regulations. The general intent of this Chapter is to (1) allow residential  
zoning nonconformities to continue, and (2) phase out non-residential zoning  
nonconformities. This approach implements General Plan policy to maintain and  
preserve the existing housing stock and existing residential areas.

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Section 6130 et seq	
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entitlement under this Chapter. Final approval does not occur until all administrative appeals are exhausted.

**SECTION 6193. NON-CONFORMING PARCELS.**

1. **Continuation of Non-Conforming Parcels.** A non-conforming parcel may continue as a separate legal parcel, subject to the merger provisions of the County Subdivision Regulations, and compliance with all other provisions of this Chapter.
2. **Enlargement of Non-Conforming Parcels.** A non-conforming parcel may be enlarged through the addition of contiguous land by lot line adjustment, lot consolidation, merger, or resubdivision, provided that the enlargement does not create nonconformities on adjoining property.
3. **Development of Non-Conforming Parcels.**
  - a. **Development Not Requiring Use Permit.**

- (1) **Unimproved Non-Conforming Parcel.** Development of an unimproved non-conforming parcel may occur without the issuance of a use permit when any of the following circumstances ((a), (b), (c), or (d) below) exist:

<u>Required Minimum Parcel Size</u>	<u>Actual Non-Conforming Parcel Size</u>
(a) 5,000 sq. ft. (area)	≥3,500 sq. ft. (area)
(b) 50 ft. (width)	≥35 ft. (width)
(c) >5,000 sq. ft. (area)	≥5,000 sq. ft. (area)
(d) >50 ft. (width)	≥50 ft. (width)

Proposed development on the unimproved non-conforming parcel shall conform with the zoning and building code regulations currently in effect.

- (2) Improved Non-Conforming Parcel. Development of an improved non-conforming parcel may occur without requiring the issuance of a use permit provided that the proposed development conforms with the zoning and building code regulations currently in effect.

b. Development Requiring a Use Permit.

(1) Unimproved Non-Conforming Parcel.

- (a) Development of an unimproved non-conforming parcel shall require the issuance of a use permit when any of the following circumstances ((a), (b), (c), or (d)) exist:

<u>Required Minimum Parcel Size</u>	<u>Actual Non-Conforming Parcel Size</u>
(a) 5,000 sq. ft. (area)	<3,500 sq. ft. (area)
(b) 50 ft. (width)	<35 ft. (width)
(c) >5,000 sq. ft. (area)	<5,000 sq. ft. (area)
(d) >50 ft. (width)	<50 ft. (width)

- (b) Proposed development on any unimproved non-conforming parcel that does not conform with the zoning regulations in effect shall require the issuance of a use permit.
- (2) Improved Non-Conforming Parcel. Proposed development on an improved non-conforming parcel, that does not conform with the zoning regulations currently in effect, shall require the issuance of a use permit.
- (3) Use Permit Findings. As required by Section 6503, a use permit for development of a non-conforming parcel may only be issued upon making the following findings:

- (a) The proposed development is proportioned to the size of the parcel on which it is being built,
- (b) All opportunities to acquire additional contiguous land in order to achieve conformity with the zoning regulations currently in effect have been investigated and proven to be infeasible,
- (c) The proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible,
- (d) The establishment, maintenance, and/or conducting of the proposed use will not, under the circumstances of the particular case, result in a significant adverse impact to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in the said neighborhood, and
- (e) Use permit approval does not constitute a granting of special privileges.

#### SECTION 6134. NON-CONFORMING USES.

1. Continuation of Non-Conforming Uses. A non-conforming use may continue provided all other provisions of this Chapter are met.

The Board of Supervisors, upon recommendation by the Planning Commission at a public hearing, can require that any non-conforming use (except residential) be removed or converted to a permitted use within a prescribed period of time, as allowed by law, and upon findings that (1) the non-conforming use is detrimental to the health, safety or public welfare of the surrounding area, and (2) it degrades the neighborhood character.

TO: JACK LIEBSTER, COASTAL COMMISSION (415) 904-5400

FROM: GARRETT D. CRISPELL (650) 726-1714

SUBJ: APN<sup>047</sup> 293-050; LOT 32, BLOCK 8, SUB No. 1 OF GRANADA

ORIGINAL BID AND ADDENDUM No. 1 FOR PURCHASE OF THE 25 FOOT LOT  
LOCATED AT 910 VENTURA STREET, EL GRANADA. ADDENDUM No. 1 WAS  
SIGNED BY GARRETT D. CRISPELL AND ELEANOR M. CRISPELL ON OR  
ABOUT APRIL 16, 1997, AND RETURNED TO THE SELLERS FOR THEIR  
SIGNATURES.

EXHIBIT NO. 21

APPLICATION NO.  
A-1-SMC-99-014

Crispell Offer to  
Purchase Subject Lot

April 1997  
Page 1 of 4 pages

LAND PURCHASE AGREEMENT



DEFINITIONS

BROKER includes cooperating brokers and all sales persons. DAYS means calendar days unless otherwise specified. DATE OF ACCEPTANCE means the date the Seller accepts the offer or the Buyer accepts the counter offer. DELIVERED means personally delivered or transmitted by facsimile machine, pursuant to Item 19, or mailed by deposit in U.S. mail, postage prepaid. In the event of mailing, delivery shall be deemed to have been made on the fifth day following the date of mailing. DATE OF CLOSING means the date title is transferred. TIME LIMITS for contingency removal are shown in bold print. TERMINATING THE AGREEMENT means that both parties are relieved of their obligations and all deposits shall be returned to Buyer less expenses incurred by or on account of Buyer to date of termination. PROPERTY means the real property and any personal property included in the sale.

AGENCY RELATIONSHIP CONFIRMATION. The following agency relationship is hereby confirmed for this transaction and supersedes any prior agency election:

LISTING AGENT: None \* is the Agent of (check one): \* Sellers are representing themselves

the Seller exclusively; or both the Buyer and Seller.

SELLING AGENT: Coldwell Banker (if not the same as the Listing Agent) is the Agent of (check one):

(XX) the Buyer exclusively; or the Seller exclusively; or both the Buyer and Seller.

Note: This confirmation DOES NOT take the place of the AGENCY DISCLOSURE form (P.P. Form 110.41 CAL) required by law.

Garrett D. Crispell and Eleanor M. Crispell

hereinafter designated as BUYER, offers to purchase the real property situated in El Granada an unincorporated area in County of San Mateo, California, consisting of approximately 2500 Parcel 047-293-050, Lot 32, Block B, Sub. No. 1 of Granada FOR THE PURCHASE PRICE OF \$ 32,000.00 Thirty-Two Thousand dollars.

on the following terms and conditions:

1. FINANCIAL TERMS.

- A. \$ 1,000.00 DEPOSIT evidenced by Check Other: held unashed until acceptance and one business day thereafter deposited with: Old Republic Title Company
B. \$ ADDITIONAL CASH DEPOSIT to be placed in escrow within days of acceptance, upon removal of all conditions.
C. \$ 31,000.00 BALANCE OF CASH PAYMENT needed to close, not including closing costs.
D. \$ BONDS OR ASSESSMENTS of record if assumed by Buyer.
E. \$ ADDITIONAL FINANCING:

F. \$ 32,000.00 TOTAL PURCHASE PRICE (not including closing costs).

2. EXAMINATION OF TITLE. In addition to any encumbrances assumed or taken "subject to," Seller shall convey title to the property subject only to: (1) real estate taxes not yet due; and (2) covenants, conditions, restrictions, rights of way and assessments of record, if any, which do not materially affect the value or intended use of the property.

Within three (3) days from acceptance, Buyer shall order a Preliminary Title Report and copies of CC&Rs and other documents of record if applicable. Within ten (10) days of receipt, Buyer shall report to Seller in writing any valid objections to title contained in such report (other than monetary liens to be paid upon close of escrow). If Buyer objects to any exceptions to the title, Seller shall use due diligence to remove such exceptions at his/her own expense before close of escrow. If such exceptions cannot be removed before close of escrow, this Agreement shall terminate, unless Buyer elects to purchase the property subject to such exceptions. If Seller concludes he/she is unable in good faith to remove such objections, Seller shall notify Buyer within ten (10) days of receipt of said objections. In that event Buyer may terminate this Agreement.

3. OPTIONAL CONDITIONS. Provisions 3-A through 3-G, if initialed below by Buyer, are included in this Agreement:

- A. SOIL TESTS. Upon acceptance of this Agreement, Buyer shall have the right to go on the property to conduct soil tests, including percolation tests, to ascertain whether the property is suitable for the improvements which Buyer proposes to make. All expenses of such tests shall be borne by the Buyer, Seller. Buyer shall be responsible for the repair and restoration of any damage to the property which may be caused by such tests. If in the reasonable opinion of the soils engineer, employed by Buyer, the property is not suitable for the proposed development, Buyer may terminate this Agreement. It is not intended that the soils tests will include tests for toxic contamination unless otherwise agreed in writing by the parties. Buyer shall be deemed to have waived this condition unless written notice to the contrary is delivered to Seller or his/her Broker within days of acceptance.
B. SURVEY. Upon acceptance of this Agreement, the property shall be surveyed by a licensed surveyor at the expense of the Buyer, Seller. The surveyor shall set and flag all property lines, to be approved in writing by Buyer prior to close of escrow.
C. PRICE BASED ON AREA. The purchase price is based upon \$ per acre, per square foot, and shall not be adjusted in accordance with the area set forth in the survey under Provision 3-B.
D. GEOLOGICAL REPORT. Upon acceptance of this Agreement, Buyer shall have the right to obtain a geological report from a registered geologist at the expense of Buyer, Seller. Buyer shall be deemed to have approved said report unless written notice to the contrary is delivered to Seller or his/her Broker within days of acceptance. In the event of disapproval, Buyer may terminate this Agreement.
E. WELL REPORT. Upon acceptance of this Agreement, Buyer shall obtain a well report from a licensed well drilling contractor at the expense of Buyer, Seller. Buyer shall be deemed to have approved said report unless written notice to the contrary is delivered to Seller or his/her Broker within days of acceptance. In the event of disapproval, Buyer may terminate this Agreement.
F. CERTIFICATE OF COMPLIANCE. This offer is conditioned upon obtaining a Conditional Certificate of Compliance from at the expense of Buyer, Seller within days of acceptance.

(Under Government Code 966499.35, a buyer or seller may apply to the planning department for a certificate that all of the subdivision laws applicable to the lot have been satisfied.)
G. TAX DEFERRED EXCHANGE (INVESTMENT PROPERTY). In the event Seller wishes to enter into a tax deferred exchange for the property, or Buyer wishes to enter into a tax deferred exchange with respect to property owned by him/her in connection with this transaction, each of the parties agrees to cooperate with the other party in connection with such exchange, including the execution of such documents as may be reasonably necessary to complete the exchange, provided that: (a) the other party shall not be obligated to delay the closing; (b) all additional costs in connection with the exchange shall be borne by the party requesting the exchange; (c) the other party shall not be obligated to execute any note, contract, deed or other document providing for any personal liability which would survive the exchange; and (d) the other party shall not take title to any property other than the property described in this Agreement. The other party shall be indemnified and held harmless against any liability which arises or is claimed to have arisen on account of the exchange.

Buyer [Signature] and Seller [Signature] have read this page.

Rev. by Date

THE FORM OF THIS CONTRACT MEETS PLAIN LANGUAGE CRITERIA

THE FORM OF THIS CONTRACT MEETS PLAIN LANGUAGE REQUIREMENTS.

Party Address Parcel 047-293-050, Lot 32, Block 8, Sub. No. 1 of Granada

- 13. **ATTORNEY FEES.** In any action or proceeding involving a dispute between Buyer and Seller arising out of the execution of this Agreement or the sale, the prevailing party shall be entitled to receive from the other party a reasonable attorney fee to be determined by the court or arbitrator(s).
- 14. **ADDENDA.** The following addenda are attached and made a part of this Agreement:
  - Form 101-LA.11, ADDENDUM TO LAND PURCHASE AGREEMENT (Subordination, partial Reconveyances)
  - Form 110.90CAL, STANDARD DISCLOSURES AND DISCLAIMERS
  - OTHER: \_\_\_\_\_
- 15. **CLOSING.** Full purchase price to be paid and Deed to be recorded  on or before 5/30/97  within \_\_\_\_\_ days of acceptance. Both parties shall deposit with an authorized Escrow Holder, to be selected by Buyer, all funds and instruments necessary to complete the sale in accordance with the terms of this Agreement.  Where customary, signed Escrow Instructions to be delivered to Escrow Holder within \_\_\_\_\_ days of acceptance. ESCROW FEE to be paid by Buyer TRANSFER TAXES, if any, to be paid by Seller.
- THIS PURCHASE AGREEMENT TOGETHER WITH ANY ADDENDA SHALL CONSTITUTE JOINT ESCROW INSTRUCTIONS TO THE ESCROW HOLDER.
- 16. **SURVIVAL.** The omission from escrow instructions of any provision in this Agreement shall not waive the right of any party. All representations or warranties shall survive the conveyance of the property.
- 17. **EXPIRATION OF OFFER.** This offer shall expire unless acceptance is delivered to Buyer or to Mary Lou Cunha Orange on or before 5:00  A.M.,  P.M., April 15, 19 97
- 18. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts.
- 19. **FAX TRANSMISSION.** The facsimile transmission of a signed copy of this Offer or any counter offer to the other party or his/her Broker, followed by faxed acknowledgment of receipt, shall constitute delivery.
- 20. **TIME.** Time is of the essence of this Agreement; provided, however, that if either party fails to comply with any contingency in this Agreement within the time limit specified, this Agreement shall not terminate until the other party delivers written notice to the defaulting party requiring compliance within 24 hours of receipt of notice. If the party receiving the notice fails to comply within the 24 hours, the non-defaulting party may terminate this Agreement without further notice.
- 21. **ENTIRE AGREEMENT.** This document contains the entire agreement of the parties and supersedes all prior agreements or representations with respect to the property which are not expressly set forth. This Agreement may be modified only in writing signed and dated by both parties.

Both parties acknowledge that they have not relied on any statements of the real estate Agent or Broker which are not expressed in this Agreement.

A real estate broker or agent is qualified to advise on real estate. If you have any questions concerning the legal sufficiency, legal effect, insurance, or tax consequences of this document or the related transactions, consult with your attorney, accountant, or insurance broker.

The undersigned Buyer acknowledges that he/she has thoroughly read and approved each of the provisions contained herein and agrees to purchase the property for the price and on the terms and conditions specified. Buyer acknowledges receipt of a copy of this Offer.

Buyer Samuel D. Cispell Date 4/14/97 Time 7:56 PM

Buyer Elizabeth M. Cispell Date 4/14/97 Time 7:55 PM

**ACCEPTANCE**

Seller accepts the above Offer and agrees to sell the property for the price and on the terms and conditions specified.

**NOTICE: THE AMOUNT OR RATE OF REAL ESTATE COMMISSIONS IS NOT FIXED BY LAW. THEY ARE SET BY EACH BROKER INDIVIDUALLY AND MAY BE NEGOTIABLE BETWEEN THE SELLER AND BROKER.**

22. **COMMISSION.** Seller agrees to pay in cash the following real estate commission for services rendered, which commission Seller hereby irrevocably assigns to Broker(s) from escrow:

\_\_\_\_\_ % of the accepted price, or \$ \_\_\_\_\_, to the listing Broker: \_\_\_\_\_, and \_\_\_\_\_ % of the accepted price, or \$ \_\_\_\_\_, to the selling Broker: \_\_\_\_\_ without regard to the agency relationship. Escrow Instructions with respect to commissions may not be amended or revoked without the written consent of the Broker(s).

If Seller receives liquidated damages upon default by Buyer, Seller agrees to pay Broker(s) the lesser of the amount provided for above or one half of the liquidated damages after deducting any costs of collection.

Commission shall also be payable upon any default by Seller, or the mutual rescission by Buyer and Seller without the written consent of the Broker(s), which prevents completion of the purchase. This Agreement shall not limit the rights of Broker and Seller provided for in any existing listing agreement.

In any action for commission the prevailing party shall be entitled to reasonable attorney fees.

23. **PROVISIONS TO BE INITIALED.** The following items must be "agreed to" by both parties to be binding on either party. In the event of disagreement, Seller should make a counter offer.

- Item 8. LIQUIDATED DAMAGES:
- Item 10. MEDIATION OF DISPUTES:
- Item 11. ARBITRATION OF DISPUTES.

Seller acknowledges receipt of a copy of this Agreement. Authorization is hereby given the Broker(s) in this transaction to deliver a signed copy to Buyer and to disclose the terms of sale to members of a Multiple Listing Service, Board or Association of REALTORS® at close of escrow.

SUBJECT TO: \_\_\_\_\_

Seller \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

Seller \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

Buyer acknowledges receipt of a copy of the accepted Agreement.

Buyer \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

Buyer \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

Rev. by \_\_\_\_\_  
Date \_\_\_\_\_

### **Addendum No. 1**

In reference to the purchase contract dated **April 14 1997** for the real property located at **Assessor's Parcel 047-293-050, known as Lot 32, Block 8, Sub. No. 1 of Granada, El Granada, California** between **Shannon Marquardt and Richard Shimek, the Sellers and Garrett D. Crispell and Eleanor M. Crispell the Buyers**, the following agreements are made and become a part of the contract as herein stated:

1. Per Item 11 of the Purchase Contract - Buyers agree to arbitration.
2. This sale is contingent upon the sale by Seller of the Coastside County Water District connection no later than May 15, 1997.
3. This sale is contingent upon Seller obtaining a release of contract from Linda Banks, the person with a current accepted offer, no later than April 30, 1997.

All other terms and conditions to remain the same.

\_\_\_\_\_  
**Garrett D. Crispell, Buyer**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Eleanor M. Crispell, Buyer**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Shannon Marquardt, Seller**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Richard Shimek, Seller**

\_\_\_\_\_  
**Date**

RECEIVED  
FEB 26 1999

CALIFORNIA  
COASTAL COMMISSION

FEBRUARY 26, 1999

MS. JUDY TAYLOR  
REMAX REAL ESTATE  
210 MAIN STREET  
HALF MOON BAY, CA. 94019

Re: Lot 32, Blk. 8, Granada

Dear Ms. Taylor,

Please be advised that we are prepared to purchase the subject lot for fair market value. We understand that it is under contract for \$32,000 that seems reasonable to us. We would even pay a bit more if the contracted buyer has sustained some development fees. Our intended purpose is preserving the existing nature of the neighborhood. We feel the neighborhood would be negatively impacted by the addition of a single-family residence on a twenty-five foot wide lot. We have consulted with our neighbors and they are supportive of our position on this matter.

Please contact the appropriate owners/buyers regarding our purchase proposal. We would purchase the property for all cash and without contingencies for utilities or permits of any kind. We look forward to hearing back from you on this matter as soon as possible.

Sincerely,

*Garrett D. Crispell*  
*Eleanor M. Crispell*

Garrett and Eleanor Crispell

P. O. Box 808

El Granada, Ca. 94018

cc. San Mateo County Planning Dept.

dd. California Coastal Commission

EXHIBIT NO.	22
APPLICATION NO.	A-1-SMC-99-014
Crispell February 1999 Offer to Purchase Subject Lot	

Post-it® Fax Note	7671	Date	3/16	# of pages	2
To	Jack Liebster	From	Judy Taylor		
Co./Dept.		Co.			
Phone #	415.904.5400	Phone #	650.712.5800		
Fax #		Fax #			

# Memorandum

**To:** Garrett & Eleanor Crispell  
**CC:** Jack Liebster & MidCoast Community Council  
**From:** Judy Taylor  
**Date:** 03/16/99  
**Re:** 910 Ventura

**RECEIVED**  
 MAR 16 1999  
 CALIFORNIA  
 COASTAL COMMISSION

Thank you for your letter offering to buy Linda's lot. I am responding for her, not because she is fronting for me (yes, my paranoia is alive and well) but because the emotional toll of the opposition has been very difficult for her. The accompanying accounting will demonstrate why your offer cannot be accepted.

Not building is not an option. Short of that, if there is anything that can be done to make it more acceptable, I will do everything in my power to accomplish it. The objective is and always has been for Linda to be able to build a small home that she can afford. Changes in the design are secondary to her goal.

For the record, she is the owner of the property. It closed on November 12, 1997.

EXHIBIT NO.	23
APPLICATION NO.	A-1-SMC-99-014
Agent's Response to Feb. 1999 Purchase Offer	
Page 1 of 2 pages	



