# CALIFORNIA COASTAL COMMISSION

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Staff Report:
Hearing Date:

July 18, 2000 Sept. 5, 2000 JAS-SF Aug. 22, 2000

Sept. 13, 2000

Commission Action:

STAFF REPORT: APPEAL

SUBSTANTIAL ISSUE DETERMINATION

**APPEAL NO.:** 

A-2-SMC-00-022

**APPLICANTS:** 

Steve and Peter Iacopi

AGENT:

Alan M. Phillips

LOCAL GOVERNMENT:

San Mateo County

PROJECT LOCATION:

169 Stanford Avenue, Unincorporated Princeton

APN 047-011-270

PROJECT DESCRIPTION:

Construction of a new two-story 7,600-square-foot public

storage building on a 10,500-square-foot parcel.

APPELLANTS:

Paul Perkovic

SUBSTANTIVE FILE

DOCUMENTS:

See Appendix A

STAFF RECOMMENDATION:

No Substantial Issue

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- 5 Relinquishment of Right to Purchase Priority Water
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#### **EXECUTIVE SUMMARY**

The staff recommends that the Commission, after public hearing, determine that <u>no substantial</u> <u>issue</u> exists with respect to the grounds on which the appeal has been filed because the appellant has not raised any substantial issue with the approved project and its consistency with the certified Local Coastal Plan (LCP).

The approved development is a new two-story 7,600-square-foot public storage building on a 10,500-square-foot parcel. The appellant contends that the approved project is not consistent with parcel legalization, water and sewer capacity, and sensitive habitat policies of the LCP.

The appellant's contentions address the:

- need for a CDP to legalize three lots subsequently merged by the County;
- appropriateness of priority water transfers;
- adequacy of the infrastructure to serve the demand of priority water connections;
- effect of stormwater runoff on sensitive habitats; and
- allocation and monitoring of water connections by the CCWD and Granada Sanitary District (GSD).

The project site was allocated three water connections by the Coastside County Water District (CCWD) based on a determination that the project site consisted of three legal lots. Water transfers from priority to non-priority uses occurred on two of the three lots. Regardless of the previous legality of the three lots, the water connection to the third lot would be adequate to serve the needs of the approved development because one of the conditions of County approval required that the three lots be merged to form one legal parcel and CCWD authorized one priority water service connection to the entire property to be merged on July 11, 2000 (CCWD 2000). Therefore, the appellant's contentions regarding the need for a CDP to legalize the three lots and the appropriateness of priority water transfers does not raise a substantial issue of consistency with the certified LCP.

In addition, the appellant's allegations related to reservation of water and sewer capacity to serve priority land uses, the adequacy of the water infrastructure, and the effect of stormwater runoff on sensitive habitats also do not raise substantial issue. The question of how priority water is allocated does not raise a substantial issue of conformity of the approved project with the LCP because the development is minor, compatible with adjacent land uses, would consume less than some other land uses allowed in the zoning district, and because the issue of priority public works service for this development is not an issue of statewide significance. There is also no substantial issue regarding the adequacy of the infrastructure because the CCWD is taking appropriate actions to ensure that the transmission system is capable of delivering adequate service for development allowed under the LCP. Regarding the effects of stormwater runoff on sensitive habitats, the conditions of local approval require mitigation measures to ensure that the approved development will not create significant adverse water quality impacts on sensitive habitats consistent with the provisions of the certified LCP.

Finally, the appellant's contentions regarding the actions by the CCWD and GSD are not valid grounds for appeal. The appellant's contentions regarding allocation and monitoring of water

connections address the actions of the CCWD and GSD and do not bring into question the consistency of the project approved by the County with the certified LCP. In addition, the legality of the water transfers approved by these public agencies is neither an issue for the Commission to adjudicate or an allegation that the storage building approved by the County is inconsistent with the certified LCP.

A motion to adopt the Staff Recommendation of No Substantial Issue is in Section 1.0.

#### STAFF NOTES

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. 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 will continue with a full public hearing on the merits of the project at the same or subsequent hearing. If the Commission were to conduct a de novo hearing on the appeal, the applicable test for the Commission to consider would be whether the development is in conformity with the certified LCP.

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

#### 1.0 STAFF RECOMMENDATION 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 <u>substantial issue</u> exists with respect to the grounds on which the appeals have been filed. The proper motion is:

#### **Motion**

I move that the Commission determine that Appeal No. A-2-SMC-00-022 raises <u>NO</u> substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

#### Staff Recommendation of No Substantial Issue

Staff recommends a <u>YES</u> vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

#### Resolution to Find No Substantial Issue

The Commission finds that Appeal No. A-2-SMC-00-022 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the

Coastal Act regarding consistency with the Certified Local Coastal Plan (LCP) and/or the public access and recreation policies of the Coastal Act.

#### 2.0 FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

#### 2.1 Local Government Action

On March 2, 2000 the San Mateo County Zoning Hearing Officer approved with conditions the application for a use permit and a coastal development permit (CDP) PLN 1999—00841 (Iacopi) for construction of a new two-story 7,600-square-foot public storage building on a 10,500-square-foot parcel (in the unincorporated area of Princeton in northern San Mateo County). On March 14, 2000 Paul Perkovic filed an appeal with the Planning and Building Division. The project was approved with a condition that a deed restriction allowing one water connection for the project site be recorded. The County's approval also included a condition requiring the applicant to merge the three previously existing lots recognized by the County into one. On June 14, 2000, the San Mateo County Planning Commission denied the appeal and upheld the decision of the Zoning Hearing Officer to approve the use permit and CDP with a condition that water use be restricted to lot 36, except for fire suppression. The County appeal period ended on June 28, 2000, and there were no appeals filed with the Board of Supervisors.

On May 9, 2000, Coastside County Water District (CCWD) denied the appeal by Paul Perkovic to withdraw the water connection.

# 2.2 Appeal Process

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

Section 30603 states that an action taken by a local government on a CDP 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 300 feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff, or those located in a sensitive coastal resource area. Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified zoning ordinance or zoning district map. Finally, developments that constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county.

The project is appealable to the California Coastal Commission because the approved development is located between the sea and the first public road paralleling the sea.

# 2.3 Filing of Appeal

The Commission received the Notice of Final Local Decision for the County's approval of the proposed development on July 3, 2000. In accordance with the Commission's regulations, the 10-working-day appeal period ran from July 5 through July 18, 2000 (14 CCR section 13110). The appellant (Paul Perkovic) submitted his appeal to the Commission office on July 18, 2000,

within the 10 working day appeal period (see Exhibit 1, Commission Notification of Appeal and Exhibit 2, Appeal From Coastal Permit Decision of Local Govenment). The appeal was filed directly with the Coastal Commission, bypassing the Board of Supervisors. The Commission's regulations allow appeals of local government action on CDPs to be filed directly with the Commission where the location government charges an appeal fee (14 CCR section 13573(a)(4)). Pursuant to Section 30621 of the Coastal Act, the appeal hearing must be set within 49 days from the date an appeal of a locally-issue CDP is filed. The 49<sup>th</sup> day from the date the appeal was filed is September 5, 2000.

In accordance with Section 13112 of the Commission's regulations, the City must provide to the Executive Director of the Commission a copy of the file containing all relevant documents and materials regarding the subject permit. On July 19, 2000, Commission staff requested this information from the City. On July 26, 2000, the Commission received the remaining portions of the local record which had not been previously sent by the City.

# 2.4 Appellant's Contentions

The Commission received an appeal of the County of San Mateo's decision to approve the project from Paul Perkovic. The full text of the appellant's contentions as submitted to the Commission is presented in Exhibit 2. For purposes of the analysis, staff has summarized the contentions as listed below.

- 1) The three lots are one single lot because they were created as part of an antiquated subdivision and a CDP is required to legalize the three lots. In addition, the approved project should not be allowed a priority water connection because the applicants relinquished that claim;
- 2) The County is not monitoring or allocating water or sewer connections according to land use categories defined the LCP; and
- 3) The approved project does not adequately protect environmentally sensitive habitat areas from adverse impacts from stormwater runoff.

#### 2.4.1 Legal Lots and Priority Water and Sewer Allocations

The appellant contends that the three lots were never separate legal lots and therefore, gave up priority sewer and water connections when water transfers occurred on two of the three lots.

In the present situation, the County of San Mateo allowed a single legal parcel to be treated, for capacity reallocation, as if it were three legal parcels. This was apparently done without a required Certificated of Compliance (see LCP Policy 1.27) and without a minor subdivision...The first modern California Subdivision Map Act of 1929 established procedures for local jurisdictions to approve or deny a proposed subdivision...before 1929, parcels were only created by deed...Consequently, the parcel in question has never been shown to consist of more than one legal parcel, and the transfer of priority sewer and water capacity from the parcel has exhausted all rights the parcel may have had to priority sewer or water capacity.

By attempting to utilize priority capacity that is now reserved for other property owners, in contradiction to the binding encumbrance on this property, this

development, if approved as proposed, would preclude development of Coastal Act land uses given under Section 30254 and thus violate the Coastal Act.

#### 2.4.2 Water and Sewer Capacity and Priority Land Uses

The appellant contends that the County of San Mateo has misinterpreted Land Use Plan (LUP) policies regarding priority water and sewer capacity by not considering allocations according to land use categories defined in the LUP.

He maintains that "allowing this development to consume Phase I priority water which it has explicitly relinquished must mean that other priority land uses will not have sufficient water available to meet their development needs."

Coastside County Water District (CCWD) is required, by LCP Policy 2.29, to "Reserve water supplies for each land use given priority by the Coastal Act or the Local Coastal Program. These priority uses are shown on Table 2.17....For each phase of water supply development, reserve capacity adequate to allow each priority land use to develop to the percent of buildout allowed by the phase."
...By letter dated June 29, 2000, CCWD states: "The overall remaining capacity is 560-5/8" (20gpm), but a specific number for each priority land use category is not available."

Due to lack of oversight of the County and CCWD, the priority water capacity reallocation appears to have resulted in a violation of LCP Policy 2.8(c), which prohibits more than 50% of the priority land uses planned in each phase from relinquishing priority capacity. CCWD has performed the capacity computations based only on the total priority capacity reserved under Phase I, not on the priority capacity by land use category.

LCP Policy 2.11 requires "that public agencies, utilities or species districts monitor the needs of land uses for public works capacity during Phase I," and Policy 2.12 requires that they "Use the results of Phase I monitoring to determine the timing and capacity of later of later phase(s)." ... Projects are being proposed using 1980 estimates, rather than current behavior patterns. The result appears to be a gross exaggeration in the amount of sewer and water capacity required.

[LCP policies 2.26 and 2.27 require monitoring] water useage by land use.

LCP Policy 2.29 ... requires CCWD and the County to "Reserve water supplies for each land use given priority by the Coastal Act or the Local Coastal Program." CCWD and the County have no method of tracking the water connections issued to various land uses, and therefore cannot be in compliance with this requirement.

For the same reasons, it appears likely that priority sewer capacity reallocations have resulted in a violation of LCP Policy 2.8(c)...2.17, and 2.21.

The County ... interpret[s] this language as if the capacity allocations are vested in individual parcels of real property that happen to be currently zoned to allow priority land uses.

...the existing capacity of the existing El Granada Transmission Pipeline together with existing actual average and peak day demand of the customers in the service

area of that pipeline, indicate that there is not adequate reserve capacity to meet the requirement for priority water connections. Therefore, there is no non-priority water capacity available to serve this proposed development. It must be denied until adequate infrastructure improvements are completed so that CCWD's obligation to priority land uses can be met.

The appellant contends that "CCWD and GSD have failed to conform to various LCP policies, and are therefore also in violation of LCP Policy 2.4."

#### 2.4.3 Stormwater Runoff and Sensitive Habitats

The appellant asserts that the development will increase impermeable surfaces thereby resulting in runoff into Pillar Point Harbor or Pillar Point Marsh. He states that the "Commission ... should ensure that adequate Best Management Practices have been required to protect these sensitive resources," in accordance with Policy 7.3.

#### 2.5 Project Location and Site Description

The project approved by the County is in the unincorporated area of Princeton-by-the-Sea in San Mateo County, California (Figure 1 and Figure 2). According to the County, the proposed building site is composed of three lots that are to be merged into one legal lot as a condition of permit approval, and assigned APN 047-011-270, as shown on Figure 3. The site is 105 feet along Stanford Avenue and 100 feet wide along the side property lines (Figure 4).

The property is designated in the County's LUP as General Industrial and is zoned Waterfront District/Design Review/Coastal Zone District (W/DR/CD). The proposed public storage building complies with the zoning uses permitted as indoor storage of goods in the "inland area" (Section 6287.0).

The existing land use is fenced outdoor storage of boats. Uses nearby are a mix of vacant parcels, parcels with outdoor storage. There are also one-story public storage buildings, which are 3,000 to 4,000 square feet, on either side of the lot.

There are no trees on the site, only ruderal (weedy) vegetation interspersed with bare ground. The soils on the site are classified as Denison clay loam, nearly level (DcA) with a very slow runoff rate and an erosion potential of none to slight (US Department of Agriculture 1961).

### 2.6 Project Description

# 2.6.1 Approved Project

The project approved by the County is a 7,600 square-foot, two-story, wood-framed storage building. Both floors are 40 feet by 95 feet (Figure 5). The approved building is 30 feet high with a dark gray roof and light gray, cement, exterior walls (Figure 6). Six parking spaces were approved in the front portion of the property. Minimal grading was approved for pavement and drainage only, and will be done between April 15 and October 15. The front of the lot will be landscaped.

The approval includes 39 special conditions, as listed in Exhibit 3 (San Mateo County 2000a). Conditions 4 and 28 are particularly pertinent to this appeal. Condition 4 addresses water allocation and requires that the applicant "limit use of water in the proposed building to lot 36 of the project site." Condition 28 from the Granada Sanitation District (GSD) requires the

applicants "provide documentation indicating that the three lots constituting the project site have been formally merged." Conditions 15, 16, 17, 24, and 26 address stormwater runoff and drainage plans.

### 2.6.2 History of the Parcel and Water Transfers

The Iacopi land is shown on "Map of Princeton By the Sea, Half Moon Bay, San Mateo County, California" (San Mateo County 1907) as lots 34, 35, and 36.

When the water conversions and reallocations were made in 1996, the project site consisted of three Assessor's Parcel Numbers (APNs) 047-011-230, 047-011-220, and 047-011-210, respectively. According to the County, these three APNs were entitled to three priority water connections because the three APNs constitute legal parcels and because they are in an area that is zoned for uses that included priority water uses. Water from two of the APNs was reallocated from priority to non-priority water uses, as approved by CCWD resolutions 893 and 898 (see Exhibit 4). One priority water connection was retained for APN 047-011-210.

On January 2, 1997, at the property owner's request, the three APNs were assigned one APN, 047-011-270. The assignment of APNs does not affect the legal status of the lots. APNs are for taxation purposes and do not in themselves determine land divisions or property boundaries. Steve and Peter Iacopi bought the three APNs in September 1997. The Iacopis possess a grant deed for the entirety of the property subject to this appeal, but it is not known if three separate deeds existed to establish the legality of the three separate lots used as the basis for the three priority water connections. The property owners purchased a 5/8-inch priority water connection on December 6, 1999. On July 11, 2000 the CCWD authorized the use of the 5/8-inch connection on the entire property (Exhibit 5, "Relinquishment of Right to Purchase Priority Water Service Connection and Agreement Regarding Water Use" [CCWD 2000])

# 2.7 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.

#### 2.7.1 Appellants Contentions that are Not a Valid Ground for Appeal

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 LCP.

Reservation of Water and Sewer Capacity to Serve Priority Land Uses/Actions of Local Agencies

The Commission finds that the appellant's contentions regarding the actions of local agencies other than the County of San Mateo are not a valid ground for appeal.

The appellant contends that CCWD and GSD have not allocated and monitored water and sewer connections in accordance with LUP Policies 2.8, 2.11, 2.12, 2.17, 2.21, 2.26, 2.27, and 2.29. Furthermore, he maintains that because CCWD and GSD have failed to conform to "various" LUP Policies, they are also not acting in accordance with LUP Policy 2.4.

In support of this contention, the appellant maintains that:

- The CCWD and the GSD have not been allocating water and sewer connection in accordance with land use categories specified in Tables 2.7 and 2.17 in the LUP.
- The CCWD and the GSD are not monitoring priority water and sewer connections in accordance with the land use categories specified in Tables 2.7 and 2.17 in the LUP.
- CCWD and GSD have failed to conform to LUP Policies regarding water and sewer allocation and monitoring, and are therefore also in violation of LUP Policy 2.4.

LUP policy 2.11 requires that public agencies, utilities, and special districts monitor the requirements of land uses for public works capacity during Phase 1. LUP policy 2.12 requires that this Phase 1 monitoring results be used to determine the timing and capacity of later phases. LUP policy 2.17 requires that the Sewer Authority Mid-Coastside or its member agencies monitor sewage generation by land use and the rate of growth of new development. Policies 2.26 and 2.27 require CCWD and Citizens Utilities Company to monitor water consumption by land use and the rate of growth of new development. Policy 2.4 requires that special districts, public utilities, and other government agencies conform to the County's zoning ordinance and the LUP Policies. Policy 2.4 follows and must be interpreted in the context of Policy 2.1, which states that "After certification of the LCP, require a Coastal Development Permit from any public utility, government agency or special district wishing to undertake any development in the Coastal Zone..."

All of these policies address conformance of public agencies, CCWD and GSD, with the requirements of LUP Policies. None of these contentions address conformance of the development approved by the County with the policies of the certified LCP or the Coastal Act public access policies. Therefore, the Commission finds that the appellant's contentions regarding the reservation of water and sewer allocations and monitoring by public agencies are not valid grounds for appeal.

#### 2.7.2 Allegations that Do Not Raise Substantial Issue

The Commission finds that the appellant's contentions regarding LUP provisions related to the requirements for a CDP, allocation of water and sewer connections to priority land uses, infrastructure capacity, and the effect of stormwater runoff on sensitive habitats are a valid ground for appeal, but do not raise substantial issue.

The contentions discussed below present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LUP. These contentions allege that the approval of the project by the County raises issues related to LUP provisions regarding the requirements for a CDP to legalize the three lots, the appropriateness of water transfers, the reservation of water and sewer capacity to serve priority land uses, and water quality impacts related to stormwater runoff.

Public Resources Code 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. The Commission's regulations simply indicate 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 interpretation of its LCP; and
- 5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even where the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing 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 <u>substantial issue</u> with regard to the appellants' contentions regarding the need for a CDP to legalize the three lots, the appropriateness of water transfers, the allocation of water and sewer connections to priority land uses, infrastructure capacity, and the effect of stormwater runoff on sensitive habitats.

#### Legality of Lots

The Commission finds that the appellant's contentions regarding the need for a CDP to legalize the three lots and the approved project's use of a priority water connection do not raise a substantial issue of conformity with the certified LCP.

The applicant contends that the APNs were never separate legal lots, and that the County should have issued a Coastal Development Permit for issuance of a Certificate of Compliance to legalize the lots, in accordance with LUP Policies 1.27, 1.28, 1.29(d), and 1.30. He maintains that because the purported lots appear on a 1907 map, prior to the California Subdivision Map Act of 1929, the property consists of only one parcel. He states that the Attorney General's Amicus Curiae Brief on behalf of the California Coastal Commission in the case of Circle K Ranch Corp. v. Board of Supervisors of the County of Santa Barbara and a paper prepared by counsel of the County of Ventura (Gustafson 1995) support his contention.

LUP Policies 1.27, 1.28, and 1.29 require a Coastal Development Permit (CDP) when a Certificate of Compliance (COC) is issued. LUP policy 1.30 addresses filing a notice of violation on the deeds of those parcels which have not received government approvals.

LUP Policies 1.27, 1.28, and 1.29 apply only when a COC has been issued. San Mateo County did not issue a COC for the three lots in question. Therefore, these policies are inapplicable to the approved development. Policy 1.30 is also not applicable because no notice of violation has been filed.

In addition, with regard to the allegation that the CCWD illegally approved the transfer of priority water allocations from two of the lots, this allegation does not demonstrate that the development as approved by the County does not conform to the policies of the certified LCP or the Coastal Act public access policies. San Mateo County treated the lots as three separate lots, and there is no conclusive evidence to dispute the County determination of legality. In the absence of conclusive evidence to the contrary, the Commission defers to the County's determination that the lots are legal. The appellant points to an unpublished Court opinion and an unsettled interpretation of the law to claim that the property includes only one legal lot (see Gustafson 1995). However, the Commission's role is not to adjudicate a Subdivision Map Act dispute in an unsettled area of law. In any event, as a condition of the County's approval for the project, the applicant is required to merge the three purported lots into one. Accordingly, as conditioned the development will span only one lot. In addition, the CCWD and GSD have provided one domestic water and sewer service connection to serve the approved development. Therefore, the dispute concerning whether one or three legal lots previously existed is moot. Therefore, the Commission finds that the appellant's contentions regarding parcel legalization and transfer of water and sewer allocations do not raise a substantial issue.

Even if the appellant were correct that only one legal lot existed at the time that the applicant sold two priority water and sewer allocations to the CCWD and GSD for transfer to non-priority uses, and that the applicant has therefore relinquished all rights to priority service allocations, the Commission does not review the legality of water transfers. Only in the case that the approval of the subject development actually precluded development of a priority land use would a question concerning LCP consistency be raised by this contention. The appellant's position is that the approved development could potentially preclude development of a priority land use because the existing transmission system lacks sufficient reserved capacity to supply all of the water required to support the level of buildout allowable under the LCP. As discussed below, the CCWD has taken significant steps toward expanding its infrastructure capacity to ensure an adequate water supply to serve future development. The appellant does not specifically contend that the capacity of the sewer system is inadequate to allow development of either priority or non-priority land uses. In fact, the GSD recently upgraded its infrastructure to meet the demands of future development.

# Reservation of Water and Sewer Capacity to Serve Priority Land Uses

The Commission finds that the appeal does <u>not</u> raise a <u>substantial issue</u> with respect to conformance of the approved project with the policies of the San Mateo County certified LUP regarding reservation of public works service capacity for priority land uses.

#### Contention

The appellant contends that the approved project is inconsistent with the requirement of LUP Policies 2.8, 2.21, and 2.29 to reserve public works capacity to serve priority land uses as defined in the LUP.

In support of this contention, the appellant maintains that:

- The approved development should not have been granted priority water and sewer service connections because it is not a priority land use designated for such services in Tables 2.7and 2.17 of the LUP.
- The CCWD El Granada Transmission Pipeline is not adequate to meet the demand of priority water connections.

#### Applicable Policies

LUP Policies 2.8, 2.21, and 2.29 require that for each phase of public works development, adequate public works capacity is reserved to allow development of priority land uses to the buildout allowed by that phase. Tables 2.7 and 2.17 specify the priority land uses for which sewage treatment and water service capacities are to be reserved during both LCP Development Phase I and at LCP Buildout. These uses include Marine Related Industrial. Policy 2.8(c) allows reallocation of reserved capacity to non-priority land uses under certain circumstances, but specifies that "at least 50 percent of the priority land uses planned in each phase must be provided capacity for." The complete text of these LUP Policies is contained in Appendix B.

#### Discussion - Priority Use Designation

The County has provided its rationale for determining priority land use (San Mateo County 2000d), as stated below:

Our policy has been that qualification for priority water and sewer is a function of both location and use. That is, the project needs to be a qualifying use in a qualifying location. In the case of a Marine Related Industrial use, the qualifying location is the Marine Related Industrial, now Waterfront, zoning district. A qualifying use would be any use allowed in that zone.

The permitted uses allowed within the Waterfront zoning district include indoor storage of goods in the "inland area" (Zoning Code Section 6287.0). The approved development is a permitted use within this priority land use area and is therefore entitled to priority water and sewer connections in accordance with the County's interpretation of the LCP.

The appellant disagrees with the County's determination that any use allowed in the Waterfront zoning district qualifies for priority public works service under the Marine Related Industrial designation. The LCP does not specifically address whether the allowable zoning uses or the development actually constructed should govern the entitlement to priority water connections. this question. However, in determining if the appeal raises a substantial issue of conformity with the LCP, the Commission is guided by an evaluation of the extent and scope of the approved development, the significance of the coastal resources affected by approved development, and whether the appeal raises only local issues, or those of statewide significance.

The scope of the approved development is minor. It is an in-fill development that is consistent with the zoning designation, is compatible with adjacent land uses, and is located in an industrial area. The approved development has been granted one standard domestic water and sewer

service connection. The CCWD granted one 5/8-inch priority water connection and the GSD granted one sewer connection for the approved development. The approved development is likely to consume less of these services than other uses allowed in this zoning district such as aquacultural processing facilities and boat building, repair, sales and support establishments. Thus, committing these services to the approved development will not affect significant coastal resources. Moreover, the dispute between the appellant and the County concerning the method used to determine that the approved development qualifies for priority public works service is not an issue of statewide significance. It is unique to the County of San Mateo's certified LCP. For these reasons, the Commission finds that the appellant's contention that the approved development does not qualify for priority sewer and water services does not raise a substantial issue of conformity with the policies of the certified LCP or the public access policies of the Coastal Act.

#### Discussion - Capacity of CCWD Infrastructure to Serve Priority Land Uses

The appellant contends that the existing capacity remaining in the CCWD El Granada Transmission Pipeline is insufficient to meet the requirement to serve the development of priority land uses at the level of buildout specified in the LCP. This contention does not maintain that adequate water service capacity is not currently available to serve priority land uses, but that the reserved capacity in the existing transmission system is insufficient to allow the development of priority land uses at the level provided under Phase I of the LCP. In other words, the issue raised by the appellant is not that the development of priority land uses is currently restricted due to an inadequate water transmission system, but that given the current capacity of the transmission system, development of priority land uses will at some point in the future be limited to a level below that provided for under Phase I LCP buildout.

An issue of conformity with the LCP requirement that adequate water service capacity is reserved to serve priority land uses could potentially be raised in the future if appropriate measures are not taken to assure that the transmission system is capable of delivering adequate service for development allowed under the LCP. However, the CCWD is taking appropriate measures to ensure that this will not be the case.

On October 19, 1999, the San Mateo County Board of Supervisors approved a CDP application from the CCWD to upgrade the El Granada Transmission Pipeline from the existing 10-inch line to a 16-inch line. The County approval of this project was appealed to the Coastal Commission. On February 18, 2000, the Commission found that the appeal raised a substantial issue, in part, because the approved 16-inch pipeline may exceed the capacity necessary to serve the level of buildout of all uses – priority and non-priority – provided for during LCP Phase I, and could therefore be growth inducing (CCC 2000). The CCWD has requested that the Commission postpone action on the de novo portion of this appeal to allow the District to re-evaluate the appropriate level of transmission system upgrades necessary to serve Phase I buildout. The District has indicated in a letter to the Commission its intention to seek final approval of system design and implementation plan that satisfy the LCP requirements and meet the community's needs for water quality and availability (Exhibit 6).

Adequate water service is currently available to serve development of priority land uses, and the CCWD is currently undertaking measures to provide an appropriate level of public works expansion to serve future development allowable under the LCP. Therefore, the Commission

finds that the appeal raises no substantial issue with regard to the LCP requirement that adequate water service is reserved to provide for the development of priority land uses.

#### Conclusion

The Commission finds the approved project does not raise a substantial issue regarding the project's conformance with the policies of the certified LCP requiring the reservation of adequate public works capacity to serve priority land uses.

#### Stormwater Runoff and Sensitive Habitats

The Commission finds that the appeal does <u>not</u> raise a <u>substantial issue</u> with respect to conformance of the approved project with the sensitive habitat policies of the San Mateo County certified LCP.

The appellant contends that the development will increase impermeable surfaces thereby resulting in runoff into Pillar Point Harbor or Pillar Point marsh. He states that the "Commission ... should ensure that adequate Best Management Practices have been required to protect these sensitive resources," in accordance with Policy 7.3.

# LUP Policy 7.3 states:

- 7.3 Protection of Sensitive Habitats
- a. Prohibit any land use or development which would have significant adverse impact 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.

The approved project would not significantly impact sensitive habitat. The approved project site contains no sensitive habitat and is adjacent to developed lots to the northeast and southwest. The site is approximately 1,000 feet from Pillar Point Harbor and Pillar Point marsh. Because the soils have a very slow runoff rate and the erosion potential is none to slight, stormwater runoff generated by the approved development will not significantly impact the harbor waters or marsh. In addition, minimal grading was approved for pavement and drainage only, and would be done between April 15 and October 15.

Moreover, the local conditions of approval ensure that the approved development will not create significant adverse impacts on water quality. Conditions 15, 16, and 17 of the County's approval include best management practices to minimize the transport and discharge of stormwater runoff from the site into storm drain systems and water bodies. Condition 15 also includes requirements to reduce the sediment that enters storm drains such as filtration materials on storm drains, stabilizing bare areas and implementation of erosion control measures, and removal of spoils or covering with a tarp. Further, Condition 15 includes measures to prevent or reduce pollutants from entering the storm drain system, including storing, handling, and disposing of construction materials and waste to avoid entry into the storm drain system or waterbody, avoiding cleaning, fueling, or maintaining vehicles on-site, limiting and timing applications of pesticides and fertilizers. Condition 16 requires on-site grading to be done between April 15 and October 15.

Erosion control measures, such as silt fencing, hay bales, or other appropriate measures are required during the construction phase of the project. Condition 17 requires that a minimum of 50 percent of stormwater from impervious surfaces must be directed to landscaping strips. Finally, conditions 24 and 26 require the development of a drainage plan. Therefore, the project approved by the County requires that development be sited and designed to prevent impacts that could significantly degrade sensitive habitats. The above-referenced conditions of approval would protect sensitive habitat from any significant adverse water quality impacts arising from the approved project.

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

#### 2.7.3 Allegations that Raise Substantial Issue

None of the appellant's contentions raise substantial issue.

#### 2.7.4 Conclusion

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

#### **APPENDIX A**

#### **Substantive File Documents**

#### References

- California Coastal Commission (CCC) 2000. Substantial Issue Determination for Coastside County Water District (CCWD) for the El Granada Pipeline Replacement Project (A-2-SMC-99-63).
- Coastside County Water District (CCWD) 2000. Relinquishment of Right to Purchase Priority Water Service Connections and Agreement Regarding Water Use. July 11, 2000.
- San Mateo County 1907. Map of Princeton by the Sea, Half Moon Bay, San Mateo County, California. Scale: 100 feet to 1 inch. August 1907.
- San Mateo County 2000a. CDP PLN 1999-00841 (Iacopi) to Planning Commission. June 21, 2000.
- San Mateo County 2000b. CDP PLN 1999-00841 (Iacopi) to Zoning Hearing Officer. March 2, 2000.
- San Mateo County, Terry Burnes. 2000. Letter to Chris Kern and Jane Steven, California Coastal Commission, regarding determination of priority land use in Princeton. August 30, 2000.

#### **APPENDIX B**

#### Referenced Policies of the San Mateo Local Coastal Plan

#### 1.27 Confirming Legality of Parcels

Require a Coastal Development Permit when issuing a Certificate of Compliance to confirm the legal existence of parcels as addressed in Section 66499.35(a) of the California Government Code (e.g., lots which predated or met Subdivision Map Act and local government requirements at the time they were created), only if: (1) the land division occurred after the effective date of coastal permit requirements for such division of land (i.e., either under Proposition 20 or the Coastal Act of 1976), and (2) a coastal permit has not previously been issued for such division of land.

### \*1.28 Legalizing Parcels

Require a Coastal Development Permit when issuing a Certificate of Compliance to legalize parcels under Section 66499.35(b) of the California Government Code (i.e., parcels that were illegally created without benefit of government review and approval).

#### \*1.29 Coastal Development Permit Standards of Review for Legalizing Parcels

d. On undeveloped parcels created before Proposition 20, on lands located within 1,000 yards of the mean high tide line, or the Coastal Act of 1976, on lands shown on the official maps adopted by the Legislature, a coastal permit shall be issued to legalize the parcel if the parcel configuration will not have any substantial adverse impacts on coastal resources, in conformance with the standards of review of the Coastal Development District regulations. Permits to legalize this type of parcel shall be conditioned to maximize consistency with Local Coastal Program resource protection policies. A separate Coastal Development Permit, subject to all applicable Local Coastal Program requirements, shall be required for any development of the parcel.

#### 1.30 Notices of Violation

The County shall discourage the creation of illegal parcels by developing and implementing a system for the timely review of all newly recorded parcels in the Coastal Zone. Notices of violation, as provided for in Government Code Section 66499.36 shall be promptly filed on the deeds of those parcels which have not received required government approvals.

#### \*2.4 Ordinance Conformity

As a condition of permit approval, special districts, public utilities and other government agencies shall conform to the County's zoning ordinance and the policies of the Local Coastal Program.

### 2.8 Reservation of Capacity for Priority Land Uses

- a. Reserve public works capacity for land uses given priority by the Local Coastal Program as shown on Table 2.7 and Table 2.17. All priority land uses shall exclusively rely on public sewer and water services.
- b. For each public works development phase, reserve capacity adequate to allow priority land uses to develop to the buildout allowed by that phase.
- c. Under the following circumstances, allow public agencies and utilities to reallocate capacity to non-priority land uses: (1) when landowners refuse to pay the assessment fees for public services to serve priority land uses because they desire to keep their land vacant or develop a non-priority land use allowed on the site by the Local Coastal Program, and (2) when a landowner, in response to a written inquiry by a public agency or utility, indicates in writing that he/she does not plan to develop his/her land as a priority land use and will not be using any reserved capacity during a certain phase. The public agency or utility shall calculate the capacity needed to serve the remaining priority land uses. Reserved capacity that is not required for the remaining priority land uses may be reallocated to non-priority land uses after the public agency has gained the approval of the Planning Commission. Before approving the reallocation, the Planning Commission shall make the finding, in writing, that the remaining reserved capacity will be adequate to serve the remaining priority land uses. The reservation of capacity for priority land uses shall be increased during the next phase to compensate priority land uses for this reallocation. At least 50% of the priority land uses planned in each phase must be provided capacity for; that capacity may not be allocated to the next phase.
- d. Allow Coastside County Water District to allocate priority capacity equivalent to ten standard-size (5/8 inch diameter) service connections (approximately 2,710 gallons per day total) in order to provide municipal water service to residential dwellings which are connected to the public sanitary sewer system, when such a connection is necessary to avert a substantial hardship caused by the failure of a private well serving the dwelling in production quantity or quality as certified by the Director of the Department of Environmental Health. For purposes of this policy, "substantial hardship" shall not include any failure which can be remedied by repair or replacement of well equipment or facilities, or relocation of a well on a parcel. Whether substantial hardship exists shall be determined by the Planning Director, following consultation with the Director of Environmental Health and the General Manager of the Coastside County Water District.

In order to minimize the reduction in water reserved for Coastal Act priority land uses, applications for reallocated water shall include a Water Fixture Retrofit Plan to replace existing water fixtures of the residence applying for the connection with water conserving fixtures. This plan must be reviewed and approved by the Coastside Community Water District General Manager prior to the establishment of the connection, and contain the following:

- (1) A list of all existing fixtures to be retrofitted and their present associated water flow (e.g., gallons/second);
- (2) A list of all proposed fixtures to be installed and their associated water flow;
- (3) The estimated annual water savings resulting from the proposed retrofit, showing all calculations and assumptions; and
- (4) A leak detection test; all leaks shall be repaired, but such repairs shall not be calculated in the estimates of savings.

Coastside Community Water District inspection personnel shall inspect the water fixtures prior to and following the retrofit to confirm compliance with the approved plan and proper installation.

#### 2.11 Monitoring of Phase I

- a. Require that public agencies, utilities or special districts monitor the needs of land uses for public works capacity during Phase I.
- b. Notify affected public agencies, utilities and special districts of the requirements for monitoring included in this plan.

# 2.12 <u>Timing and Capacity of Later Phases</u>

- a. Use the results of Phase I monitoring to determine the timing and capacity of later phase(s).
- b. Guide timing by allowing later phase(s) to begin when Phase I capacity has been or will be consumed within the time period required to construct additional capacity.
- c. Establish the capacity by: (1) estimating the capacity needed to serve the land use plan at buildout, (2) considering the availability of related public works to establish whether capacity increases would overburden the 2.5 existing and probable future capacity of other public works and (3) considering the availability of funds.
- d. Require every phase to go through the development review process.

### 2.17 Monitoring of Phase I

Require that the Sewer Authority Mid-Coastside (SAM or its member agencies) monitor: (1) the actual amount of sewage generation by land use, particularly non-residential, and (2) the rate of growth of new development. Require them to submit an annual data report to the County summarizing the results of this monitoring.

#### 2.21 Reservation of Capacity for Priority Land Uses

- a. Reserve sewage treatment capacity for each land use given priority by the Coastal Act or the Local Coastal Program. These priority uses are shown on Table 2.7. Amend this table to reflect all changes in the Land Use Plan which affect these priority land uses.
- b. For each phase of sewage treatment facility development, reserve capacity adequate to allow each priority land use to develop to the percent of buildout allowed by the phase.
- c. Allow capacity to be reallocated to non-priority land uses in accordance with Policy 2.8.

#### 2.26 Monitoring of Phase I

Require that the water service providers, presently Coastside County Water District (CCWD) and the Citizens Utilities Company (CUC), monitor: (1) the actual amount of water consumption by land use, and (2) the rate of growth of new development. Require them to submit an annual data report to the County summarizing the results of this monitoring.

#### 2.27 <u>Timing and Capacity of Later Phases</u>

- a. Use the results of Phase I monitoring to determine the timing and capacity of later phase(s).
- b. Guide timing by allowing later phase(s) to begin when Phase I capacity has been consumed or will be consumed within the time required to construct additional water supply capacity.
- c. Establish the capacity by: (1) estimating the water supply capacity needed to serve the land use plan at buildout, (2) considering the availability of related public works and whether expansion of the water supply would overburden the existing and probable future capacity of other public works and (3) considering the availability of funds.

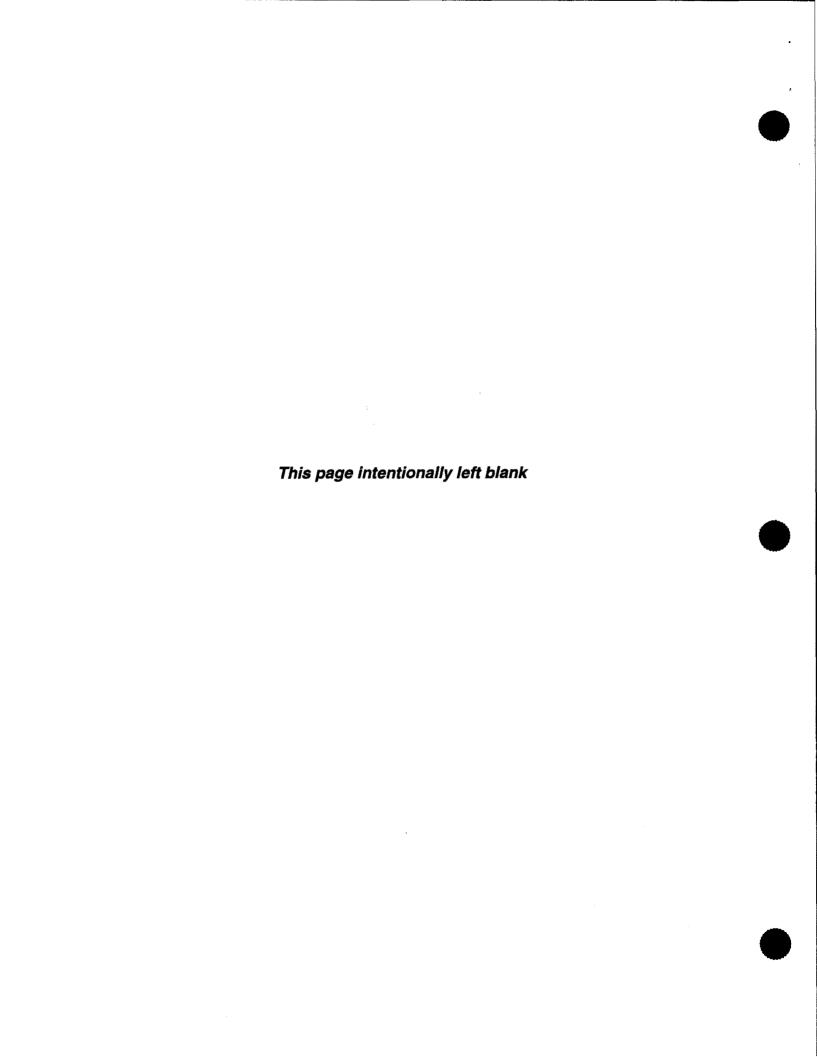
#### 2.29 Reservation of Capacity for Priority Land Uses

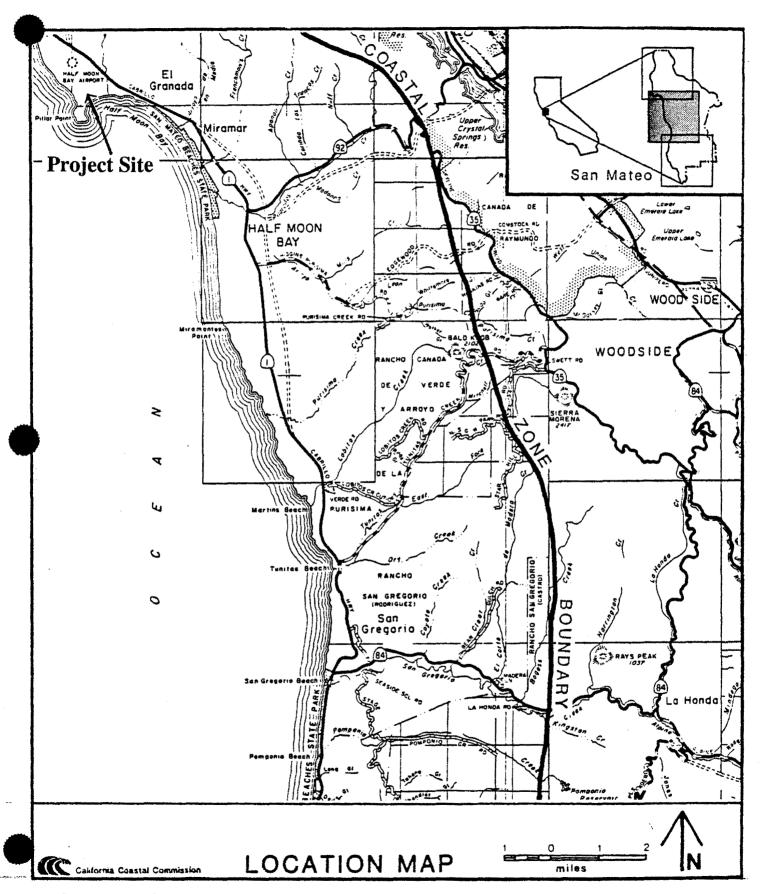
- a. Reserve water supplies for each land use given priority by the Coastal Act or the Local Coastal Program. These priority uses are shown on Table 2.17. Amend this table to reflect all changes in the Land Use Plan which affect these land uses.
- b. For each phase of water supply development, reserve capacity adequate to allow each priority land use to develop to the percent of buildout allowed by the phase.
- c. Allow capacity to be reallocated to non-priority land uses in accordance with Policy 2.8.

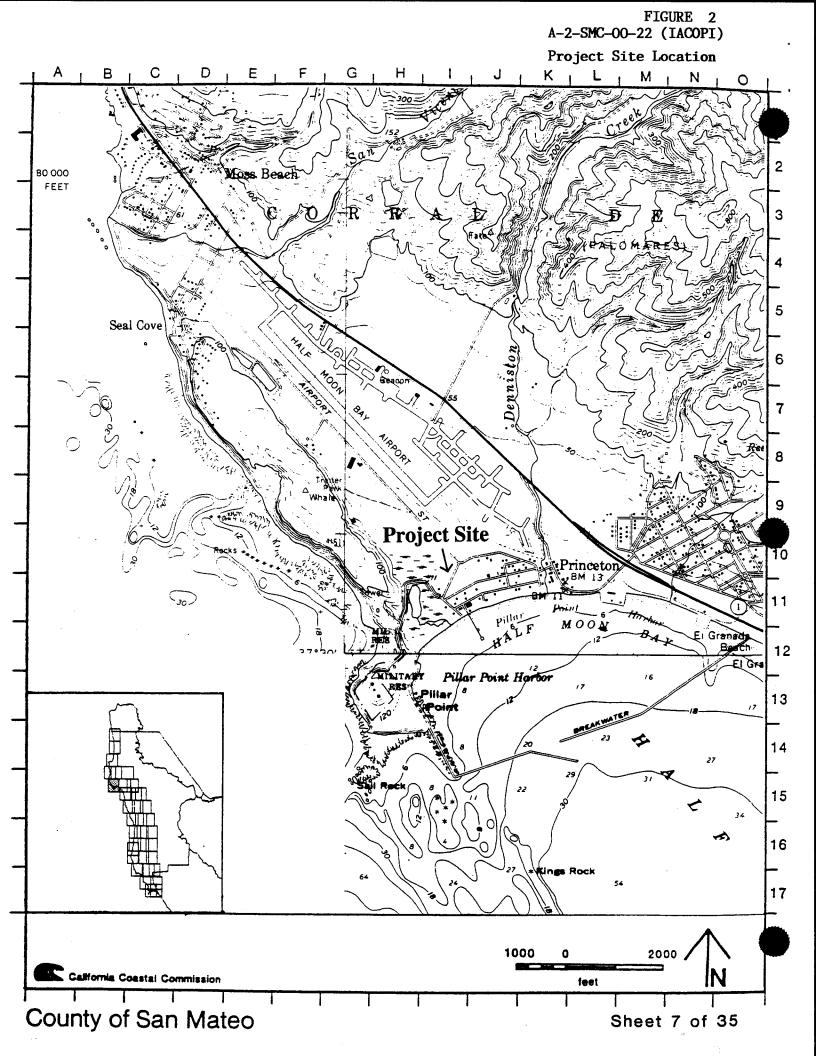
#### \*7.3 Protection of Sensitive Habitats

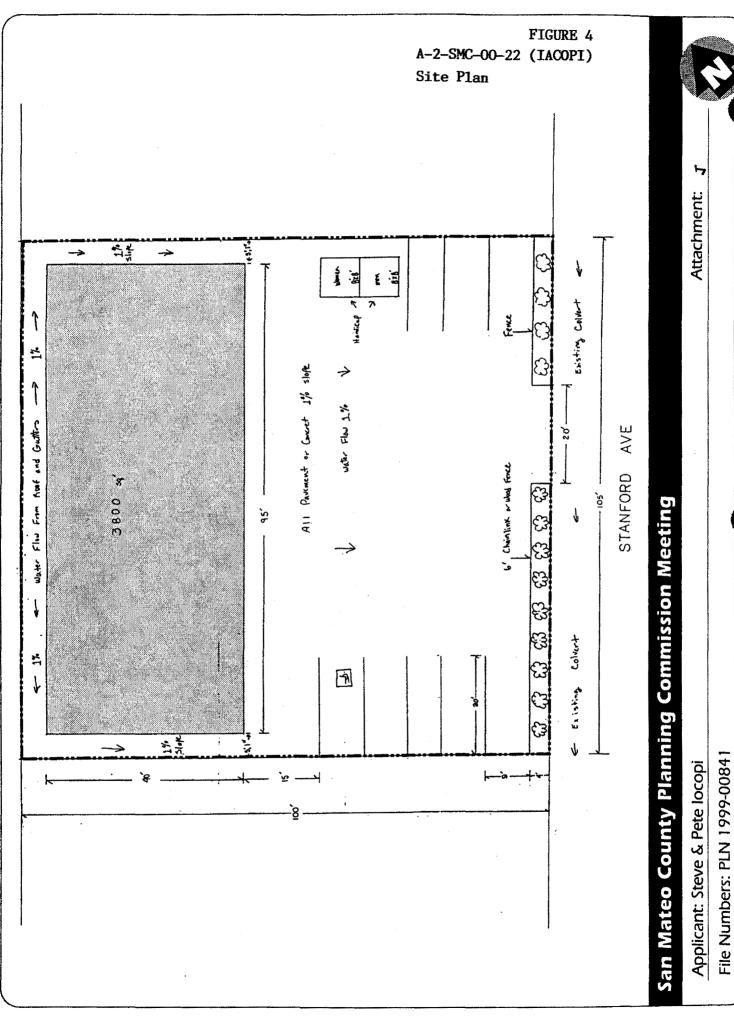
- a. Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas.
- b. Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats.

**FIGURES** 

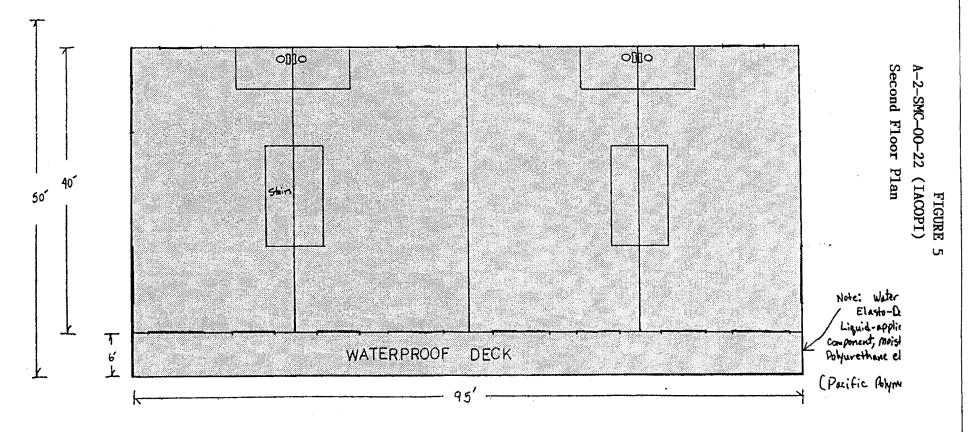












# **San Mateo County Planning Commission Meeting**

Applicant: Steve & Pete locopi

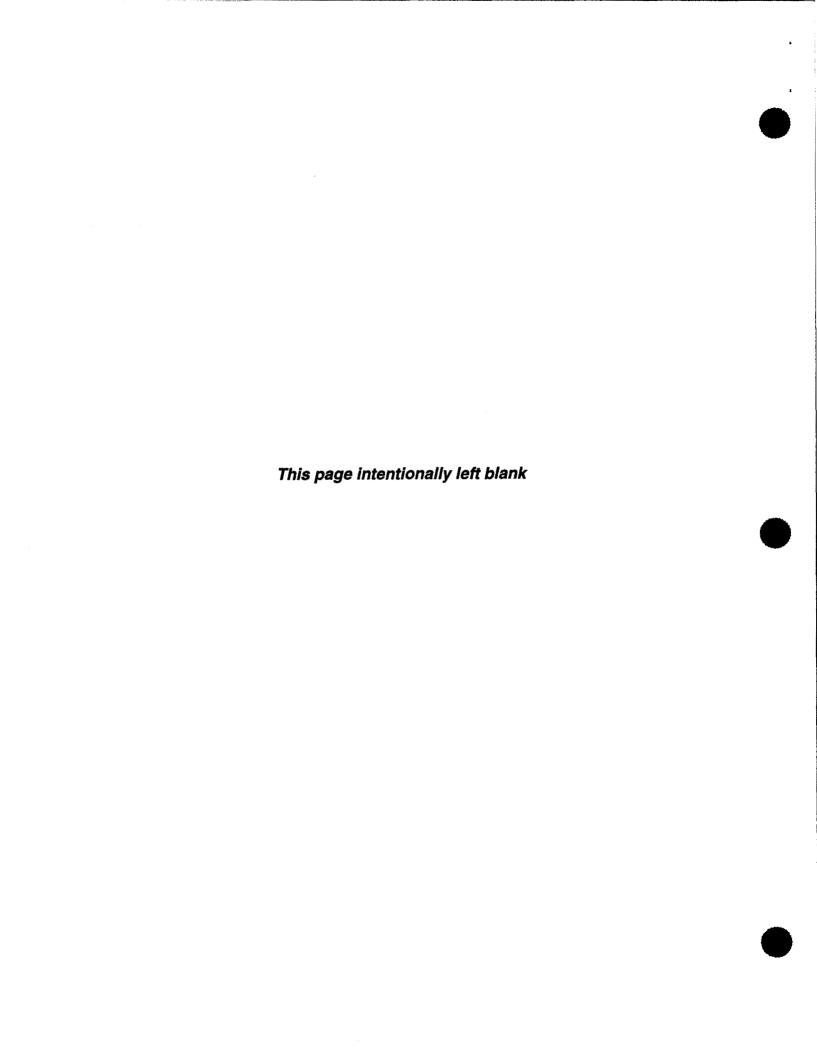
Attachment: K

File Numbers: PLN 1999-00841



41.cgr 5-22-00 ds





# CALIFORNIA COASTAL COMIVISSION

NORTH CENTRAL COAST DISTRICT OFFICE 45 FREMONT, SUITE 2000 SAN FRANCISCO, CA 94105-2219 (4-4-5260)



# COMMISSION NOTIFICATION OF APPEAL

fore steven

DATE: July 19, 2000

TO: Miroo Brewer, Project Planner

County of San Mateo, Building & Planning 590 Hamilton Street, Mail Drop 5500

Redwood City, CA 94063

FROM: Jane Steven, Environmental Specialist

RE: Commission Appeal No. A-2-SMC-00-022

APPLICATION NO. A-2-SMC-00-22

Commission
Notification of

Please be advised that the coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Section 30602 or 30625. Therefore, the decision has been stayed pending Commission action on the appeal pursuant to Public Resources Code Section 30623.

Local Permit #: PLN1999-00841

Applicant(s): Steve & Peter Iacopi

Description: Coastal Development Permit for new two-story 7,600 sq.ft. public

storage building.

Location: 169 Stanford Avenue, Princeton (San Mateo County) (APN(s) 047-

011-270)

Local Decision: Approved w/ Conditions

Appellant(s): Paul Perkovic

Date Appeal Filed: 07/18/2000

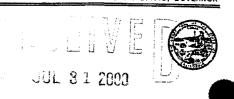
The Commission appeal number assigned to this appeal is A-2-SMC-00-022. The Commission hearing date has not yet been established for this appeal. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the County of San Mateo's consideration of this coastal development permit must be delivered to the North Central Coast District office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Jane Steven at the North Central Coast District office.

#### CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000 SAN FRANCISCO, CA 94105-2219 VOICE AND TDD (415) 904-5200 FAX (415) 904-5400





PETERNIA

LOTHIC 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): Paul Perkovic Post Office Box 371149 (415)370-3897 Montara, CA 94037-1149 (650) 728-9500 (Home) 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 Use Permit and Coastal Development Permit for new public storage building in unincorporated Princeton, with development based on use of priority sewer and water capacity. Development's location (street address, assessor's parcel no., cross street, etc.): 169 Stanford Avenue, Princeton, near intersection with Airport Street: APN 047-011-270 Description of decision being appealed: Approval; no special conditions: a. County File Number Approval with special conditions: PLN 1999-00841 b. Denial: Note: For jurisdictions with a total LCP, denial

> decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:
APPEAL NO: A-2-SMC-00-022
DATE FILED:
DISTRICT:
117. 4/00

APPLICATION NO.
A-2-SMC-00-22
Appeal from Coastal
Permit Decision
of Local
Government

H5: 4/88

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

5. Decision being appealed was made by (check one):
aPlanning Director/Zoning c. $\underline{x}$ _Planning Commission Administrator
bCity Council/Board of dOther Supervisors
6. Date of local government's decision:June 14, 2000
7. Local government's file number (if any): PLN 1999-00841
SECTION III. <u>Identification of Other Interested Persons</u>
Give the names and addresses of the following parties. (Use additional paper as necessary.)
a. Name and mailing address of permit applicant: Steve and Peter Iacopi  646 Filbert Street Half Moon Bay, CA 94019
b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.
(1) Alan M. Phillips (Attorney for applicant) 840 Main Street / Post Office Box 996 Half Moon Bay, CA 94019
(2) Coastside County Water District 766 Main Street Half Moon Bay, CA 94019
(3) Granada Sanitary District Post Office Box 335 El Granada, CA 94018-0335
(4) Princeton Citizens Advisory Committee  c/o Julian McCurragh  Post Office Box 1522  El Granada, CA 94018-1522

# 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.

State briefly <u>your reasons for this appeal</u>. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Parcel is not entitled to priority sewer or water.
 No water is available to serve the proposed development.
 Actual or potential violations, by the County of San Mateo, Coastside County Water District, and/or Granada Sanitary District of San Mateo County Local Coastal Program Policies 1.27, \*1.28, \*1.29(d), 1.30, \*2.4,
 2.8, 2.11, 2.12, 2.17, 2.21, 2.27, 2.29, and \*7.3, as more particularly described in the attached letter

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

#### SECTION V. Certification

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

Signature of Appellant(s) or Authorized Agent

Date \_\_\_18 July 2000

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

#### Section VI. Agent Authorization

I/We	hereby a	authori	ze						to	act	as	my/c	our
repre	esentati	ve and	to	bind	me/us	in	all	matters	conce	ernir	ng	this	
appea	11.												

	Signature	OT	Appellant(s)	
Date			·	

#### Paul Perkovic

Post Office Box 371149 Montara, CA 94037-1149 Home +1 (650) 728-9500 Cell +1 (415) 370-3897

18 July 2000

Chris Kern
Supervisor, North Central Coast Region
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

re: Appeal of Application No. 2-SMC-99-406 (San Mateo County PLN 1999-00841)

Dear Mr. Kern:

This letter constitutes an elaboration of the "Reasons Supporting This Appeal" for Section IV of the attached Appeal. After Coastal Commission staff has received the administrative record from San Mateo County and made an initial recommendation that this appeal raises potential significant issues, I expect to submit additional background documentation and analysis to support this appeal.

#### Introduction

Although I am filing this appeal as an individual, I should note for the record that I am an elected member of the Midcoast Community Council and the Montara Sanitary District.

The Midcoast Community Council is a seven-person Municipal Advisory Council to the San Mateo County Board of Supervisors. My constituents include property owners who would suffer harm (through delay of potential priority development or increased costs) by allowing the proposed development using priority sewer and water capacity. Further, my constituents also include persons who depend on Coastal Act priority developments, such as coastal dependent uses related to the fishing industry or visitor serving facilities. These Coastal Act priority uses may be precluded by allowing public utility infrastructure and capacity to be misused by developments such as the current proposal as approved by San Mateo County. This would constitute a violation of Coastal Act section 30254.

My service on the Board of Directors of the Montara Sanitary District gives me an understanding of local public agencies, planning factors, major public works projects, financing mechanisms, and environmental documents. This background informs my analysis of the substantial issues raised by the County's approval of this project. It is to my knowledge the first of potentially 80 or more instances where a property that has voluntarily agreed not to use priority capacity during Phase I of LCP buildout is now attempting to develop by making use of the very capacity that it agreed it would not use.

## **Background on Priority Capacity**

The San Mateo County certified Local Coastal Program (LCP) implements Coastal Act section 30254 by a reservation of public works capacity for certain priority land uses. Existing public works facilities at the time of LCP certification in 1980 were clearly insufficient to meet the potential needs of all potential development at buildout. The LCP envisions development of public works in a series of phases. Coastal Act section 30254 requires that, "Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal-dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development."

The County, and local special districts such as Coastside County Water District (CCWD) and Granada Sanitary District (GSD) through the requirement for conformance with the policies of the LCP given in LCP Policy \*2.4, Ordinance Conformity, must therefore all adhere to LCP policies that protect Coastal Act priority development. Special districts that fail in this duty are in violation of LCP Policy \*2.4.

LCP Policy 2.8, Reservation of Capacity for Priority Land Uses, spells out the general framework intended to avoid precluding development of Coastal Act priorities. This policy is repeated specifically for sewer capacity in Policy 2.21 and for water capacity in Policy 2.29. These policies recognize that during each phase of public works capacity development, only a portion of the potential buildout development can be accommodated. They generally provide for approximately the same proportion of capacity for priority land uses in each phase as the LCP anticipates will be needed at full buildout.

Policy 2.8(c) specifically envisions that there may be circumstances in which priority capacity reserved for one phase of public works development might be used for other, non-priority land uses. It allows "public agencies and utilities to reallocate capacity to non-priority land uses . . . when a landowner, in response to a written inquiry by a public agency or utility, indicates in writing that he/she does not plan to develop his/her land as a priority land use and will not be using any reserved capacity during a certain phase." [Emphasis added.] This reallocation must be approved by both the local public agency and the San Mateo County Planning Commission.

## Specific Grounds for Appeal

#### 1. Parcel is not entitled to priority sewer or water.

The property proposed for development has given up the right to use priority water and sewer capacity under Phase I of the San Mateo County Local Coastal Program (LCP), but nevertheless proposes use of both Phase I priority water and sewer for this development. This constitutes a clear and direct violation of the restriction required under LCP Policy 2.8(c), which makes provision for reallocation of capacity to non-priority land uses.

By attempting to utilize priority capacity that is now reserved for other property owners, in contradiction to the binding encumbrance on this property, this development, if approved as proposed, would serve to preclude development of Coastal Act land uses given priority under Section 30254 and thus violate the Coastal Act. **This is a substantial issue** because this is the first of potentially dozens of developments that are trying to utilize priority capacity to which they have given up any claim under LCP Policy 2.8(c).

Complete documentation of the CCWD Resolutions approving applications for conversion and reallocation of priority use water capacity for non-priority use, County approval of these reallocations, and recorded agreements against this property are all included in the administrative record before the County Planning Commission. Despite the clear LCP language, County approval of the reallocation of priority capacity, and documents recorded with the San Mateo County Recorders Office, the Planning Commission approved development as proposed, using priority sewer and water capacity, by a 3 to 2 vote. My local appeal was based only on reallocation of priority water capacity, but for Coastal Commission consideration, I expect to submit similar documentation regarding Granada Sanitary District (GSD) and priority sewer capacity.

Unfortunately, this is not an isolated instance. Although this is the first application that has come forward under these conditions of which I am aware, there are others in the County approval pipeline. There is the potential for approximately 80 parcels that specifically agreed they would not use Phase I priority sewer or water capacity, and for which the capacity was released for non-priority use, that might now attempt to develop during Phase I using the very capacity that they gave up. The inevitable consequence of allowing this practice is to deprive other landowners, also eligible for priority land uses, from developing their properties during Phase I because all available capacity may be consumed by parcels that specifically agreed they would not develop during Phase I. There simply is not enough total Phase I priority capacity available to serve every parcel that is entitled to propose a priority land use.

The only appropriate remedy is to deny the current development application as proposed, and (if the Commission finds it otherwise acceptable) approve the development with the requirement that it must purchase and use both non-priority sewer and non-priority water capacity. This will leave the remaining priority capacity available for other landowners who have not given up their right to develop their property during LCP Phase I.

The Commission may also wish to write a strongly-worded letter to all agencies involved, reprimanding them for the flagrant disregard of their own recorded agreements. Clearly, each agency has acted in a way that is irresponsible and contrary to good public policy. Governments are expected to treat all citizens and all landowners equally. In this case, both the local agencies and the County of San Mateo are allowing one group of property owners to make a substantial profit at the direct cost of other, equally situated, property owners in the same jurisdiction.

#### 2. No water is available to serve the proposed development

Coastside County Water District (CCWD) is required, by LCP Policy 2.29, to "Reserve water supplies for each land use given priority by the Coastal Act or the Local Coastal Program. These priority uses are shown on Table 2.17.... For each phase of water supply development, reserve capacity adequate to allow each priority land use to develop to the percent of buildout allowed by the phase."

CCWD recently responded to a Public Records Act request from me. By letter dated June 29, 2000, CCWD states: "The District originally reserved an overall capacity for Phase I priority uses under the LCP of 38% of the Phase I capacity, which is equivalent to 1,348 -5/8" (20 gpm) connections. This amount was reduced recently to 29% which is equivalent to 1,043 -5/8" (20 gpm) water service connections for all priority land uses. A specific number for each priority land use category is not available. . . . The overall remaining capacity is 560 - 5/8" (20 gpm), but a specific number for each priority land use category is not available." [Note: These numbers contradict information furnished earlier by CCWD. I am attempting to track down the reasons for the discrepancies.]

In other words, CCWD acknowledges that it has 560 out of 1,043 residential equivalent connections remaining for all priority land uses. That computes to 54% of the total amount of priority capacity required to be reserved under LCP Policy 2.29. According to LCP Table 2.17, in Phase I, CCWD is required to reserve a total capacity of 369,716 gallons per day for all priority land uses within County jurisdiction. If 54% of the priority connections are still available for sale, that means that CCWD must be capable of delivering 54% of 369,716 gallons per day, or 198,505 gallons per day, for the remaining priority land uses. This is equivalent to an average delivery rate of 174.2 gallons per minute. To avoid precluding Coastal Act priority development, as required by Coastal Act section 30254, CCWD must therefore hold in reserve the capacity to deliver at least this amount of water to the properties which are entitled to apply for priority water.

CCWD has a pending application for replacement and enlargement of an infrastructure pipeline known as the El Granada Transmission Pipeline Project. Facts submitted by CCWD in support of that application, showing the existing capacity of the existing El Granada Transmission Pipeline together with the existing actual average and peak day demand of the customers in the service area of that pipeline, indicate that there is not adequate reserve capacity to meet the requirement for priority water connections.

Therefore, there is no non-priority water capacity available to serve this proposed development. It must be denied until adequate infrastructure improvements are completed so that CCWD's obligation to priority land uses can be met. **This is a substantial issue**, because allowing this development to consume Phase I priority water which it has explicitly relinquished must mean that other priority land uses will not have sufficient water available to meet their development needs.

Additional documentation will be furnished for staff to include in the staff report. In particular, please note that the Crystal Springs Project has never been completed.

## 3. Actual or potential violations of various LCP policies by the County of San Mateo, Coastside County Water District, and Granada Sanitary District

### Violations of LCP Policies 1.27, \*1.28, \*1.29(d), and 1.30

In the present situation, the County of San Mateo allowed a single legal parcel to be treated, for capacity reallocation, as if it were three legal parcels. This was apparently done without a required Certificate of Compliance (see LCP Policy 1.27) and without a minor subdivision. The Coastal Commission has been extremely concerned about the potential for excessive development that would result if every "lot" were allowed to develop separately that was delineated on an antiquated "subdivision map." The first modern California Subdivision Map Act of 1929 established procedures for local jurisdictions to approve or deny a proposed subdivision. There is good legal argument that before 1929, parcels were only created by deed, and not by the filing of a so-called "subdivision map" delineating for descriptive purposes for sale "lots" and "blocks". Consequently, the parcel in question has never been shown to consist of more than one legal parcel, and the transfer of priority sewer and water capacity from the parcel has exhausted all rights the parcel may have had to any priority sewer or water capacity.

LCP Policy \*1.28, Legalizing Parcels, states that the County will "Require a Coastal Development Permit when issuing a Certificate of Compliance to legalize parcels under Section 66499.35(b) of the California Government Code (i.e., parcels that were illegally created without benefit of government review and approval)." It is the appellant's contention, consistent with the Attorney General's Amicus Curiae Brief on behalf of the California Coastal Commission in the case of Circle K Ranch Corp. v. Board of Supervisors of the County of Santa Barbara, that the parcel now designated as APN 047-011-270 has always been a single legal parcel. The only way in which the County's approval of priority transfers from the former APNs could possibly have been legitimate would be if there were, in fact, three separate legal parcels. However, those would have of necessity been parcels illegally created without benefit of government review and approval. Therefore, the County has apparently violated Policy \*1.28 by granting the water capacity reallocations from this parcel.

The applicant will forward to the Commission under separate cover a copy of the Amicus Curiae brief cited above, together with a background paper, "Legal-Lot Determination Under Government Code Section 66499.35, Subdivision (a), Respecting Ancient Subdivisions," prepared by Andrew B. Gustafson, Assistant County Counsel of the County of Ventura. These analyses show that the County appears to be in violation of LCP Policy \*1.29(d) as well. Furthermore, there is no evidence that Policy 1.30, Notices of Violation, has been observed by the County. That policy states that "The County shall discourage the creation of illegal parcels by developing and implementing a system for the timely review of all newly recorded parcels in the Coastal Zone. Notices of violation, as provided for in Government Code Section 66499.36 shall be promptly filed on the deeds of those parcels which have not received required government approvals."

Paul Perkovic to California Coastal Commission – 18 July 2000 – Page 6 re: Appeal of Application No. 2-SMC-99-406 (San Mateo County PLN 1999-00841)

#### Violations of LCP Policy \*2.4

LCP Policy \*2.4, Ordinance Conformity, states: "As a condition of permit approval, special districts, public utilities and other government agencies shall conform to the County's zoning ordinance and the policies of the Local Coastal Program." CCWD and GSD (through Sewer Authority Mid-Coastside) have both received Coastal Commission permit approvals for public works projects subsequent to certification of the LCP. Therefore, they are bound by Policy \*2.4 to conform to the policies of the LCP. Nevertheless, as demonstrated by the discussion in other sections of this appeal, both CCWD and GSD have failed to conform to various LCP policies, and are therefore also in violation of LCP Policy \*2.4.

### Violations of LCP Policy 2.8

Due to the lack of oversight of the County and CCWD, the priority water capacity reallocation appears to have resulted in a violation of LCP Policy 2.8(c), which prohibits more than 50% of the priority land uses planned in each phase from relinquishing priority capacity. CCWD has performed the capacity computations based only on the total priority capacity reserved under Phase I, not on the priority capacity by land use category. As noted in the CCWD letter cited earlier, CCWD does not even track the number of connections that have been installed by priority land use category in a manner that can be reported to interested members of the public or, presumably, its own Board of Directors. Therefore, it is hard to see how CCWD could be in compliance with this policy without compiling and analyzing the necessary background data.

For the same reasons, it appears likely that priority sewer capacity reallocations have resulted in a violation of LCP Policy 2.8(c), which prohibits more than 50% of the priority land uses planned in each phase from relinquishing priority capacity. Granada Sanitary District seems unable to provide detailed information regarding the number of Phase I priority sewer connections allocated, installed, reallocated to non-priority uses, and remaining for priority use by land use category.

In considering and approving transfers of both sewer and water capacity, the County of San Mateo has misread the clear language of the LCP, which refers to specific land uses that are entitled to priority sewer and water capacity. The County has instead attempted to interpret this language as if the capacity allocations are vested in individual parcels of real property that happen to be currently zoned to allow priority land uses. Because the transfer of capacity for both sewer and water has been non-appealable to the Coastal Commission, this application is the first opportunity to bring this matter to your attention. The County of San Mateo has consistently misinterpreted LCP and Coastal Act policies regarding priority for sewer and water capacity. The Zoning Hearing Officer, on 2 March 2000, clearly explained to the appellant that it was the zoning, and not the proposed land use, that governs whether a specific development is eligible for priority capacity. This is incorrect and belies a common misconception and misunderstanding widely held by County Planning Department personnel. The language throughout the Coastal Act and throughout the LCP refers to land use, not zoning.

#### Violations of LCP Policy 2.11 and 2.12

LCP Policy 2.11 requires "that public agencies, utilities or special districts monitor the needs of land uses for public works capacity during PhaseI," and Policy 2.12 requires that they "Use the results of Phase I monitoring to determine the timing and capacity of later phase(s)." Based on the discussion in other sections where CCWD and GSD must require data by land use category in order to meet the requirements for priority capacity reallocation, which they fail to maintain, it appears that these special districts have not been carrying out the requirement to monitor the needs by land use for public works capacity. This makes it difficult to accurately project the capacity requirements for Phase II public works projects based on the actual usage during Phase I. Instead, projects are being proposed using 1980 estimates, rather than current behavior patterns. The result appears to be a gross exaggeration in the amount of sewer and water capacity required.

#### Violations of LCP Policy 2.17

This is the Monitoring of Phase I requirement as it applies specifically to sewage generation by land use. Policy 2.17 requires that "the Sewer Authority Mid-Coastside (SAM or its member agencies) monitor: (1) the actual amount of sewage generation by land use, particularly non-residential, and (2) the rate of growth of new development. Require them to submit an annual data report to the County summarizing the results of this monitoring." The Commission should request copies of these annual reports and, if it turns out they are not being produced and submitted as required by the LCP, instruct the sewer service agencies that they are required to conform to LCP policies.

#### Violations of LCP Policy 2.21

In granting the reallocation of priority sewer capacity, the County of San Mateo and the Granada Sanitary District (GSD) have flagrantly disregarded the requirements of LCP Policy 2.21, Reservation of [Sewer] Capacity for Priority Land Uses, that specifically requires GSD and the County to "Reserve sewage treatment capacity for each land use given priority by the Coastal Act or the Local Coastal Program. These priority uses are shown on Table .27." [Emphasis added.] (See letter to GSD requesting similar information about priority sewer reservations, reallocations, and connections.)

## Violations of LCP Policies 2.26 and 2.27

This is the Monitoring of Phase I requirement as it applies specifically to water usage by land use. Policy 2.26 requires that "the water service providers, presently Coastside County Water District (CCWD) and the Citizens Utilities Company (CUC), monitor: (1) the actual amount of water consumption by land use, and (2) the rate of growth of new development. Require them to submit an annual data report to the County summarizing the results of this monitoring."

Paul Perkovic to California Coastal Commission – 18 July 2000 – Page 8 re: Appeal of Application No. 2-SMC-99-406 (San Mateo County PLN 1999-00841)

#### Violations of LCP Policy 2.29

In granting the reallocation of priority water capacity for this and other parcels, the County of San Mateo and the Coastside County Water District (CCWD) have flagrantly disregarded the requirements of LCP Policy 2.29, Reservation of [Water] Capacity for Priority Land Uses, that specifically requires CCWD and the County to "Reserve water supplies for each land use given priority by the Coastal Act or the Local Coastal Program. These priority uses are shown on Table 2.17." [Emphasis added.] According to their own documentation, CCWD and the County have no method of tracking the water connections issued to various land uses, and therefore cannot be in compliance with this requirement. (See letters to and from CCWD requesting information supporting this allegation.)

## Violation of Policy \*7.3

The proposed development will significantly increase the impermeable surface on the parcel and cause stormwater and other runoff into either Pillar Point Harbor or Pillar Point Marsh. The Commission, in reviewing this project, should ensure that adequate Best Management Practices have been required to protect these sensitive habitats.

In support of this appeal, I will be transmitting under separate cover the substantiating correspondence, staff reports, notices of local decision, and amici curiae briefs relevant to this appeal, including those items referenced in the above appeal discussion.

Sincerely yours,

Paul Perkovic

cc: Steve and Peter Iacopi

San Mateo County Planning Commission

Midcoast Community Council Coastside County Water District

Granada Sanitary District

Princeton Citizens Advisory Committee

## Environmental Services Legency



## 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

Planning Administrator Terry L. Burnes

Please reply to:

Miroo Brewer (650) 363-1853

June 21, 2000

FILE COPY

Paul Perkovic P.O. Box 371149 Montara, CA 9437

Subject: Location:

File Number PLN 1999-00841 169 Stanford Avenue, Princeton

Assessor's Parcel Number:

047-011-270

EXHIBIT NO. 3

APPLICATION NO.
A-2-SMC-00-22

San Mateo County's Conditions of Approval

On June 14, 2000, the San Mateo County Planning Commission considered your request of an appeal of the Zoning Hearing Officer's decision to approve a Use Permit and a Coastal Development Permit, pursuant to Section 6500 and 6328.4 respectively of the County Zoning Regulations, to allow for a new public storage building in unincorporated Princeton.

Based on information provided by staff and evidence presented at the hearing the Planning Commission upheld the decision of the Zoning Hearing Officer, approved the project with restriction of water use to lot 36 with an exception for fire suppression, made the findings and adopted the conditions of approval as follows:

#### **FINDINGS**:

## Regarding the Coastal Development Permit, Found:

- 1. That the project, as described in the application and accompanying materials required by Zoning Regulations 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.
- 2. That the project conforms to the specific findings required by the policies of the San Mateo County Local Coastal Program.

Paul Perkovic June 14, 2000 Page 2

#### Regarding the Use Permit, Found:

3. That the establishment, maintenance, and/or conducting of the proposed uses will not, under the circumstances of this particular case, be detrimental to the public welfare or injurious to property or improvements in the said neighborhood.

#### For the Environmental Review, Found:

4. That this project is exempt from environmental review under Section 15303 of the California Environmental Quality Act (Class 3, Construction of Small Structures).

### **CONDITIONS OF APPROVAL**

#### Planning Division

- 1. This approval applies only to the proposal, documents and plans described in this report and submitted to and approved by the Planning Commission on June 14, 2000. Minor revisions or modifications to the project may be approved by the Planning Director if they are consistent with the intent of and in substantial conformance with this approval.
- 2. Planning Commission action on the application for the use specified and contained within this staff report and for the parcel listed in no way authorizes approval of any other uses. In addition, any approval does not authorize this same use on any other parcel(s).
- 3. The applicants shall apply for and be issued a building permit prior to the start of construction.
- 4. The applicant shall limit use of water in the proposed building to lot 36 of the project site. This limitation will not apply to water required for fire suppression purposes. At the time of building application, the applicant shall revise his site plan and floor plans to show that all facilities requiring use of water (except fire sprinklers) are located on lot 36.
- 5. At the time of building permit application, the applicants will revise plans to show:
  - a. A site plan with accurate dimensions of the lot and proposed structures.
  - b. A parking lot entry at least 24 feet wide.
  - c. Roof eave members (around the perimeter) to be at least 8 inches wide.
  - d. Width of window trims (this can be shown on plans or through manufacturer's brochure for proposed dual vinyl windows).

- 6. The applicants shall submit a landscape plan in accordance with the "Landscape Plan Guidelines Minimum Standards" and Condition #6 below for review and approval by the Planning Director. The general goal of the required landscape plan is to soften the view of the warehouse from the public right-of-way and to create perimeter landscaping strips to assist in the filtration of water from site drainage.
- 7. A landscaped area of at least four (4) feet wide shall be provided between *parking areas* and all street rights-of-way. This landscaped area shall include at the minimum four 5-gallon trees and 15 shrubs. In addition, landscaped area shall be provided between the proposed building and the rear property line that will include at a minimum 10 high-growing shrubs and two 5-gallon trees. A goal of landscaping in the rear is to screen the rear elevation of the building as viewed from the Princeton marshland. The applicants shall submit a landscape plan, for review by the Planning Division, showing the location of the chosen form of screening. In addition, another goal of the landscape plan is to ensure that adequate landscaping is identified (type and size) and located on the project site.
- 8. The landscape plan shall be submitted and reviewed and approved by the Planning staff prior to issuance of a building permit. The plan shall include an irrigation plan if proposed. Upon submittal of the landscape plan, the applicants shall pay a review fee based on the fee schedule in effect at that time. The applicants shall install the landscaping prior to the final building inspection.
- 9. The proposed fence shall be no higher than 6 feet. Allowed materials for fence are wood and masonry or cyclone fence with wooden slats.
- 10. The applicants shall comply with the performance standards of the Waterfront (W) Zoning District outlined in Section 6289.1 of the County Zoning Regulations at all times.
- 11. Colors and material samples shall be submitted to the Planning Division at the time of application for a building permit. Approved colors and materials shall be confirmed prior to a final inspection for the building permit.
- 12. Signage for the proposed building shall be submitted for review by the Planning Division to ensure conformance with General Plan and LCP policies regarding signs.
- 13. The applicants shall, pursuant to Section 5021 of the County Ordinance Code, keep the parking lot as clean as practical by using appropriate methods including, but not limited to, sweeping and litter control.
- 14. All new utility lines shall be installed underground.

- 15. During project construction, the applicants shall, pursuant to Section 5022 of the San Mateo County Ordinance Code, minimize the transport and discharge of stormwater runoff from the construction site into storm drain systems and water bodies by:
  - a. Using filtration materials on storm drain covers to remove sediment from dewatering effluent.
  - b. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 15 and April 15.
  - c. Removing spoils promptly, and avoiding stockpiling of fill materials, when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.
  - d. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to the storm drain system or water body.
  - e. Avoiding cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff.
  - f. Limiting and timing applications of pesticides and fertilizer to avoid polluting runoff.
- 16. Grading on-site shall be restricted to the months of April 15 to October 15. During the construction phase of the project, use appropriate erosion/stormwater control methods to keep exposed soils from being washed into the drainage channel on Stanford Avenue. This may include silt fencing, hay bales, or other appropriate methods. This grading/erosion control plan shall be submitted and reviewed and approved by the Planning staff prior to the issuance of a building permit.
- 17. The applicants shall ensure that a minimum of 50% of stormwater from impervious surfaces is directed to the perimeter landscaping strips.
- 18. Noise levels produced by the proposed construction activity shall not exceed the 80 dBA level at any one moment. Construction activities shall be limited to the hours from 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.
- 19. This use permit shall be valid for five (5) years following the date of approval. Six months prior to this date of expiration, the applicants shall file for renewal with the County Planning Division if continuation of the use is desired. The use permit is also subject to administrative reviews two years (March 2002) and four years (March 2004) from the date of final approval for compliance with the conditions of approval.

20. No kitchen facilities are permitted. This facility is for indoor storage use only. No habitable space is permitted.

### **Building Inspection Section**

- 21. A survey of the property will be required at the time of application for a building permit.
- 22. An automatic fire sprinkler system will be required. This permit must be issued prior to or in conjunction with the building permit.
- 23. Accessible restrooms must be provided on the ground floor level. A separate men's and women's restroom will be required.
- 24. A site drainage plan will be required which will demonstrate how surface and roof drainage will be handled.

#### Department of Public Works

- 25. Prior to the issuance of the building permit, the applicants will be required to provide payment of "roadway mitigation fees" based on the square footage (assessable space) of the proposed building per Ordinance #3277.
- 26. The applicants shall submit a driveway "plan and profile," to the Department of Public Works, showing the driveway access to the parcel (garage slabs/parking lot) complying with County standards for driveway slopes (not to exceed 20%) and to County standards for driveways (at the property line) being the same elevation as the center of the access roadway. The driveway plan shall also include and show specific provisions and details for handling both the existing and the proposed drainage along and within the Stanford Avenue right-of-way.
- 27. No construction work within the County right-of-way shall begin until Public Works' requirements for the issuance of an encroachment permit, including review of applicable plans, have been met and an encroachment permit issued by the Department of Public Works.

#### Granada Sanitation District

28. The applicants must provide documentation indicating that the three lots constituting the project site have been formally merged.

#### Half Moon Bay Fire District

- 29. The Half Moon Bay Fire District has identified the project as one that exceeds 5,000 sq. ft. and will require the formation of a Community Facilities District. Please contact the Half Moon Bay Fire District for further information.
- 30. Municipal water supplies shall be used to supply sprinkler systems. In areas without a municipal water supply, an approved water tank large enough to accommodate domestic demand and the sprinkler system design flow for at least 15 minutes is required.
- 31. The Uniform Fire Code Section 903.3, Appendix III-A Section 5.1, sets a minimum fire flow for commercial structures as 1,500 GPM or more. Please contact the Fire Prevention Bureau for further information and assistance.
- 32. Fire hydrants must be "Clow 960" or equivalent. Alternate fire hydrants must be approved by the District. Fire hydrants for normal fire flow (1,000 GPM or less) must be no more than 500 feet apart with no part of a building greater than 250 feet from a hydrant. Hydrants will meet all specifications of the District including color and markings. Curbs in front of fire hydrants and fire equipment will be painted red. Required fire hydrants shall be installed before combustibles are on the construction site.
- 33. The Uniform Building Code requires smoke detectors on every level of a building, in every bedroom and at a point centrally located in the corridor or area giving access to each separate sleeping area. This requirement is for new construction and requires detectors to be interconnected, hardwired into the building power with battery backup. Smoke detectors meeting these standards are required in residential portions of commercial buildings.
- 34. Sprinkler systems shall be installed per San Mateo County and Half Moon Bay Fire District Ordinance. Overhead installation and hydrostatic test will be inspected as well as a final operating test. In addition to the external alarm flow bell, an internal audible device will be required in a normally occupied area. Commercial buildings with residential areas will have residential quick response heads installed in those areas. Underground fire sprinkler supply lines will be inspected and flushed prior to connection. Underground fire sprinkler or hydrant service shall be left uncovered in the area of the thrust blocks for inspection. Welded pipe will be inspected by the Fire Marshal before placement into the system.
- 35. The County of San Mateo and Half Moon Bay Fire District Ordinance requires a Class "B" or better roof covering or roof covering assembly.
- 36. Building identification shall be conspicuously posted and visible from the street.

  Temporary address numbers shall be posted prior to combustibles being placed on the site.

Paul Perkovic June 14, 2000 Page 7

The letters and numerals for permanent address numbers shall be a minimum of 4-inch stroke for residential. Such letters and numbers shall be internally illuminated and facing the direction of access.

- 37. The applicants must have a maintained all-weather surface road for ingress and egress of fire apparatus. This road shall be in place before combustible are brought onto the project site and maintained throughout construction. The Half Moon Bay Fire District and the Uniform Building Code require a 20-foot minimum width for access roads to structures. Dead end roads greater than 150 feet in length also require a turnaround for fire apparatus. Contact the Fire Prevention Bureau for the full standard detail and specification.
- 38. There shall be a minimum of 6 inches of compacted Class II base rock for grades up to and including 5%, oil and screened for grades up to 15%, and asphaltic concrete for grades exceeding 15%.
- 39. Plans submitted will be checked upon receipt of fees required by the Half Moon Bay Fire District.

Any interested party aggrieved by the determination of the Planning Commission has the right of appeal to the Board of Supervisors within ten (10) business days from such date of determination. The appeal period for this matter will end at 5:00 p.m. on June 28, 2000.

This item is also appealable to the California Coastal Commission. An additional Coastal Commission ten (10) working day appeal period will begin sometime after the County appeal period ends. The County and Coastal Commission appeal periods run consecutively, not concurrently, and together total approximately one month. A project is considered approved when these appeal periods have expired and no appeals have been filed.

Very truly yours.

Kan Dee Rud

Planning Commission Secretary

Pcd0614k.4kr

cc:

Public Works

**Building Inspection** 

California Coastal Commission, Chris Kern

Environmental Health

Assessor

City of Half Moon Bay, Planning Director MCCC, Planning & Zoning Subcommittee

Half Moon Bay Fire Protection District

Coastside County Water District

Granada Sanitary District Steve & Peter Iacopi Alan Phillips

Eleanor Wittrup, CCWD

#### RESOLUTION NO. 893

APPROVING APPLICATION FOR CONVERSION AND REALLOCATION OF PRIORITY USE WATER CAPACITY FOR NON-PRIORITY USE (BLUM & KOONTZ/HOLMLUND)

EXHIBIT NO. 4	•
APPLICATION NO.	
Resolutions No.	
893 and 898	

#### COASTSIDE COUNTY WATER DISTRICT

THIS RESOLUTION IS ADOPTED with reference to the following facts, which are found and declared by the Board:

- 1. On December 14, 1993, by Resolution No. 849, the District established procedures for conversion of capacity reserved for priority use to non-priority status;
- 2. Pursuant to these procedures, Roger Blum and Jerry Koontz ("Blum/Koontz") and Shirley Ann Holmlund, ("Holmlund") have filed an application under which Blum/Koontz have agreed not to exercise their right to purchase reserved priority capacity for use on property located on Stanford Avenue, Princeton (APN 047-011-220) which is zoned for priority land use, and Holmlund has requested the District to convert and reallocate that capacity for use at property owned by Holmlund located at Presidio Avenue, El Granada (APN 047-043-040) which is neither zoned for nor intended to be developed for priority land use.
- 3. The District has determined that there is available through the Crystal Springs Water Supply Project unused and uncommitted priority use water capacity sufficient to meet both (1) the projected demand for priority water use in San Mateo County ("County") during Phase I of the County's Local Coastal Program ("LCP"), and (2) the capacity sought by Holmlund.
- 4. The District also has determined that less than fifty percent (50%) of the capacity to be reserved for priority use in the County during Phase I of the LCP (i.e., 40% standard size 5/8" connections) has been converted to non-priority use, taking into account the capacity sought by Holmlund.
- 5. The General Manager has reviewed the application and has recommended that the District approve it, subject to conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Coastside County Water District hereby approves the request for conversion and reallocation of priority-use water capacity upon the following conditions, each of which must be satisfied within ninety (90) days from the date of this Resolution before a water service connection may be issued to Holmlund.

- 1. Blum/Koontz agree to forego development of APN 047-011-220 and to relinquish any right to purchase priority water service connections from the District for use on it (1) for a period of ten (10) years, or (2) until the County Planning Commission determines that the District has developed sufficient additional water supply capacity for use during Phase II of the Local Coastal Plan, whichever occurs later, and to execute and deliver to District a document evidencing such commitment in form and substance satisfactory to the District and the County, in recordable form.
- 2. The County Planning Commission approves the specific conversion and reallocation applied for pursuant to Section 2.8 of the Local Coastal Plan, such approval becoming final and not subject to appeal, and that the District receive written evidence thereof from the County.
- 3. Holmlund delivers to District a cashier's or certified check for \$6,970.

Upon satisfaction of each of the three foregoing conditions within said 90-day period, the General Manager may issue Holmlund one 5/8" connection (20 gpm capacity) for use at APN 047-043-040.

BE IT FURTHER RESOLVED that if all the above conditions are not satisfied within said 90-day period, this approval shall sutomatically lapse and be of no further force and effect. In such event, the applicants will be required to submit a new application and pay a second application fee.

BE IT FURTHER RESOLVED that the General Manager is hereby authorized to take such further actions as may be required to give effect to these resolutions.

PASSED AND ADOPTED this 9th day of April, 1996, by the following vote:

AYES: Directors Coverdell, Gates, Goodrich, Kash & Reid

NOES: None ABSENT: None

> President, Board of Directors Coastside County Water District

ATTEST:

Secretary of Said District

#### RESOLUTION NO. 898

## APPROVING APPLICATION FOR CONVERSION AND REALLOCATION OF PRIORITY USE WATER CAPACITY FOR NON-PRIORITY USE (BLUM & KOONTZ/PALMER)

#### COASTSIDE COUNTY WATER DISTRICT

THIS RESOLUTION IS ADOPTED with reference to the following facts, which are found and declared by the Board:

- 1. On December 14, 1993, by Resolution No. 849, the District established procedures for conversion of capacity reserved for priority use to non-priority status;
- 2. Pursuant to these procedures, Roger Blum and Jerry Koontz ("Blum/Koontz") and Jill and Kevin Palmer ("Palmers") have filed an application under which Blum/Koontz have agreed not to exercise their right to purchase reserved priority capacity for use on property located on Stanford Avenue, Princeton (APN 047-011-230) which is zoned for priority land use, and the Palmers have requested the District to convert and reallocate that capacity for use at property owned by the Palmers located at 451 Belleville Boulevard, Half Moon Bay (APN 056-058-100) which is neither zoned for nor intended to be developed for priority land use.
- 3. The District has determined that there is available through the Crystal Springs Water Supply Project unused and uncommitted priority use water capacity sufficient to meet both (1) the projected demand for priority water use in San Mateo County ("County") during Phase I of the County's Local Coastal Program ("LCP"), and (2) the capacity sought by the Palmers.
- 4. The District also has determined that less than fifty percent (50%) of the capacity to be reserved for priority use in the County during Phase I of the LCP (i.e., 40% standard size 5/8" connections) has been converted to non-priority use, taking into account the capacity sought by the Palmers.
- 5. The General Manager has reviewed the application and has recommended that the District approve it, subject to conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Coastside County Water District hereby approves the request for conversion and reallocation of priority-use water capacity upon the following conditions, each of which must be satisfied within ninety (90) days from the date of this Resolution before a water service connection may be issued to the Palmers.

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- 1. Blum/Koontz agree to forego development of APN 047-011-230 and to relinquish any right to purchase priority water service connections from the District for use on it (1) for a period of ten (10) years, or (2) until the County Planning Commission determines that the District has developed sufficient additional water supply capacity for use during Phase II of the Local Coastal Plan, whichever occurs later, and to execute and deliver to District a document evidencing such commitment in form and substance satisfactory to the District and the County, in recordable form.
- 2. The County Planning Commission approves the specific conversion and reallocation applied for pursuant to Section 2.8 of the Local Coastal Plan, such approval becoming final and not subject to appeal, and that the District receive written evidence thereof from the County.
- 3. The Palmers deliver to District a cashier's or certified check for \$6,970.

Upon satisfaction of each of the three foregoing conditions within said 90-day period, the General Manager may issue the Palmers one 5/8" connection (20 gpm capacity) for use at APN 056-058-100.

BE IT FURTHER RESOLVED that if all the above conditions are not satisfied within said 90-day period, this approval shall automatically lapse and be of no further force and effect. In such event, the applicants will be required to submit a new application and pay a second application fee.

BE IT FURTHER RESOLVED that the General Manager is hereby authorized to take such further actions as may be required to give effect to these resolutions.

PASSED AND ADOPTED this 9th day of July 1996, by the following vote:

AYES: Directors Goodrich, Coverdell, Gates, Kash and Pera

NOES: None ABSENT: None

> President, Board of Directors Coastside County Water District

ATTEST:

Secretary of Said District

**EXHIBIT NO.** 5

APPLICATION NO. A-2-SMC-00-22

Relinquishment of Right to Purchase Priority Water

## Recording Requested By and When Recorded Mail to:

Coastside County Water District 766 Main Street Half Moon Bay, CA 94019

## RELINQUISHMENT OF RIGHT TO PURCHASE PRIORITY WATER SERVICE CONNECTION AND AGREEMENT REGARDING WATER USE

The undersigned ("Property Owners"), owners of real property in San Mateo County known as Assessor's Parcel Number 047-011-270 and more specifically described and shown on Exhibit A attached hereto ("Property"), hereby agree as follows:

#### **RECITALS**

- A. The Property consists of three (3) contiguous parcels, lots 34, 35 and 36 of Block 13 as shown on that certain map entitled "Map of Princeton-By-The-Sea, Half Moon Bay, San Mateo County, California."
- B. The Property has been designated by San Mateo County as currently used, or adaptable for use as, one or more uses classified as priority land uses under the County's Local Coastal Program ("LCP").
- C. Prior to March 7, 2000, the three contiguous parcels were known by three separate Assessor's Parcel Numbers as follows: APN 047-011-210 ("Lot 36"), APN 047-011-220 ("Lot 35") and APN 047-011-230 ("Lot 34").
- D. On April 9, 1996, by Resolution No. 893, the Board of Directors for the Coastside County Water District ("District") approved an application for conversion and reallocation of priority use water capacity for non-priority use from Lot 35, and the then owners of Lot 35 executed a Relinquishment of Right to Purchase Priority Water Service Connection agreeing to relinquish the right to purchase any priority water service connections from the District for use on Lot 35 until (1) ten years from August 11, 1995, or (2) the County Planning Commission determines that the District has developed additional water supply capacity for use during Phase II of the LCP, whichever occurs later.
- E. On July 9, 1996, by Resolution No. 898 the District approved an application for the conversation and reallocation of priority use water capacity for non-priority use from Lot 34, and the then owners of Lot 34 executed a Relinquishment of Right to Purchase Priority Water Service Connection agreeing to relinquish the right to purchase any priority water service connections from the District for use on Lot 34 until (1) ten years from August 11, 1995, or

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- (2) the County Planning Commission determines that the District has developed additional water supply capacity for use during Phase II of the LCP, whichever occurs later.
  - F. Lot 36 is not encumbered by the same restriction as Lot 34 and Lot 35.
- G. On March 7, 2000, Lot 34, Lot 35 and Lot 36 were merged into one parcel identified as APN 047-011-270 pursuant to the Notice of Merger recorded March 8, 2000, a copy of which is attached hereto as Exhibit B.
- H. The Property Owners desire to improve the Property for a priority use specified in the LCP and to install one 5/8-inch priority water service connection ("5/8-inch Connection"), which was purchased on December 6, 1999 pursuant to a Water Service Connection Purchase Agreement, to serve the development on the Property.
- I. The District is willing to authorize the use of the 5/8-inch Connection on the Property in accordance with the terms and conditions set forth below.

PROPERTY OWNERS AGREE, on the basis of the foregoing and for good and valuable consideration received, as follows:

- 1. The Property Owners relinquish the right to purchase any additional priority water service connections for use on the Property from the District until (1) ten (10) years from August 11, 1995, or (2) the San Mateo County Planning Commission determines that the District has developed additional water supply capacity for use during Phase II of the LCP, whichever occurs later.
- 2. The Property Owners may use the 5/8-inch Connection on the entirety of the Property (i.e. Lot 34, Lot 35 and Lot 36).
- 3. The provisions of this document are intended to be and shall constitute covenants running with the land as to the Property and shall be binding upon the Property Owners and their successors in interest in the Property.
- 4. The Property Owners agree that if the District takes action to enforce the covenants of this document and prevails, the Property Owners shall reimburse the District for all costs and expenses incurred by the District, including reasonable attorneys' fees and court costs.
  - 5. This document may be recorded by the District.

Stew Sacri	7-11-00
Stephen L. Iasopi	Date
Jeser Jaux	7-11-00
Peter M. Iacopi	Date ·
harring tamori	7.11.00
Annifer licopi	Date

(Attach Notary Acknowledgement for all three signatures)

State of California )
County of Jan Mates SS  On this day of, 2000, before me, the undersigned
On this
[ ] personally known to me, or
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.
WITNESS my hand and official seal.
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State of California ) ss
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WITNESS my hand and official seal.
Janey a. Spark  Comme Exp. July 24, 2003
Notary Public

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personally known to me, or  [] proved to me on the basis of satisfactor is/are subscribed to the within instrument and a same in his/her/their authorized capacity (ies), instrument the person(s), or entity upon behalf	
WITNESS my hand and official scal.	NANCY A. SPARK
Notary Public	BAN MATEO COUNTY OCOMM, EXP. JULY 24, 2003

January 24, 2000

Ms. Sara Wan, Chairperson California Coastal Commission North District Office 45 Fremont Street, Suite 2000 San Francisco, CA 94105-2219

CALIFORNIA COASTAL COMMISSION



Subject:

Request that the California Coastal Commission find substantial issue with San Mateo County CDP (PLN 1999-00192) for the Coastside County Water District

Dear Ms. Wan:

As the applicant for this CDP, the Coastside County Water District hereby requests that the California Coastal Commission find substantial issue with this CDP. We are making this request because we believe that there are indeed substantial issues with the proposed projects.

We appreciate your serious consideration of this option. If the Commission does find substantial issue with this project as we have requested, and as it did with the Half Moon Bay portion of the pipeline expansion, the District will then have the time needed to gain a better understanding of the District's options and to revise the overall improvement program in cooperation with Coastal Commission staff. importantly, the District will be able to gain final approval for agreed to projects directly from the Coastal Commission, when these and other issues affecting the projects have been resolved, instead of being forced to restart the entire permitting process.

We look forward to working in cooperation with the Coastal Commission to develop a comprehensive and acceptable system design and corresponding implementation plan that satisfy the LCP's and also meet the community's needs for water quality and availability.

Sincerely,

cc:

Robert R. Rathborne, General Manager

Jack Liebster, California Coastal Commission Board of Directors, Coastside County Water District

EXHIBIT NO. APPLICATION NO. A-2-SMC-00-22 Letter from CCWD Regarding Water

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Pipeline