

CALIFORNIA COASTAL COMMISSION

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February 2, 2001

TO: Commissioners and Interested Parties

FROM: Steve Scholl, Deputy Director
Chris Kern, North Central Coast District Supervisor

SUBJECT: Possible Conditions for Approval of CDP Application A-1-HMB-99-022 (Ailanto Properties)

Background

On December 13, 2000, the Commission held a de novo hearing in consideration of the above referenced coastal development permit application for the proposed Pacific Ridge Subdivision in the City of Half Moon Bay. Because the staff recommended that the Commission deny the permit application, the staff did not prepare or circulate proposed conditions for approval of the project. Following testimony by the applicant, appellants, interested public and staff, the Commission continued the hearing to its February 2001 meeting, and directed staff to prepare and circulate for public review possible conditions for approval of the development prior to the February 2001 hearing. As directed, in the event that it elects to approve the proposed Pacific Ridge Development, the staff recommends that the Commission impose the Special Conditions of approval specified below.

This memorandum briefly describes the basis for some of the conditions that staff concludes would be appropriate, in the event the Commission chooses to approve the project. As further discussed below, on January 16 and January 26, the applicant submitted to staff substantial revisions to the project plans and additional information in an attempt to respond to some of the issues raised during the December 2000 hearing. The staff has not had sufficient time to thoroughly review all of the project revisions and to prepare a new staff recommendation in response to these revisions. The staff report is therefore unchanged from the report that staff distributed prior to the December 2000 hearing recommending denial of the project. Consequently, any Commission action to either approve or deny the permit application will require revisions to the findings recommended in this report in response to the recent changes to the permit application.

Project Revisions

On January 16, 2001, in an effort to address some of the concerns raised during the December 13, 2000 Commission hearing, the applicant amended the permit application and provided additional information. The revisions include, among other changes, a reduction in the level of development located in and adjacent to the environmentally sensitive habitat area north of Stream 3. The applicant submitted further revisions to the Commission staff on January 26,

2001 eliminating another five lots from the habitat area. This decrease in development in and adjacent to environmentally sensitive habitat areas is accomplished by shifting much of the proposed development to the southern half of the site and reducing the number of proposed residential lots from 145 to 134. These changes do not bring the project fully into conformity with the policies of the LCP as described below.

The revised subdivision plan eliminates the previously proposed loop road from the northern portion of the site, which, if constructed, would have created a significant barrier within migration corridors for San Francisco garter snakes and California red-legged frogs and would have required three stream crossings. The revised plan also reduces the number of proposed lots located north of Stream 3 from 66 to 33. The revised project description specifies that the remaining lots proposed to be created north of Stream 3 would be graded to drain toward the streets and not into the pond or other wetlands. Consequently, the applicant has deleted the high water flood control drain previously proposed to be installed in the pond.

Environmentally Sensitive Habitat Areas

The project revisions described above substantially reduce the potential impacts of the proposed development to environmentally sensitive habitat areas and sensitive species. However, even with these revisions, some significant adverse impacts to these resources would remain. Lot Numbers 124 through 131 are proposed to be located on the crest of the hill located approximately 150 feet south of the stock pond. The area where portions of these proposed lots would be located currently drains in the direction of the pond. The applicant proposes to grade the hilltop to ensure that all runoff from these lots will drain to the street, away from the pond. Preventing polluted runoff and sedimentation from draining to this area reduces the potential significant adverse water quality impacts of the proposed development to the ESHA. However, the proposed grading and other development on the hillcrest and the slopes that currently drain toward the pond will result in the direct loss of upland refuge areas suitable for the frogs and snakes.

Both the San Francisco garter snake and the California red-legged frog depend on refuge areas upland from aquatic habitats like the pond (USFWS 1998). The snake prefers open hillsides where it can sun itself, feed and find cover in rodent burrows. The snake hibernates in rodent burrows during the winter, and it has been observed breeding at the entrance to these burrows shortly after emerging from hibernation. The snake is believed to spend the majority of each day during the active season in upland burrows. Adult California red-legged frogs also rely on upland habitat areas in association with aquatic habitat. The frogs seek upland sheltering areas including animal burrows. Access to such sheltering habitat is considered essential for the survival of this species within a watershed.

Pursuant to the U.S. Fish and Wildlife Service's 1998 Biological Opinion, any development within 300 feet of the stock pond will result in the direct loss of habitat for the snake and frog. Thus, in accordance with Half Moon Bay LCP Policies 3-1, 3-3, and 3-4, as well as Coastal Act Section 30240, which has been incorporated into the Half Moon Bay LCP, the slopes above the pond should be treated as an environmentally sensitive habitat area (ESHA), with only resource-dependent uses allowed. The proposed grading and development on the hillcrest above the pond is not dependent on the resources of this ESHA and would have significant adverse impacts to

the habitat. Therefore, this proposed development is inconsistent with the ESHA protection policies of the LCP. It should be noted that portions of the slopes on the other side of the hill draining away from the pond are also located within 300 feet of the pond, and could be considered ESHA in accordance with the 1998 Biological Opinion. However, the Commission's staff biologist's evaluation indicates that this side of the hill is not critical to the snakes and frogs, and that development on these slopes would not significantly impact these species. Therefore, in conjunction with any action that it may take to approve the proposed development, the staff recommends that the Commission impose Special Condition 1 below to avoid potentially significant adverse effects to ESHA.

The revised project plan, as further modified by proposed Special Condition 1, will prevent the direct loss of ESHA. However, some potentially significant impacts to the San Francisco garter snake and the California red-legged frog will remain despite the mitigation measures required by Special Condition 1. Development is proposed within 30 feet of Streams 1, 2, and 3. Although these streams do not provide breeding habitat for the California red-legged frog, they do provide potential dispersal corridors for the frog (Balfour 2001). During winter rain events, juvenile and adult frogs are known to disperse up to two kilometers. The proposed development poses significant adverse impacts to the frogs by restricting movement between these corridors. In addition, domestic animals associated with the proposed residential development may prey on both species. To mitigate these potentially significant adverse impacts, the staff recommends that the Commission impose Special Condition 5 below requiring the applicant to manage the ESHA for the San Francisco garter snake and the California red-legged frog. The primary management measure required under this condition is the control of bullfrogs and other predators of these species as recommended by both the applicant's consultant and the Commission's staff biologist. Staff also recommends that the Commission impose Special Condition 6 to protect the stream corridors from construction-related impacts. Finally, the staff also recommends Special Condition 2 requiring the applicant to record and offer to dedicate an open space and conservation easement to secure the long-term protection of the ESHA. The staff concludes that these conditions are necessary to achieve consistency with the ESHA protection policies of the Half Moon Bay LCP.

Public Shoreline Access/Traffic Congestion

Although the recent amendments to the permit application reduce the number of proposed residential lots from 145 to 134, the proposed subdivision still represents an increase of 132 developable lots in Half Moon Bay. As discussed in the attached staff recommendation, the current traffic volumes on the two highways that serve the San Mateo County Mid-Coast region already exceed roadway capacity. The resulting traffic congestion significantly interferes with the public's ability to access the coast. Further exacerbating this problem are the facts that (1) the capacity of Highway's 1 and 92 cannot feasibly be increased to meet even current demand, and (2) that buildout of the existing supply of developable lots in the region allowable under the City and County LCPs is expected to greatly increase traffic volumes on these highways over the next 10 years.

The most recent Countywide Transportation Plan predicts far greater congestion on these two corridors by 2010, stating "in 2010 the most congested corridor [in San Mateo County] will be Western 92" (C/CAG 2000). This report projects increases in the traffic volumes of 197- and

218-percent on Highways 1 and 92 respectively in the Mid-Coast region, and attributes these increases to "the anticipated levels of new development on the Coastside and the continued pattern of Coastsiders out-commuting to jobs in San Francisco and on the Bayside." This latest report serves to corroborate and underscore the findings of all of the previous traffic studies conducted in the region over the past three decades that Highways 1 and 92 in the Mid-Coast Region are not adequate to serve either the current or the expected future demands of development.

The Half Moon Bay LCP specifies that new development shall not be permitted in the absence of adequate infrastructure including roads. LUP Policy 9-2 states in relevant part:

No permit for development shall be issued unless a finding is made that such development will be served upon completion with water, sewer, schools, and road facilities... [Emphasis added.]

LUP Policy 9-4 states in relevant part:

Prior to issuance of a development permit, the Planning Commission or City Council shall make the finding that adequate services and resources are available to serve the proposed development... Lack of available services or resources shall be grounds for denial of the project or reduction in the density otherwise indicated in the land use plan. [Emphasis added.]

LUP Policy 10-4 states:

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

The LCP also adopts Coastal Act Section 30252 as a guiding policy, which states in relevant part:

The location and amount of new development should maintain and enhance public access to the coast....

In light of the inescapable fact that there is not adequate highway capacity to serve even the existing level of development in the region, the question that is squarely before the Commission in considering the proposed subdivision is whether an increase of 132 developable lots can be permitted in the City consistent with these LCP policies. It is the staff's position that any increase in developable lots in the Mid-Coast Region will result in significant adverse cumulative impacts to public access, and would therefore be inconsistent with the Half Moon Bay LCP. However, this conclusion *does not* preclude the proposed or any other future residential subdivision in the region. The significant adverse cumulative impacts to highway congestion and public access to and along the coast in the Mid-Coast region of San Mateo County associated with new residential subdivisions can be adequately mitigated by retiring the development rights on an equivalent number of existing developable lots in the region.

Lot retirement is not dependent on the existence of an established transfer of development rights (TDR) program, but can feasibly be undertaken by an individual developer in the absence of any such program. In fact, the Wavecrest Village Development considered by the Commission in

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October 2000 proposed a net decrease in developable lots in Half Moon Bay. Even so, the City has included the development of a TDR program in its work program for the LCP update, and the Commission awarded assistance grant funding for this work program in December 2000. In its December 15, 2000 preliminary assessment to the City of the feasibility of establishing a TDR program, the City's consultant identified 663 parcels and 1,453 potential transfer or donor sites in four PUD districts in the City. These sites were identified as particularly desirable donor sites for a TDR program to achieve a number of planning goals. However, the retirement of equally-sized developable lots at any location within the Mid-Coast region, including both infill lots and paper subdivisions, would be sufficient to mitigate the significant adverse cumulative impacts of the proposed subdivision. Since development anywhere within the San Mateo County Mid-Coast contributes to traffic congestion on Highways 1 and 92, retirement of lots anywhere in this region would mitigate the impacts of the Pacific Ridge development. Thus, in addition to the donor sites identified in the City's preliminary assessment, the proportional retirement of any of the several thousand existing undeveloped lots within the Mid-Coast region would serve to mitigate the cumulative impacts of the proposed project. Many of these existing lots are in "paper subdivisions" the development of which would likely result in significant impacts to coastal resources, including wetlands and other environmentally sensitive habitat areas.

Imposing a lot retirement requirement as a condition of approval for the proposed subdivision in an area without a transfer of development rights program would not represent a precedential action for the Commission. The Commission first imposed such a requirement in 1979 as a condition of a coastal development permit for a small lot subdivision in the Santa Monica Mountains to mitigate for significant adverse cumulative impacts on public access to and along the coast due to severe traffic congestion on Highway 1. The Commission took this action prior to the creation of the Malibu/Santa Monica Mountains TDC program. In fact, the Commission's action in 1979 provided a major impetus for the formation of the Malibu/Santa Monica Mountains TDC program.

For all of these reasons, the staff concludes that a condition requiring the proportional retirement of lots in the Mid-Coast region is essential to achieve consistency of the project with the Half Moon Bay LCP. In conclusion, the staff recommends that in conjunction with any action to approve the proposed development, the Commission impose suggested Special Condition 6 requiring the applicant to extinguish the development rights on at least 124 lots in the San Mateo County Mid-Coast region. The total combined area of the lots on which the development rights are extinguished shall at least be equal to the total area of the 124 new residential lots authorized herein.

The applicant proposes to provide *temporary* access to the development via Terrace Avenue, and to construct no more than 40 homes until such time that permanent access to the site is provided by the construction of either Foothill Boulevard or Bayview Drive. However, neither of these proposed access roads has been permitted. In fact, the applicant does not possess the necessary property rights at this time to apply for a permit for or to construct either of these roads. Thus, there is no assurance at this time that either of these roads will be permitted and constructed in the future. LUP Policy 9-2 states that no permit for development shall be issued unless a finding is made that such development will be served upon completion with road facilities. Until a coastal development permit is approved for a permanent access road to serve all of the 134 residential lots proposed in the permit application, the Commission cannot make this required

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finding. The staff therefore concludes that suggested Condition 12 below is necessary in order to approve a coastal development permit for the proposed development consistent with the Half Moon Bay LCP.

NOTE: The exhibits referenced below are attached to this document following the Special Conditions and are not the exhibits attached to the staff report.

SPECIAL CONDITIONS

1. Revised Subdivision Plan

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a revised project site plan eliminating Lot Numbers 124-131 as shown on the Pacific Ridge at Half Moon Bay Site Plan dated January 26, 2001, attached as Exhibit 1. No development, including grading, shall be allowed on any slopes that currently drain to the pond or other wetlands north of Stream 3 as shown on the January 26, 2001 site plan.
- B.** The applicant shall undertake development in accordance with the revised site plan approved by the Executive Director. No proposed changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Open Space and Conservation Easement – Habitat Protection

- A.** No development, as defined in Coastal Act Section 30106, nor any agriculture or grazing activities shall occur in the environmentally sensitive habitat area north of Stream 3 as shown on Exhibit 1 except for development necessary for habitat enhancement, if approved by the Commission as an amendment to this coastal development permit.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an open space and conservation easement for the purpose of resource protection and habitat conservation. Such easement shall include legal descriptions of both the applicant's entire property and the easement area. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition.
- C.** The offer shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assigns, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

3. Park Dedication

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, and consistent with the terms of the proposed project description, the applicant shall submit, for the review and approval of the Executive Director, evidence that the approximately 5-acre park sites as generally depicted on the January 26, 2001 site plan attached as Exhibit 1, has been dedicated in fee to the City of Half Moon Bay or another public agency approved by the Executive Director for public recreational use.

4. Open Space Deed Restriction – Scenic View Protection

- A. No development, as defined in Coastal Act Section 30106, including but not limited to land division, grading, and landscaping shall occur on the slopes above the 160-foot contour as shown in Exhibit 2. No development authorized herein shall obstruct views of the slopes above the 160-foot contour from any point on Highway 1.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restriction on development on the slopes above the 160-foot contour except for the area within the habitat conservation easement area described in Special Condition 2. The deed restriction shall include legal descriptions of both the applicant's entire property and the easement area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

5. Habitat Management Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a Habitat Management Plan that shall provide specific measures designed to manage the environmentally sensitive habitat area on the northern portion of the project site for the benefit of the San Francisco garter snake and the California red-legged frog. Management measures included in the plan shall include, but not be limited to, predator control and long-term monitoring. The applicant shall be responsible for assuring the long-term implementation of the approved Habitat Management Plan.

6. Riparian Corridor Protection

The three stream crossings authorized herein shall span the streams with no supports located within the riparian corridors. All construction activities, materials and equipment are prohibited from entering the riparian corridors and their respective buffer zones except as necessary for the construction of one road crossing each on Streams 1, 2 and 3. Prior to commencement of grading, the applicant shall install temporary construction fencing along the outer edge of all riparian buffer zones as shown on the January 12, 2001 site plan.

7. Evidence of Water Service

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall provide written evidence, for the review and approval of the Executive Director, demonstrating that: (1) water capacity is available to serve the development authorized herein upon completion; and (2) the Coastside County Water District will serve the development authorized herein upon completion.

8. Cumulative Public Access Impact Mitigation

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit evidence, for the review and approval of the Executive Director, that the development rights have been permanently extinguished on at least 124

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developable lots such that the subdivision of property authorized herein shall not result in a net increase of developable lots within that geographical area. The lots shall be extinguished only in the Mid-Coast Region of San Mateo County, an area that is generally depicted on Exhibit 3 and that is primarily served by the segment of Highway 1 between its intersection with Highway 92 and Devil's Slide and/or by the segment of Highway 92 west of Highway 280. Each mitigation lot shall be an existing legal lot or combination of contiguous existing legal lots and shall be zoned to allow development of a detached single-family residence. The legality of each mitigation lot shall be demonstrated by the issuance of a Certificate of Compliance by the City or County consistent with the applicable standards of the certified LCP and other applicable law. The total combined area of the lots on which the development rights are extinguished shall be at least equal to the total area of the 124 the new residential lots authorized herein.

- B.** For each development right extinguished in satisfaction of subdivision A of this permit condition, the applicant shall, prior to issuance of the coastal development permit execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an open space or scenic easement to preserve the open space and scenic values present on the property that is the source of the development right being extinguished and to prevent the significant adverse cumulative impact to public access to the coast that would result as a consequence of development of the property for residential use. Such easement shall include a legal description of the entire property that is the source of the development right being extinguished. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition. Each offer shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assigns, and shall be irrevocable for a period of 21 years, such period running from the date of recording.
- C.** For each development right extinguished in satisfaction of subdivision A of this permit condition, the applicant shall, prior to issuance of the coastal development permit, also execute and record a deed restriction, in a form and content acceptable to the Executive Director, requiring the applicant to combine the property that is the source of the development right being extinguished with an adjacent already developed lot or with an adjacent lot that could demonstrably be developed consistent with the applicable certified local coastal program. The deed restriction shall include legal descriptions of all combined and individual lots affected by the deed restriction. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.
- D.** As an alternative to the method described in subsection B and C above, the applicant may instead, prior to issuance of the coastal development permit, purchase developable lots that satisfy the criteria in subsection A above and, subject to the review and approval of

the Executive Director, dedicate such lots in fee to a public or private land management agency approved by the Executive Director for permanent public recreational or natural resource conservation purposes.

9. Erosion Control

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall provide, for the review and approval of the Executive Director, an Erosion Control Plan to reduce erosion and, to the maximum extent practicable, retain sediment on-site during and after construction. The plan shall be designed to minimize the potential sources of sediment, control the amount of runoff and its ability to carry sediment by diverting incoming flows and impeding internally generated flows, and retain sediment that is picked up on the project site through the use of sediment-capturing devices. The plan shall also limit application, generation, and migration of toxic substances, ensure the proper storage and disposal of toxic materials, apply nutrients at rates necessary to establish and maintain vegetation without causing significant nutrient runoff to surface waters. The Erosion Control Plan shall incorporate the Best Management Practices (BMPs) specified below.

1. Erosion & Sediment Source Control

- a. Sequence construction to install **sediment-capturing devices** first, followed by runoff control measures and runoff conveyances. Land clearing activities should only commence after the minimization and capture elements are in place.
- b. Time the clearing and grading activities to avoid the rainy season (October 15 through April 30).
- c. Minimize the area of bare soil exposed at one time (phased grading).
- d. Clear only areas essential for construction.
- e. Within five days of clearing or inactivity in construction, stabilize bare soils through either non-vegetative BMPs, such as mulching or vegetative erosion control methods such as seeding. Vegetative erosion control shall be established within two weeks of seeding/planting.
- f. Construction entrances should be stabilized immediately after grading and frequently maintained to prevent erosion and control dust.
- g. Control wind-born dust through the installation of wind barriers such as hay bales and/or sprinkling.
- h. Soil and/or other construction-related material stockpiled on site shall be placed a minimum of 200 feet from all wetlands and drain courses. Stockpiled soils shall be covered with tarps at all times of the year.
- i. Excess fill shall not be disposed of in the Coastal Zone unless authorized through either an amendment to this coastal development permit or a new coastal development permit.

2. Runoff Control and Conveyance

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- a. Intercept runoff above disturbed slopes and convey it to a permanent channel or stormdrains by using earth dikes, perimeter dikes or swales, or diversions. Use check dams where appropriate.
- b. Provide protection for runoff conveyance outlets by reducing flow velocity and dissipating flow energy.

3. Sediment-Capturing Devices

- a. Install stormdrain inlet protection that traps sediment before it enters the storm sewer system. This barrier could consist of filter fabric, straw bales, gravel, or sand bags.
- b. Install sediment traps/basins at outlets of diversions, channels, slope drains, or other runoff conveyances that discharge sediment-laden water. Sediment traps/basins shall be cleaned out when 50% full (by volume).
- c. Use silt fence and/or vegetated filter strips to trap sediment contained in sheet flow. The maximum drainage area to the fence should be 0.5 acre or less per 100 feet of fence. Silt fences should be inspected regularly and sediment removed when it reaches 1/3 the fence height. Vegetated filter strips should have relatively flat slopes and be vegetated with erosion-resistant species.

4. Chemical Control

- a. Store, handle, apply, and dispose of pesticides, petroleum products, and other construction materials properly.
- b. Establish fuel and vehicle maintenance staging areas located away from all drainage courses, and design these areas to control runoff.
- c. Develop and implement spill prevention and control measures.
- d. Provide sanitary facilities for construction workers.
- e. Maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents should not be discharged into sanitary or storm sewer systems. Washout from concrete trucks should be disposed of at a location not subject to runoff and more than 50 feet away from a stormdrain, open ditch or surface water.
- f. Provide adequate disposal facilities for solid waste, including excess asphalt, produced during construction.
- g. Develop and implement nutrient management measures. Properly time applications, and work fertilizers and liming materials into the soil to depths of 4 to 6 inches. Reduce the amount of nutrients applied by conducting soil tests to determine site nutrient needs.

- B. The applicant shall undertake development in accordance with the final erosion control plans approved by the Executive Director. No proposed changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required. The applicant

shall be fully responsible for advising construction personnel of the requirements of the Erosion Control Plan.

- C. Erosion Control Maintenance.** All of the above described erosion control measures shall be maintained pursuant to the following requirements.
1. All BMP traps/separators and/or filters shall be cleaned at minimum prior to the onset of the storm season and no later than October 15th each year.
 2. Sediment traps/basins shall be cleaned out at any time when 50% full (by volume).
 3. Sediment shall be removed from silt fences at any time when it reaches 1/3 the fence height.
 4. All pollutants contained in BMP devices shall be contained and disposed of in an appropriate manner.
 5. Non-routine maintenance activities that are expensive but infrequent, such as detention basin dredging, shall be performed on as needed based on the results of the monitoring inspections described above.
- D. Erosion Control Monitoring.** Throughout the construction period, the applicants shall conduct regular inspections of the condition and operational status of all structural BMPs required by the approved Erosion Control Plan. The applicant shall report the results of the inspections in writing to the Executive Director prior to the start of the rainy season (no later than October 15th), after the first storm of the rainy season, and monthly thereafter until April 30th for the duration of the project construction period. Major observations to be made during inspections and reported to the Executive Director shall include: locations of discharges of sediment or other pollutants from the site; BMPs that are in need of maintenance; BMPs that are not performing, failing to operate, or inadequate; and locations where additional BMPs are needed. Authorized representatives of the Coastal Commission and/or the City of Half Moon Bay shall be allowed to enter the property as needed to conduct on-site inspections throughout the construction period.

10. Storm-water Pollution Prevention

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a final **Storm-water Pollution Prevention Plan (SWPPP)**. The SWPPP shall demonstrate that the approved development shall maintain post-development peak runoff rate and average volume at levels equal to pre-development levels, and reduce the post-development loadings of Total Suspended Solids (TSS) so that the average annual TSS loadings are no greater than pre-development loadings. The SWPPP shall incorporate the Best Management Practices (BMPs) described below.

1. Minimize Creation of Impervious Surfaces

- a. Design residential streets for the minimum required pavement widths needed to comply with all zoning and applicable ordinances to support travel lanes, on-street parking, emergency, maintenance and service vehicle access, sidewalks, and vegetated open channels.

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- b. Minimize the number of residential street cul-de-sacs and incorporate landscaped areas to reduce their impervious cover. The radius of cul-de-sacs should be the minimum required to accommodate emergency and vehicle turnarounds. Alternative turnarounds shall be employed where allowable.
- c. Avoid curb and gutter along driveways and streets where appropriate.
- d. Incorporate landscaping with vegetation or other permeable ground cover in setback areas between sidewalks and streets.
- e. Use alternative porous material/pavers (e.g., hybrid lots, parking groves, permeable overflow parking, crushed gravel, mulch, cobbles) to the extent practicable for sidewalks, driveways, parking lots, or interior roadway surfaces.
- f. Reduce driveway lengths, and grade and construct driveways to direct runoff into adjacent landscaped areas.
- g. Direct rooftop runoff to permeable areas rather than driveways or impervious surfaces in order to facilitate infiltration and reduce the amount of storm-water leaving the site.

2. Roads and Parking Lots

- a. Install vegetative filter strips or catch basin inserts with other media filter devices, clarifiers, grassy swales and berms, or a combination thereof to remove or mitigating oil, grease, hydrocarbons, heavy metals and particulates from storm-water draining from all roads and parking lots.
- b. Roads and parking lots should be vacuum swept monthly at a minimum, to remove debris and contaminant residue.

3. Landscaping

- a. Native or drought tolerant adapted vegetation should be selected, in order to minimize the need for fertilizer, pesticides/herbicides, and excessive irrigation.
- b. Where irrigation is necessary, the system must be designed with efficient technology. At a minimum, all irrigation systems shall have flow sensors and master valves installed on the mainline pipe to ensure system shutdown in the case of pipe breakage. Irrigation master systems shall have an automatic irrigation controller to ensure efficient water distribution. Automatic irrigation controllers shall be easily adjustable so that site watering will be appropriate for daily site weather conditions. Automatic irrigation controllers shall have rain shutoff devices in order to prevent unnecessary operation on rainy days.
- c. All BMP traps/separators and/or filters shall be cleaned prior to the onset of the storm season and no later than October 15th each year. All pollutants contained in BMP devices shall be contained and disposed of in an appropriate manner.
- d. Non-routine maintenance activities that are expensive but infrequent, such as detention basin dredging, shall be performed on as needed based on the results of the monitoring inspections described below.

- B. Storm-water Pollution Prevention Monitoring.** The applicant shall conduct an annual inspection of the condition and operational status of all structural BMPs provided in satisfaction of the approved SWPPP including the detention basin. The results of each annual inspection shall be reported to the Executive Director in writing by no later than June 30th of each year for the following the commencement of construction. Major observations to be made during inspections and reported to the Executive Director shall include: locations of discharges of sediment or other pollutants from the site; BMPs that are in need of maintenance; BMPs that are not performing, failing to operate, or inadequate; and locations where additional BMPs are needed. Authorized representatives of the Coastal Commission and/or the City of Half Moon Bay shall be allowed to enter the property as needed to conduct on-site inspections of the detention basin and other structural BMPs.
- C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit for the review and approval of the Executive Director a **Water Quality Monitoring Plan (WQMP)**. The WQMP shall be designed to evaluate the effectiveness of the SWPPP to protect the quality of surface and groundwater and shall provide the following:
1. The WQMP shall specify sampling locations appropriate to evaluate surface and groundwater quality throughout the project site, including, but not limited to all major storm drains.
 2. The WQMP shall specify sampling protocols and permitted standards for all identified potential pollutants including, but not necessarily limited to: heavy metals, pesticides, herbicides, suspended solids, nutrients, oil, and grease.
 3. Beginning with the start of the first rainy season (October 15 - April 30) following commencement of development and continuing until three years following completion of all grading, landscaping and other earth disturbing work, surface water samples shall be collected from the specified sampling locations during the first significant storm event of the rainy season and each following month through April 30. Sampling shall continue thereafter in perpetuity on an annual basis during the first significant storm event of the rainy season.
 4. Results of monitoring efforts shall be submitted to the Commission upon availability.
- D.** If any water quality standards specified in the WQMP are exceeded, the applicant shall assess the potential sources of the pollutant and the potential remedies. If it is determined based on this assessment that applicable water quality standards have not been met as a result of inadequate or failed BMPs, corrective actions or remedies shall be required. If potential remedies or corrective action constitute development, as defined in Section 30106 of the Coastal Act, an amendment to this permit shall be required.
- E. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall execute and record a deed restriction over the project site, in a form and content acceptable to the Executive Director, reflecting the above restrictions on development. The deed restriction shall include legal descriptions of the applicant's entire parcel(s). The deed restriction shall run with the land, binding all successors and

assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

11. Grading Plan

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a **Final Grading Plan** specifying:
1. The respective quantities of cut and fill and the final design grades and locations for all project related grading, including building foundations, streets, drainage, and utilities.
 2. The phasing of all grading during construction.
- B.** Grading shall be conducted in strict conformity to the approved Grading Plan, Erosion Control Plan, SWPPP, and habitat protection measures specified in Special Conditions 6, 9 and 10.

12. Project Site Access

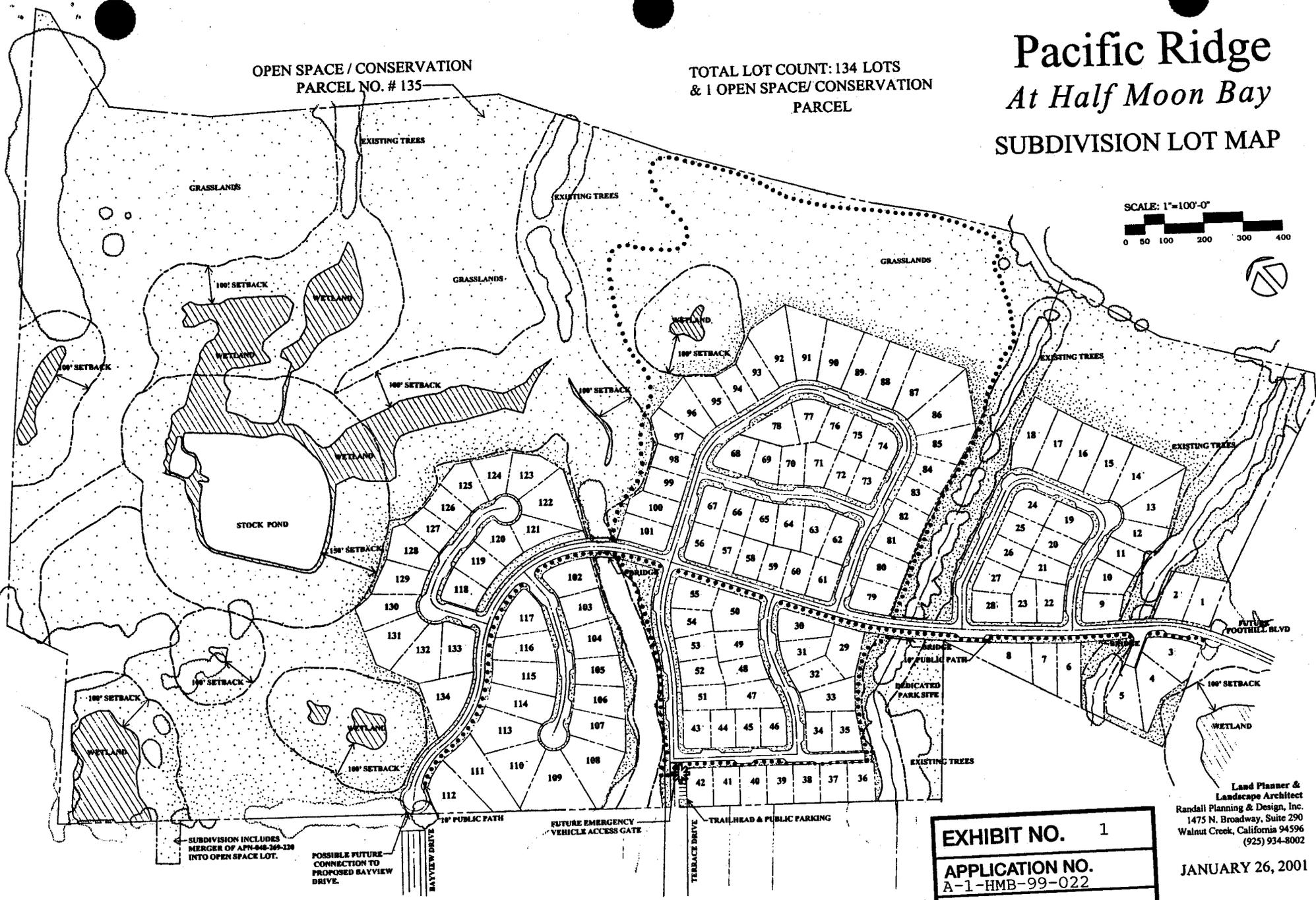
- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall identify the permanent access road to the project site and shall obtain final approval from the City of Half Moon Bay, or from the Commission on appeal, of a coastal development permit for all required roadway and/or intersection improvements required for the approved permanent access road.
- B. PRIOR TO COMMENCEMENT OF CONSTRUCTION OF ANY PORTION OF ANY RESIDENTIAL STRUCTURE**, the permittee shall complete the construction of all roadway and/or intersection improvements for the permanent access road in accordance with an approved coastal development permit.

Pacific Ridge At Half Moon Bay SUBDIVISION LOT MAP

OPEN SPACE / CONSERVATION
PARCEL NO. # 135

TOTAL LOT COUNT: 134 LOTS
& 1 OPEN SPACE/ CONSERVATION
PARCEL

SCALE: 1"=100'-0"



Lead Planner &
Landscape Architect
Randall Planning & Design, Inc.
1475 N. Broadway, Suite 290
Walnut Creek, California 94596
(925) 934-8002

JANUARY 26, 2001

EXHIBIT NO.	1
APPLICATION NO.	A-1-HMB-99-022
Site plan with reconfigured lots (as of 1/26/01)	

Pacific Ridge At Half Moon Bay

ILLUSTRATIVE LANDSCAPE PLAN

TOTAL LOT COUNT: 134 UNITS
& 1 OPEN SPACE/CONSERVATION
PARCEL

SCALE: 1"=100'-0"
0 50 100 200 300 400

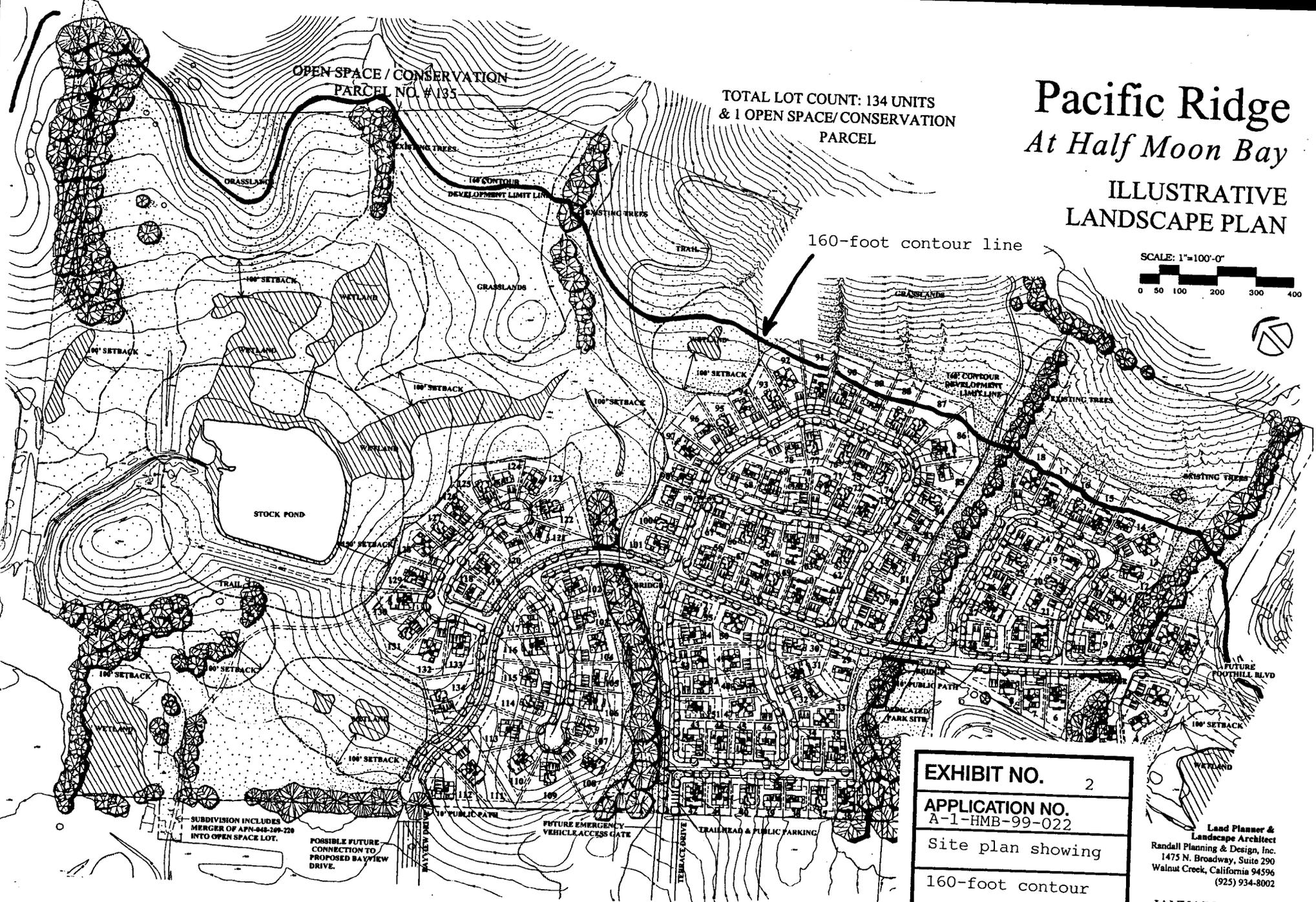


EXHIBIT NO.	2
APPLICATION NO.	A-1-HMB-99-022
Site plan showing 160-foot contour	

Land Planner &
Landscape Architect
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JANUARY 26, 2001

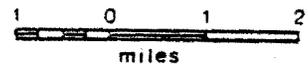
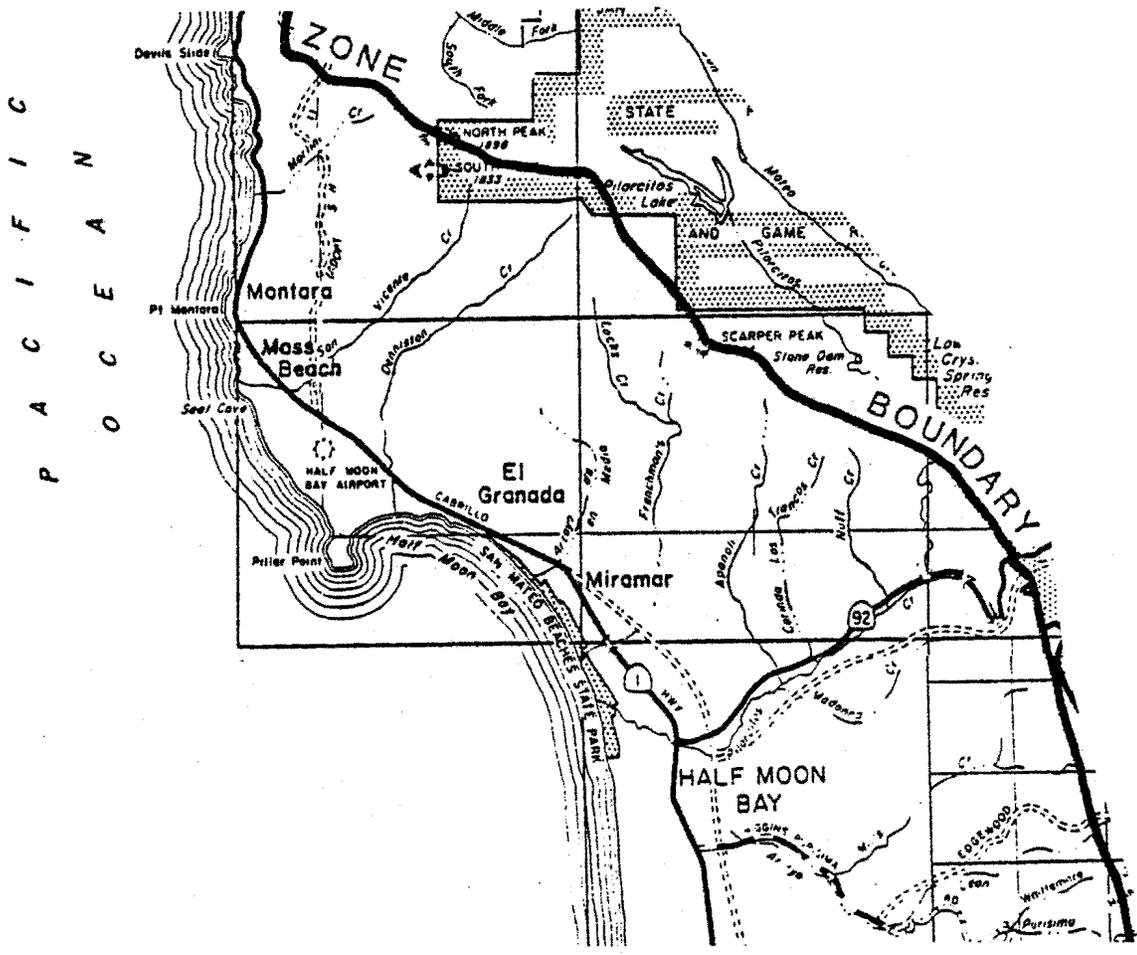


EXHIBIT NO.	3
APPLICATION NO.	A-1-HMB-99-022
San Mateo County	
Mid-Coast Region	

CALIFORNIA COASTAL COMMISSION

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

F-6a

Filed: April 6, 1999
49th Day: May 20, 1999 (waived)
Staff: CLK - SF
Staff Report: February 2, 2001
Hearing Date: February 16, 2001

**APPEAL STAFF REPORT
DE NOVO REVIEW**

APPEAL NO.: A-1-HMB-99-022

APPLICANTS: Ailanto Properties

AGENT: Robert Henry

LOCAL GOVERNMENT: City of Half Moon Bay

SUBSTANTIAL ISSUE: The Commission found that the appeal of the local government action on this project raised a substantial issue on March 17, 2000.

PROJECT LOCATION: Adjacent to the eastern ends of Grandview Boulevard and Terrace Avenue, north of Highway 92 and east of Highway 1 in the City of Half Moon Bay, San Mateo County.

PROJECT DESCRIPTION: The proposed development includes subdivision of 3 existing parcels measuring 114 acres total into 145 residential lots, construction of a detached single-family home on each residential lot, streets, open space parcels and neighborhood park areas.

APPELLANTS: Commissioner Sara Wan
Commissioner Mike Reilly
Eleanor Wittrup and George Carman

SUBSTANTIVE FILE DOCUMENTS: See Appendix A

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APPENDICES

- Appendix A: Substantive File Documents
- Appendix B: Vehicle Trip Generation Analysis
- Appendix C: Referenced Policies

EXHIBITS

- Exhibit 1: Regional Location Map
- Exhibit 2: Highway and Local Street Map
- Exhibit 3: Vicinity Map
- Exhibits 4-7: Highway 92 Improvement Project
- Exhibit 8: Wetlands Delineation
- Exhibit 9: Project Site Plan
- Exhibit 10: Prime Agricultural Soils Map
- Exhibit 11: Drainage Map
- Exhibit 12: Projected Road Congestion for Highway 1 and 92
- Exhibit 13: Existing Lot Configuration

CORRESPONDENCE

(items received subsequent to May 12, 2000 hearing)

- May 8, 2000 Letter from James Benjamin to the Commission
- June 6, 2000 Letter from Robert Henry, Ailanto Properties to the Commission
- June 19, 2000 Letter from Deborah Ruddock to Robert Henry
- October 10, 2000 Letter from Robert Henry, Ailanto Properties to Chris Kern (w/o enclosures)
- October 31, 2000 Letter from Albert Fong, Ailanto Properties to the Commission (w/ Attachments O, P and Q)
- October 31, 2000 Letter from Albert Fong, Ailanto Properties to the Commission
- November 17, 2000 Letter from Eric and Kristen Fuchs to the Commission
- November 25, 2000 Letter from Coastside Community Association to Chris Kern

STAFF NOTE

On December 13, 2000, the Commission held a public hearing on the de novo consideration of this coastal development permit. Because staff recommended that the Commission deny the permit application, the staff did not prepare or circulate proposed conditions for approval of the project. Following testimony by the permittee, appellants, interested public and staff, the Commission continued the hearing to its February 2001 meeting, and directed staff to prepare and circulate for public review prior to the February 2001 hearing proposed conditions for approval of the development. The suggested conditions have been circulated under separate cover along with this staff report.

On January 16, 2001, in an effort to address some of the concerns raised during the December 13, 2000 Commission hearing, the applicant amended the permit application and provided additional information. The revisions include, among other changes, a reduction in the level of development located in and adjacent to the environmentally sensitive habitat area north of Stream 3. The applicant submitted further revisions to the Commission staff on January 25, 2001 eliminating another five lots from the habitat area. The decrease in development in and adjacent to environmentally sensitive habitat areas is accomplished by shifting much of the proposed development to the southern half of the site, and reducing the number of proposed residential lots from 145 to 134. The revised subdivision plan eliminates the previously proposed loop road from the northern portion of the site, and reduces the number of proposed lots located north of Stream 3 from the previously proposed 66 to 33. The revised project description specifies that the remaining lots proposed to be created north of Stream 3 would be graded to drain toward the streets and not into the pond or other wetlands.

The staff has not had sufficient time to thoroughly review all of the project revisions and to prepare a new staff recommendation in response to these revisions. This staff report is therefore unchanged from the report that staff distributed prior to the December 2000 hearing recommending denial of the project. Consequently, any Commission action to either approve or deny the permit application will require revisions to the findings recommended in this report in response to the recent changes to the permit application. As stated in the cover memorandum to the suggested conditions for approval of the project, the staff only supports Commission approval of the proposed development if it is conditioned as suggested to mitigate the project's significant adverse impacts to coastal resources, including the significant cumulative adverse impacts to coastal access resulting from increased traffic congestion.

EXECUTIVE SUMMARY

Prior Commission Action

On March 17, 2000 the Commission found that the appeals submitted regarding this proposed project raised a substantial issue with respect to the grounds on which they were filed. On May 12, 2000, the Commission opened a public hearing for the de novo portion of the appeal. During this hearing, the Commission staff presented a summary of the issues raised by the proposed project and the Commission received testimony from the applicant and from interested members of the public. The Commission then continued the de novo hearing to a future meeting to allow staff additional time to prepare a recommendation for Commission action on the appeal. This staff report presents the staff's recommendation to the Commission for action on the Pacific Ridge development project under the Half Moon Bay Local Coastal Program.

Revisions to the Project

Staff notes that since the project was initially approved by Half Moon Bay and appealed to the Commission, the applicant has made significant changes in the project. For instance, as approved by the City of Half Moon Bay, the project included 197 residential parcels. On October 28, 1999 the applicant, Ailanto Properties, revised the proposed plan to include 151 parcels containing 150 homes. A subsequent revision by Ailanto on January 24, 2000 has brought the number of proposed homes to 145.

Aside from revisions to the project, Ailanto has provided materials on a number of occasions that have clarified the nature of the proposed project. For instance, letters of April 4 and April 6, 2000 from Ailanto have addressed the 88 conditions adopted by Half Moon Bay when the City approved the previous version of the project on March 16, 1999, indicating which of the conditions have been incorporated by Ailanto into the project description and which ones have been superseded by subsequent alterations in the project. Revisions to the project and the clarifications provided by Ailanto have assisted Commission staff in analyzing the conformity of the project with the policies of the Local Coastal Program.

Because the proposed project is substantially different than the one that was approved by Half Moon Bay in March 1999 and analyzed in the Commission's findings regarding Substantial Issue, dated March 17, 2000, the appellants' statements of the reasons for the appeal, the applicant's preliminary responses to the appeal, and certain correspondence may address project elements that have been substantially changed or are no longer part of the revised proposed project. All of this correspondence is part of the project record, and much of it was attached as exhibits to the findings of substantial issue. For the sake of brevity, clarity, and to avoid waste, most of this superseded material is not again reproduced in this report. Instead, a package containing select items of correspondence is being provided in a separate package along with this report. However, staff has carefully reviewed that material to assure that the issues and concerns that apply to the proposed project, as revised, are addressed in this staff report.

Summary of the Staff Recommendation

The staff recommends that the Commission deny the permit application as submitted. This recommendation is based on significant adverse impacts, both individually and cumulatively with other potential projects, that this proposed residential subdivision would have on coastal resources and public shoreline access, thus making it inconsistent with the policies of the Half Moon Bay Local Coastal Program.

- Chief among the impacts that the project would have is a significant contribution to traffic congestion on Highways 1 and 92. Although the project would also contribute through mitigation measures to a localized improvement in traffic congestion at nearby intersections, the contribution of this project along with others likely to occur over the next 10 to 20 years in the San Mateo County Mid-Coast area would further exacerbate highway congestion, thus adversely affecting the ability of the general public to reach the shoreline for recreational purposes.

Only two regional highways connect Half Moon Bay to the larger Bay Area, and both highways already carry traffic at peak hours on weekdays and Saturdays in excess of their capacity. Although improvements to both highways are proposed by the City of Half Moon Bay, to which Ailanto Properties proposes to contribute, those improvements would be insufficient to assure satisfactory service levels in the future, given projected future growth.

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The Local Coastal Programs of Half Moon Bay and San Mateo County predict substantial future residential growth in both jurisdictions, thus contributing to additional congestion on the highways. For instance, the Half Moon Bay LCP predicts that additional housing units in Half Moon Bay will increase over the next twenty years by 100 percent or more (an increase of 4,495 or more units in comparison to the 3,496 units existing in 1992). According to regional predictions contained in the San Mateo County Countywide Transportation Plan Alternatives Report, even with maximum investment in the transportation system, traffic volumes on both highways are predicted to be far in excess of capacity, if residential and commercial development proceeds as projected.

The Half Moon Bay LCP contains policies that prohibit new development if adequate services are not available to support it. For example, LUP Policy 9-4 requires that development shall be served with adequate services and that lack of adequate services shall be grounds for denial of a development permit or reduction in the density otherwise allowed under the LUP.

Up to 2,529 vacant residential lots already exist within the City of Half Moon Bay. Approval of the creation of additional residential lots through this proposed subdivision, which represents a net increase of 143 parcels over the two legal lots that currently exist, would only contribute to a long-term worsening of traffic congestion and a consequent limitation on the ability of the general public to reach area beaches and shoreline for priority visitor-serving and recreational purposes.

- Construction of the project as proposed would not assure the protection of sensitive species and environmentally sensitive habitat areas on and around the site. The U. S. Fish and Wildlife Service has determined that the project site provides habitat for California red-legged frogs and potential habitat for San Francisco garter snakes, both federally listed species. Although the project provides the minimum wetland and riparian buffers specified by the LCP, these proposed buffers are inadequate to protect the habitat for the listed frogs and snakes as required by other LCP policies. Therefore, the Commission concludes that the project will result in significant adverse impacts to these species through direct loss of habitat in conflict with the environmentally sensitive habitat area (ESHA) protection policies of the LCP. Furthermore, the project includes two bridges across riparian corridors for which feasible alternatives exist.
- The project would not affect views of the coast from public places but it would result in construction of homes on undeveloped slopes of the coastal hills visible from Highway 1. The proposed project would interrupt views of the upper hillsides from Highway 1. These hillsides are designated as scenic resources on the LCP Visual Resources Overlay Map. The project would thus adversely affect the scenic resources of Half Moon Bay, inconsistent with LCP policies.
- The project as proposed is consistent, partially or wholly, with some policies of the LCP. For instance, although the site contains a small amount of prime agricultural soils, the LCP designates the property as suitable for residential development, because it is not viable for future agricultural use based on conflicts with existing urban uses and other factors.

Through revisions to the project since the appeal was filed in April of 1999, the applicant has attempted to address many issues of conformity with LCP policies. In the final analysis, however, the project continues to raise significant issues in several areas. In particular, it

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represents a significant increase in the number of residential parcels in a community with limited and already overloaded roads, as well as a large pool of existing, undeveloped residential parcels. The LCPs of Half Moon Bay and San Mateo County do not contain a mechanism to offset the impacts of the creation of new residential parcels, such as (for instance) a transfer of development credit program that would retire existing poorly platted lots at the time new parcels are created. Because the project as revised does not successfully address regional traffic issues and habitat protection issues consistent with the requirements of the certified LCP, the staff recommends that the Commission deny this application.

1.0 STAFF RECOMMENDATION

Denial

The staff recommends that the Commission deny Coastal Development Permit Application A-1-HMB-99-022 as follows:

Motion

I move that the Commission approve Coastal Development Permit A-1-HMB-99-022 for the development proposed by the applicant.

Staff Recommendation of Denial

Staff recommends a NO vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Deny the Permit

The Commission hereby denies a coastal development permit for the proposed development on the grounds that the development will not conform with the policies of the City of Half Moon Bay Local Coastal Program. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

2.0 FINDINGS AND DECLARATIONS

[NOTE: The full text of the LCP, Coastal Act and other policies and regulations referenced herein are attached as Appendix C of this report.]

2.1 Standard of Review

The entire City of Half Moon Bay is within the California coastal zone. The City has a certified Local Coastal Program, which allows the City to issue Local Coastal Permits. The local action of the City is appealable to the Commission because it contains areas of wetlands and streams subject to the appeal jurisdiction of the Commission under Public Resources Code (PRC) Section 30603(a)(2).

Because the Commission found in March 2000 that the appeals of the local government action on this project raise a substantial issue under the LCP, the Commission must consider the entire application *de novo* (PRC §§ 30603, 30621, and 30625, 14 CCR § 13115). Ailanto has previously asserted that only those physical portions of the project that are located within 100

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feet of a stream or wetland are before the Commission de novo. However, the applicant confuses initial jurisdictional prerequisites with the Commission's authority to review the entire Pacific Ridge Development project de novo. Although Section 30603 lists the types of development for which the Commission has jurisdiction to hear an appeal, Section 30603 also indicates the parameters under which such review is to take place once jurisdiction is established. In accordance with Coastal Act Section 30603(a), the appeal is of the action taken by the local government. Likewise, Section 30625 of the Coastal Act provides that any appealable action on a coastal development permit by a local government may be appealed to the Commission. Section 30625 also provides that the Commission may then approve, modify, or deny such proposed development. Section 30621 and implementing regulation Section 13115 state that the application for the proposed development is before the Commission de novo. Therefore, consistent with Coastal Act Sections 30603, 30621 and 30625 and implementing regulation Section 13115 the entire application acted on by the City is before the Commission de novo. Finally, the Commission also notes that the proposed development includes a subdivision. Accordingly, the impact of the proposed subdivision is inseparable and cannot be geographically severed.

Section 30604(b) states that after certification of a local coastal program, a coastal development permit shall be issued if the issuing agency or the Commission on appeal finds that the proposed development is in conformity with the certified local coastal program. Pursuant to Policy 1-1 of the City's certified Land Use Plan (LUP), the City has adopted the policies of the Coastal Act (sections 30210 through 30264) as the guiding policies of the LUP. Policy 1-4 of the City's LUP states that prior to issuance of any development permit, the [Commission] shall make the finding that the development meets the standards set forth in all applicable LUP policies. Thus, the LUP incorporates the Chapter 3 policies of the Coastal Act. These policies are therefore included in the standard of review for the proposed project.

The project site is located within the Planned Development Area (PUD) designated in the City's LUP as the Dykstra Ranch PUD. Section 9.3.7 of the LUP specifically addresses the development of the Dykstra Ranch PUD, and includes "Proposed Development Conditions" for the development. Section 18.37.020.C of the City's Zoning Code states in relevant part:

New development within Planned Development Areas shall be subject to development conditions as stated in the Local Coastal Program Land Use Plan for each Planned Development...

Therefore, Proposed Development Conditions (a) through (h) contained in LUP Section 9.3.7 are included in the standard of review for this proposed project and are hereinafter referred to as LUP Policies 9.3.7(a) through 9.3.7(h).

LUP Policy 9.3.7(a) requires a specific plan to be prepared for the entire [Dykstra Ranch Planned Development] area which incorporated all of the stated conditions and conforms to all other policies of the Land Use Plan. Accordingly, the City approved a specific plan for the Dykstra Ranch PUD on January 4, 1994, and subsequently incorporated this PUD plan as Chapter 18.16 of the Zoning Code - Dykstra Ranch PUD Zoning District. The Commission certified the PUD in April 1996. In accordance with the definitions provided in Zoning Code Section 18.02.040, the LCP uses the terms "Specific Plan" and "Planned Unit Development Plan" synonymously. Zoning Code Section 18.15.045.C states that a Planned Unit Development Plan shall expire two years after its effective date unless a building permit has been issued, construction diligently

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pursued, and substantial funds invested. Neither a coastal development permit (CDP) nor a building permit has been issued for the proposed project. Therefore, by its own terms the Dykstra Ranch PUD Plan/Specific Plan expired in April of 1998, two years after the Commission certified the PUD and it became effective in the City. Because the specific plan has expired, Zoning Code Chapter 18.16 is not included in the standard of review for this coastal development permit application. A new specific plan has not been prepared for the development.

LUP Policy 9-8 states that areas designated in the LUP as PUD shall be planned as a unit and that preparation of specific plans may be required for one or more separate ownerships, individually or collectively, when parcels comprising a PUD are in separate ownerships. LUP Policy 9-14 states that where portions of a PUD are in separate ownership, approval may be granted for development of a parcel or group of parcels within the PUD provided that the City has approved a specific plan for the PUD district. The Dykstra Ranch PUD District is comprised of two lots under a single ownership, and the Pacific Ridge Development represents a development plan for the entire PUD district. Therefore, pursuant to LUP Policies 9-8 and 9-14, a specific plan is not required as a prerequisite to the development of the Dykstra Ranch PUD. Although the specific plan required to be prepared under LUP Section 9.3.7(a) has expired, the Commission could potentially find the development in conformance with the LCP, including the proposed development conditions for the PUD, without preparation of a new specific plan.

2.2 Project Location and Description

The proposed project is within the Dykstra Ranch Planned Unit Development (PUD) area, located on a coastal terrace east of Highway 1 and north of State Route 92 at the eastern edge of the City of Half Moon Bay, San Mateo County, approximately one mile east of the Pacific Ocean (Exhibit 1). A mix of suburban development and vacant former agricultural lands lies between the site and Highway 1. Half Moon Bay High School is located on the southwest boundary of the site (Exhibit 3).

The elevation of the property ranges from about 245 feet in the southeast portion of the project area down to about 45 or 50 feet in the northwest corner. The western portion of the project area contains gentle slopes in the five percent range. Some ridges, particularly in the northeast, are steeply sloped, approaching 28 percent in some cases. The land has been used for grazing cattle and has a history of barley cultivation.

Soils on the site consist of natural deposits of alluvium and artificial fill. The alluvial soils display slight to moderate erosion potential. Soils on the rolling hills in the northwestern part of the site also pose slight to moderate erosion potential. The upland soils on the hills, along the northeastern boundary of the site are moderately to highly erodable. The site contains artificial fills for an earthen dam and an embankment and drainage channel berms, relating to previous agricultural activities. Approximately 36 acres or 32 percent of the site contain prime agricultural soils (Exhibit 10).

The site lies in the transition area between the foothills along the western flank of the Santa Cruz Mountains and the coastal plain in Half Moon Bay. The closest active earthquake faults are located approximately five miles northeast of the site. The general area is a seismically active region, and is subject to strong seismic ground shaking.

The project as approved by the City was to subdivide the 114-acre site into 197 residential lots. Subsequent to the Commission's determination of substantial issue, the applicant revised the

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project for purposes of the de novo permit review. These revisions include reduction from 197 to 145 lots, relocation of a portion of the main "loop road" to avoid encroachment into the pond buffer area, and additional wetland and riparian corridor protections (Exhibit 9). Ailanto proposes to develop the lots with two-story houses ranging in size from 2,571 to 3,547 square feet. Many of the homes are positioned for views of the ocean (Exhibit 9). To increase the variation in design, the applicant proposes to construct detached garages for approximately 58 percent of the houses. Houses are projected by the applicant to be priced above \$500,000, and to appeal to people purchasing their second or third home. These buyers are expected to be families with children of high school age or older.

Infrastructure improvements to serve the development include privately maintained subdivision streets and underground lines for water, power, and sewer services. Ailanto has paid assessments to the Sewer Authority Midcoast and to the Coastside County Water District to assure sewer and water capacity to serve the development.

As originally proposed to the City the project included the construction of Foothill Boulevard linking the site to State Route 92 to the south and the extension of Grand View Boulevard linking the development to Highway 1 to the west. However the City denied the construction of these roadways due to their encroachment into wetland areas. For purposes of the Commission de novo review of the permit application, Ailanto has revised the project to provide access to the development from highway 1 through an extension of Terrace Avenue, an existing neighborhood street that abuts the development site to the west (Exhibit 2). The applicant proposes to provide approximately \$1 million for improvements at the intersection of Terrace Avenue and Highway 1 including lane widening and a traffic signal.

The applicant proposes to dedicate open space easements over approximately 5.15 acres of the site for park use. A homeowners association would maintain subdivision streets, sidewalks, streetlights, monument signs, wetlands, the pond, and open space amenities such as benches, bicycle racks, a tot lot and a gazebo.

2.3 Regional Cumulative Traffic Impacts

The Commission denies the permit application because the proposed subdivision would cause significant adverse cumulative impacts to traffic on Highways 1 and 92.

2.3.1 Issue Summary

Road access to the Mid-Coast region of San Mateo County including the City of Half Moon Bay is limited to Highways 1 and 92. Studies show that the current volume of traffic on these highways exceeds their capacity and that even with substantial investment in transit and highway improvements, congestion will only get worse in the future. As a result, the level of service on the highways at numerous bottleneck sections is currently and will in the future continue to be rated as LOS F. LOS F is defined as heavily congested flow with traffic demand exceeding capacity resulting in stopped traffic and long delays. This level of service rating system is used to describe the operation of both transportation corridors as well as specific intersections. LOS F conditions are currently experienced at certain intersections and at bottleneck sections of both highways during both the weekday PM peak-hour commuter period and during the weekend mid-day peak. The LCP contains policies that protect the public's ability to access the coast. The extreme traffic congestion on Highways 1 and 92 significantly interferes with the public's

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ability to access the area's substantial public beaches and other visitor serving coastal resources in conflict with these policies.

The key reasons for this problem are that capacity increases to the highways are constrained both legally and physically and because there is a significant imbalance between housing supply and jobs throughout the region. Without any new subdivisions, there are approximately 2,500 existing undeveloped small lots within the City. Each of these lots could potentially be developed with at least one single-family residence. Even with the City's Measure A 3-percent residential growth restriction in place, this buildout level could be reached by 2010. If the Measure D one percent growth restriction approved by Half Moon Bay voters in November 1999 is implemented through an amendment to the LCP (litigation challenging the measure is currently pending), the rate of buildout would be slowed, but neither of these growth rate restrictions change the ultimate buildout level allowed. It is also important to note that neither the proposed development nor several other proposed subdivisions for which the City approved vesting tentative maps prior to the effective date of Measure A are subject to these growth restrictions.

The County's Congestion Management Plan (CMP) concludes that a major factor contributing to existing and future traffic congestion throughout the County is the imbalance between the job supply and housing (CCAG 1998). In most areas of the County, the problem is caused by a shortage of housing near the job centers, resulting in workers commuting long distances from outside the County. In these areas, the CMP recommends general plan and zoning changes designed to increase the housing supply near the job centers of the County. In the Mid-Coast area of the County however, the problem is reversed. In accordance with the projections contained in the CMP, buildout of the currently existing lots within the City of Half Moon Bay would exceed the needed housing supply for the area by approximately 2,200 units, contributing to significantly worse congestion on the area's highways. Simply put, the capacity of the regional transportation network cannot feasibly be increased to the level necessary to meet the demand created by the development potentially allowable under the City and the County land use plans.

The applicant proposes to mitigate the impacts of the proposed development to area traffic by providing the City with funding to install a traffic signal on Highway 1 where it intersects with the access road proposed to the development and to widen an 800-foot portion of Highway 1 near this intersection. The applicant's transportation consultant has provided data showing that with these and other highway and intersection improvements contemplated by the City, six intersections in the vicinity of the development site will operate at acceptable levels, representing an improvement over existing conditions. The Commission does not dispute that the proposed signalization and lane widening will improve the function of these intersections, and will reduce congestion within the City at least in the short term. However, these improvements will only assist in addressing the immediate impacts on the streets surrounding the subdivision. As shown in the alternatives study conducted for the Countywide Transportation Plan, these improvements do not solve the larger congestion problem outside the City Limits. In addition, because the applicant underestimates growth projections for purposes of its cumulative impact analysis, the proposed traffic improvements do not assure that all significant adverse cumulative impacts inside the City will be adequately mitigated.

It is not within the ability of the developer of the proposed project to solve the transportation problems created by the region's significant job/housing imbalance. However, it is appropriate

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for the Commission to consider significant regional planning issues such as this when considering whether to allow new subdivisions that would further intensify the level of development in an area where road service is inadequate to serve existing local and visitor demands.

In accordance with the policies of the Half Moon Bay LCP that require new development to be served by adequate public services and that seek to protect the public's rights to access the coast by reserving service capacity for that priority use, this subdivision should not be permitted until a solution to this regional transportation problem is found. Therefore, as further discussed below, the staff recommends that the Commission deny this permit application.

One way in which the City could solve this problem would be to implement a transfer of development rights (TDR) program. Such a program could allow the approval of new subdivisions only when the developer retires the development potential of an equal or greater number of existing lots within the City. In addition to maintaining or reducing the overall level of future development within the area, such a program could allow development to occur in the areas best able to support it, while helping to preserve open space, public access, and sensitive coastal resource. The City recently conducted a preliminary feasibility analysis for the implementation of a TDR program.

2.3.2 LCP Standards

The City of Half Moon Bay LCP contains policies requiring adequate road capacity to serve new development and to minimize impacts of development to traffic on Highways 1 and 92. LUP Policy 9-2 specifies that new development shall not be permitted unless it is found that the development will be served upon completion with road facilities. LUP Policy 9-4 requires that development shall be served with adequate services and that lack of adequate services shall be grounds for denial of a development permit or reduction in the density otherwise allowed under the LUP. Policy 10-4 states that the City shall reserve public works capacity for priority land uses including public access and recreation from consumption by other non-priority uses such as residential development. LUP Policy 10-25 designates LOS C as the desired level of service on Highways 1 and 92 except during the weekday and weekend peak-hours when LOS E may be accepted.

Section 9.3.7 of the LUP includes proposed development conditions for the development of the Dykstra Ranch Planned Unit Development Area (the project site). Proposed Development Condition 9.3.7(a) provides for the reduction of the maximum allowable density of 228 units for the project site if the remaining capacity on Highway 92 is inadequate to accommodate that level of development.

In addition, pursuant to LUP Policy 1-1, the City has adopted the Chapter 3 policies of the Coastal Act as the guiding policies of the LUP. Accordingly, the City's LUP adopts Coastal Act Sections 30210, 30250 and 30252, which also require that development shall not interfere with the public's ability to access the coast and shall only be approved in areas with adequate public services.

2.3.3 Regional Transportation Setting

Road access to Half Moon Bay and the San Mateo County Mid-Coast region is limited and capacity increases are severely constrained.

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The City of Half Moon Bay can only be accessed via Highway 1 from the north and south and by Highway 92 to the east (Exhibits 1, 2, and 3). Capacity increases to these roadways are constrained both legally and physically. Coastal Act Section 30254 states that it is the intent of the legislature that in rural areas, Highway 1 shall remain a scenic two-lane road. This Coastal Act policy is implemented through the San Mateo County LCP both to the north and to the south of the City, outside the City Limits.

Highway 1 Corridor

Approximately 10 miles north of the City, in San Mateo County, Highway 1 passes through the "Devil's Slide" area, where landslides cause frequent interruptions and occasional closures during the rainy season. Caltrans is currently seeking necessary approvals to construct a tunnel to by-pass Devil's Slide. While the tunnel will improve operations of the highway in the section by preventing slide-related delays and closures, the width of the tunnel will only allow one lane in each direction consistent with Coastal Act Section 30254. Construction of additional lanes to provide additional capacity is therefore not an option in the Devil's Slide area. (The Coastal Commission approved San Mateo County LCP Amendment 1-96 on January 9, 1997 providing for the tunnel alternative.)

The Highway 1 right-of-way provides sufficient width for a four-lane roadway throughout the City of Half Moon Bay. South of Miramontes Point Road, Highway 1 has a rural character with one lane and a graded shoulder in each direction. It varies in width between two and four lanes between Miramontes Point Road and Kelly Avenue. North of Kelly Avenue, it includes two lanes in each direction separated by a raised median before returning to one lane in each direction north of North Main Street. The intersections of Highway 1 with North Main Street, Highway 92, and Kelly Avenue are controlled with traffic signals. The intersections of Highway 1 with minor roadways, including the proposed project site access Terrace Avenue, are controlled with stop signs on the minor street approaches. The roadway widens at unsignalized intersections to accommodate a 12-foot left turn lane. However, because of the heavy traffic congestion on Highway 1 during peak hours, significant delays occur for left turn movements into and out of these unsignalized minor street intersections.

The maximum capacity of the Highway 1 corridor (LOS E)¹ is approximately 2,500 vehicles per hour. Any volume greater than 2,500 vehicles per hour is considered an undesirable level of service F. Currently, the corridor carries approximately 3,120 vehicles during the weekday PM peak-hour and 3,000 vehicles during the Saturday midday peak-hour. Thus, the corridor operates at LOS F at these times (Fehr & Peers 2000b). In addition, the unsignalized Terrace Avenue/Highway 1 intersection currently operates at LOS F due to heavy traffic on Highway 1 that constrains turning movements of vehicles attempting to enter Highway 1 from Terrace Avenue (Dowling 1998).

Earlier this year, the City contemplated drafting a Project Study Report (PSR) for submittal to Caltrans to study an approximately \$3 million improvement plan for the approximately 3,000-foot section of Highway 1 between North Main Street and Kehoe Avenue. On June 20, 2000, the

¹ Traffic analysis is commonly undertaken using the level of service rating method. The level of service rating is a qualitative description of the operational conditions along roadways and within intersections. Level of service is reported using an A through F letter system to describe travel delay and congestion. Level of service (LOS) A indicates free-flowing conditions. LOS E indicates the maximum capacity condition with significant congestion and delays. A LOS F rating indicates traffic that exceeds operational capacity with unacceptable delays and congestion.

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City Council considered eight alternatives for this improvement project. The improvements contemplated included widening the remaining two-lane portions of this section of the highway to four lanes, consolidating intersections, and improving bicycle and pedestrian safety. Under this plan, Bayview Drive would have served as the consolidated, arterial street to serve the existing and planned neighborhoods in this area of the City inland of Highway 1 with a signalized intersection. The other intersections north of North Main would remain unsignalized and restricted to right turning traffic. Although the City did not develop a funding plan for this project, substantial portions of the costs of the improvements were expected to be shared by future development approved along this corridor, including the previously proposed Beachwood Development and the Pacific Ridge Development projects. The City anticipated that the San Mateo County Transportation Authority (SMCTA) would also provide substantial funding for these improvements. However, since the City's denial of the Beachwood project in July 2000, and the publishing of the June 22, 2000 staff recommendation for Coastal Commission denial of the Pacific Ridge project, the City has taken no further action to pursue the Highway 1 improvement project. Thus, the contemplated project study report currently remains at an early stage of planning without funding, environmental review or regulatory approvals.

The City recently began studies to determine if signal warrants are met for the currently unsignalized Highway 1 intersections at Grandview Avenue, Roosevelt Boulevard, Mirada Road, and Filbert Street. Caltrans recently determined that a signal is warranted at the Ruisseau Francaise/Highway 1 intersection.

Highway 92 Corridor

Highway 92 runs east of the City to Highway 280 traversing steep rugged terrain. Because of the steep slopes, slow-moving vehicles delay eastbound traffic. In accordance with the LUP, the capacity of this highway is 1,400 vehicles per hour (in each direction of travel). Currently, the Highway 92 corridor carries approximately 1,976 vehicles during the weekday PM peak-hour and 1,800 vehicles during the Saturday midday peak-hour. Given the characteristics of this roadway, including its steep slopes and curves, this traffic volume results in levels of service F during the weekday peak and nearly F during the weekend peak.

In 1989, the voters of San Mateo County passed Measure A, a 1/2 cent sales tax initiative to provide funds for transportation improvements within the County.² Operational and safety improvements to Highway 92 from Highway 1 to Highway 280 were included as part of the Measure A program. Improvements were subsequently divided into four separate construction packages. Construction was recently completed on the first segment to go into construction, the section of Highway 1 from Pilarcitos Creek south of the City to Skyline Boulevard (Highway 35). The other three segments include Highway 92 improvements within the City and in the County area east of the City limit. This project has been divided into two phases. The City will construct Phase 1 and the SMCTA will construct Phase 2.

Phase 1 of the Half Moon Bay Highway 92 improvement project addresses the western segment of the highway within the City. The Phase 1 improvements include widening portions of Highway 92 from two to four lanes, intersection improvements, and improved bicycle and pedestrian safety (Exhibits 4-7). The City will enter into a cooperative agreement with Caltrans

² Unrelated to the City of Half Moon Bay Residential Growth Initiative also known as Measure A.

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for final design and construction for the Phase 1 project. In 1998, the City entered into an agreement with the SMCTA for additional funding for the Phase 1 portion of the project. Funding for Phase 1 includes \$3.97 million from the State, \$4.92 million from SCMTA and \$0.82 million from the City. The City expects to complete Phase 1 by 2002.

Phase 2 follows Highway 92 from approximately 2,230 feet east of Main Street to the City limit line and will be constructed by the SCMTA. Phase 2 will include widening the remaining portion of the highway to the City limit line to provide one standard 12-foot lane and an 8-foot outside shoulder in each direction.

The Phase 1 and 2 improvements will improve traffic flow along this segment within the City consistent with the Circulation Element of the City's General Plan. The improvements will not, however, improve the bottlenecks on Highway 92 east of the City that interfere with the public's ability to access the coast from inland areas. On May 11, 2000, the City Planning Commission certified a mitigated negative declaration (MND) and approved a coastal development permit for the Phase 1 Highway 92 improvements within the City. The MND finds that the project will bring this portion of the Highway 92 corridor within the City Limits to an acceptable level of service under the LCP (LOS C or better). The Planning Commission's approval of this project was appealed to the City Council. The City Council rejected the appeal, granting the final local approval for the project on July 16, 2000. The City's approval was not appealed the Coastal Commission.

Construction was recently completed of an uphill-passing lane on the segment of Highway 92 east of the City. In addition, the SCMTA is preparing plans for a widening and curve correction project from Pilarcitos Creek to the proposed Foothill Boulevard. This project will include widening of existing lanes and curve corrections to improve safety, but terrain and proximity to stream corridors prohibit widening the roadway to provide additional lanes east of the City Limits. Thus, while the proposed lane widening and curve corrections will improve the flow of traffic through this corridor, it is not feasible to increase capacity through further lane additions to the segment of Highway 92 between the City limit line and Highway 280 to the east.

2.3.4 Regional Growth Projections

Contrary to the applicant's cumulative impact analysis, regional growth projections for Half Moon Bay and the San Mateo County Mid-Coast region predict growth that will exceed the capacity of the transportation system.

Cumulative impact analysis is based on an assessment of project impacts combined with other projects causing related impacts (14 CCR § 15355). In accordance with CEQA, cumulative impact analysis must consider reasonably foreseeable future projects or activities. The CEQA guidelines identify two sources of data that can be consulted for the purpose of evaluating the significant cumulative impacts of development (14 CCR § 15130(b)):

(1) Either:

- (A) A list of past, present and probable future projects producing related or cumulative impacts, including those projects outside the control of the agency, or [Emphasis added.]*
- (B) A summary of projections contained in an adopted general or related planning document or in a prior environmental document which has been adopted or certified, which describes or evaluates regional or area wide conditions contributing to the cumulative impact.*

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The applicant's traffic study is based on a list of projects as described in Subsection (A) to project future development for its assessment of cumulative project impacts to traffic. The applicant's transportation consultant considered all known permitted and planned developments as provided by City of Half Moon Bay and San Mateo County planning staff and an additional 540 residential "in-fill" units in determining expected growth. Based on these data, the applicant considers the traffic volume that would be generated by the addition of 2,308 residential units, 582 hotel units, and 250,000 square feet of commercial development for its cumulative traffic impact analysis (Fehr & Peers 2000a). However, the applicant's transportation consultant did not include all of the projects required to be considered in compiling a list of past, present, and probable future projects under CEQA. The CEQA Guidelines provide (14 CCR § 15130(b)):

"Probable future projects" may be limited to... projects included in an adopted capital improvements program, general plan, regional transportation plan, or other similar plan... (Emphasis added)

The list of past, present, and probable future projects used for the applicant's transportation analysis is incomplete, and underestimates future growth because all projects identified in the City and County General Plans and the San Mateo County Countywide Transportation Plan have not been included. CEQA Regulation Section 15130(b)(1)(B) provides an alternative method to determine the impacts of other projects causing related impacts that relies on adopted planning documents. This method supports the use of the Half Moon Bay and San Mateo County LCPs and the San Mateo County Countywide Transportation Plan as the relevant planning documents for the purpose of assessing the potential cumulative impacts of the proposed development. The housing supply growth projections contained in these planning documents are addressed below.

Land Use Plans

The San Mateo County and Half Moon Bay Land Use Plans specify the approximate number of households in the Mid-Coast region at buildout. These projections are based on current zoning and available lots. The area contains a large number of undeveloped lots in existing "paper subdivisions" dating back to the early 20th Century. The LUPs do not fully account for the development of these lots because an accurate count of the number of developable lots in these paper subdivisions does not exist. As a result, the buildout levels shown may significantly underestimate buildout, particularly in the County.

Half Moon Bay LUP Table 1.1 *Maximum Housing and Population, Half Moon Bay Land Use Plan* shows the City at 3,612 existing units as of 1992, growing to full buildout of 7,991-8071 households by 2020. These projections are based on a 3-percent annual growth rate consistent with the City's certified LCP Measure A growth restriction and a ratio of 2.6 persons per household.

The San Mateo County LUP estimates the buildout population for the rural and urban Mid-Coast area north of Half Moon Bay at 17,085 persons, and for the south of the City (South Coast) at 5,000 persons (LUP Table 2.21 *Estimated Buildout Population of LCP Land Use Plan*). The LUP does not estimate the number of households that these population levels would reflect. Using the same ratio of 2.6 persons to household used for the City's LUP, the County buildout levels expressed in numbers of households is 6,571 for the Mid-Coast and 1,923 for the South Coast. There are no annual residential growth restrictions in the County Mid-Coast and South Coast planning areas outside the City of Half Moon Bay.

San Mateo County Countywide Transportation Plan

In June 1997, the City/County Association of Governments of San Mateo County (CCAG) published the second edition of the San Mateo County Countywide Transportation Plan Alternatives Report (CCAG 1997). The CTPAR analyzes land and transportation alternatives for cities, the County and transportation agencies to consider as the basis for the development of future land use and transportation development policy. The study consists of four major components: (1) a Travel Demand Forecasting Model which predicts how people travel and what impacts those trips have on the County's transportation system, (2) a Land Use Information System (LUIS) which provides existing and projected numbers of households and jobs for each transportation analysis zone, (3) five land use scenarios to assess how different land use densities and patterns affect travel demand and mode, (4) eighteen transportation scenarios to test how well additive groups of projects relieve congestion.

The LUIS was developed specifically for the purpose of analyzing potential impacts of future development and job growth on the County's transportation network. The LUIS is based on information provided from each local jurisdiction, including up to date information on recently completed projects, projects under construction, proposed projects, and the supply of potential development sites (including new subdivisions) and in-fill areas.

The five land use scenarios in the CTPAR are: (1) Base Case 2010, (2) General Plan Buildout, (3) Economic Development, (4) Urban Reuse/Opportunity Areas, and (5) Reduced Growth. The sources used to develop the different scenarios include the LUIS, ABAG Projections '94, data provided by local jurisdictions, San Francisco International Airport Master Plan Final EIR, and Economic & Planning Systems, Inc.

The Base Case 2010 Scenario projects the addition of 2,555 new households will be constructed in Half Moon Bay between 1990 and 2010 for a total of 5,692 households in the City. The scenario predicts 1,798 new households for this period in the unincorporated Mid-Coast region reaching a total of 5,367 by 2010. The growth forecasts for this scenario were specifically derived from planned development and vacant land capacity information provided by local jurisdictions.

The General Plan Buildout Scenario projects the buildout for Half Moon Bay as 7,196 total households, an increase of 4,059 units from the 3,137 units existing in 1990. Buildout for the unincorporated Mid Coast is projected as 5,367 households. The growth projections for this scenario are based on local jurisdictions' future land use designations, estimates of residential development and infill capacity and projected absorption to buildout.

The Economic Development Scenario is designed to test the effects of providing increased housing in the job center areas of the County above the level projected under the base case. This scenario reflects the addition of a total of 50,000 new households in the County by 2010, which is 18,000 more than the level projected by the Base Case 2010 Scenario. Through rezoning and redevelopment, new housing above the existing General Plan buildout levels would be provided in every subregional planning area *except* Half Moon Bay and the unincorporated Mid Coast. Under the Economic Development Scenario, the change in housing supply in these two coastal planning areas for the period between 1990 and 2010 would be reduced from the Base Case projections by 63-percent in the City and by 87-percent in the unincorporated areas. The number of households in 2010 would be reduced in this scenario to a total of 4,087 in the City and 3,811 in the unincorporated area.

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The Urban Reuse/Opportunity Areas Scenario is designed to determine the effect of increasing land use densities in strategic areas. "Opportunity Areas" for this scenario are defined as areas that can support intensified development. This scenario assumes 8,000 additional households in Opportunity Areas than in the Base Case. This scenario, like the Economic Development Scenario, provides for increased housing development above the Base Case level in all planning subregions except for Half Moon Bay and the unincorporated Mid-Coast. This scenario projects the total number of households by 2010 as 3,958 in the City and 3,811 in the unincorporated area, representing 68-percent and 87-percent reductions in growth from that projected by the Base Case.

The Reduced Growth Scenario assumes reductions in both the increases in housing supply and employment. Key to this scenario is the assumption that job growth will be limited proportional to new households. This scenario projects the total number of households by 2010 as 3,958 in the City and 3,811 in the unincorporated Mid-Coast area – the same levels as the Urban Reuse Scenario.

Discussion – Regional Growth Projections

The growth projections assumed for the applicant's cumulative impact analysis are significantly lower than those contained in both the relevant general plans/land use plans and in the regional transportation plan. Based on the allowable buildout under the Half Moon Bay and San Mateo County LUPs, future traffic volumes are projected to be much greater than those used in the applicant's traffic analysis.

Table 1 below compares the buildout data contained in the LCPs updated with U.S. Census and California Department of Finance data to make it comparable to the information presented in the applicant's studies, the CTPAR, and the applicant's cumulative impact analysis (Fehr & Peers 2000a).

TABLE 1

Additional Housing Units after 2000					
Source	LCP 2010	LCP Buildout	CTPAR 2010	CTPAR Buildout	Applicant's study
Half Moon Bay	2,195	4,117	1,738	3,242	1,507
San Mateo Co. Mid-Coast	not available	3,438	1,679	1,679	799

HOUSING UNIT GROWTH PROJECTIONS

***Estimated levels based on update of 1990 levels using U.S. Census and California Department of Finance data.**

The discrepancy between the buildout projections in the major planning documents for the region and the assumptions used in the applicant's traffic studies profoundly affect the results of the cumulative impact analysis for the project. Using either the LCP or the CTPAR evidences greater congestion and lower levels of service at buildout in all the locations addressed in the Fehr & Peers report.

2.3.5 Traffic Volume Projections

Traffic generated by the proposed development will exceed the existing and future capacity of the area highways.

Trip Generation

Construction-related traffic has the potential to adversely affect local traffic circulation on Terrace Avenue and at the intersection of Terrace and Highway 1. Construction traffic associated with the proposed project will generate an average of 46-50 trips per day over an approximately 300-day construction period through the unsignalized Terrace Avenue/Highway 1 intersection (Fehr & Peers 2000b). This construction traffic represents a 1.6-percent increase over the current peak-hour traffic within the Highway 1 corridor north of North Main Street.

Assessment of the post-construction traffic impacts of the proposed development is based on estimated vehicle trip rates for a 150-unit development. The development will generate 152 new trips during the PM peak-hour and 142 new trips during the Saturday noon peak-hour (Fehr & Peers 2000a). These new trips represent an approximately 4.7-percent increase of traffic within the Highway 1 corridor north of North Main Street.

During the May 12, 2000 hearing for the proposed project, the Commission expressed concern that the applicant's figures seem too low and therefore directed the staff to review how the trip generation numbers were derived. The applicant's transportation consultant calculated vehicle trip rates for the project based on the Institute of Transportation Engineers publication *Trip Generation 5th Edition*. The methodology contained in the ITE Trip Generation Manual is widely accepted by transportation planners as the standard for determining vehicle trip generation rates. However, the Commission's transportation project analyst recalculated the vehicle trips that would be generated by the proposed project using the updated ITE Manual *Trip Generation 6th Edition*. Staff's calculations showed an additional four trips during the weekday PM peak hour and two additional trips during the Saturday noon peak hour for a revised total of 156 and 144 trips respectively. The difference between the applicant's and the staff's calculations regarding trip generation are insignificant and do not affect the results of the analysis of the impacts of the development to regional cumulative impacts to traffic. The staff's calculations are shown in Appendix B.

Applicant's Traffic Impact Analysis

The applicant's traffic study includes projected traffic volumes generated by the Pacific Ridge development based on four different site access alternatives (Fehr & Peers 2000a). Based on the above-described growth assumptions, the applicant's transportation consultant projects future traffic volumes as follows:

- Weekday PM peak-hour for Highway 1 between North Main Street and Terrace Avenue – 3963 trips (proposed project contributes 2.2 percent toward total).
- Saturday noon peak-hour for Highway 1 between North Main Street and Terrace Avenue – 4378 trips (proposed project contributes 2.6 percent toward total).
- Weekday PM peak-hour for Highway 92 between North Main Street and [proposed] Foothill Boulevard – 2987 trips (proposed project contributes 2.0 percent toward total).

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- Saturday noon peak-hour for Highway 92 between North Main Street and [proposed] Foothill Boulevard – 3053 trips (proposed project contributes 1.1 percent toward total).

Using these cumulative traffic increase forecasts, the applicant's transportation consultant reaches the following conclusions. If all of the Highway 1 and 92 improvements described above are constructed, all intersections on Highway 1 north of North Main Street and Highway 92 between Highway 1 and [proposed] Foothill Boulevard would operate at acceptable levels of service LOS A-D, and the project would not therefore result in significant cumulative traffic impacts.

The applicant's analysis shows that without the roadway improvements, all of the Highway 1 intersections would operate at LOS F. Under this scenario, the applicant concludes that the project would result in significant cumulative impacts to traffic. The applicant also notes that even without the roadway improvements, significant cumulative traffic impacts could be avoided if access to the project site were provided via either Foothill Boulevard or a combination of both Foothill and Bayview.

However, as discussed above, the growth projections used for the applicant's cumulative impact analysis does not comport with either of the methods to calculate cumulative impacts that are identified in CEQA. Thus, the conclusions reached in the applicant's analysis regarding the cumulative impacts of the development on traffic underestimate future growth because all probable future projects as defined by CEQA have not been included.

Countywide Transportation Plan Traffic Projections

The CTPAR considers eighteen transportation scenarios to test how well additive groups of projects relieve congestion. Six primary transportation scenarios were developed to test the effects to regional traffic congestion of additive groups of transportation improvement projects cumulatively. Twelve secondary transportation scenarios were developed to allow more detailed analysis of improvements to a single transportation mode. For purposes of evaluating the potential cumulative impacts of the proposed development, the Commission assumes the maximum level of transportation improvements considered under the CTPAR as described in Transportation Scenario 6c.

CTPAR Transportation Scenario 6c assumes that all contemplated highway and transit improvements throughout the County are constructed, including the Devil's Slide bypass, Highway 92 widening and intersection improvements within Half Moon Bay, curve corrections, shoulder widening, slow vehicle passing lane for the section of Highway 92 east of Half Moon Bay to Highway 280, and public transit improvements to Caltrain, BART, and bus services. The CTPAR does not consider transportation improvement projects that are not planned or programmed such as widening and/or intersection improvements to Highway 1 within the Half Moon Bay City Limits.

The CTPAR combines the five land use and eighteen transportation scenarios to test a total of nine primary and 14 secondary alternatives to test the effects of various combinations of land use and transportation scenarios using the Travel Demand Forecasting Model. The Travel Demand Forecasting Model was developed using interactive transportation planning software to be consistent with the Metropolitan Transportation Commission's (MTC) regional travel demand forecasting model. The model consists of four main components: (1) trip generation, (2) trip distribution, (3) modal split, and (4) trip assignment. These are the typical components found in

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models designed to simulate travel demand based on different assumptions about land use, demographics and transportation system characteristics. The modal split component of the model was refined in 1994 and 1995 to provide a finer level of detail than the MTC model.

The nine primary alternatives analyze transportation improvements under different land use assumptions that impact all modes of transportation. The secondary alternatives assess the effects of improvements that impact only one transportation mode. Primary Alternative 6c combines Transportation Scenario 6c (maximum improvements) with the Land Use Scenario 1 (Base Case 2010). This transportation scenario is intended to show the congestion levels that will exist in 2010, even with \$3.2 billion in transportation system improvements, without substantial land use and zoning changes.

Exhibit 12 shows the projected year 2010 volume to capacity (v/c) ratios during the PM peak-hour on Highways 1 and 92 under Alternative 6c. A v/c ratio of greater than 1.00 is the equivalent to LOS F. As shown in Exhibit 12, significant portions of Highway 1 north of Highway 92 will operate at v/c ratios in excess of 1.00 in both the north and southbound directions, including most of the City of Half Moon Bay. The PM peak-hour v/c ratio for westbound Highway 92 is projected under Scenario 6c to exceed 2.00 for most of the corridor east of the City to Highway 280. Thus, the CTPAR shows that even with the maximum level of transportation system investment, traffic volumes on both highways is projected to be far in excess of capacity, if residential and commercial development proceed as projected, within the limits of the City and County LCPs. It is also important to note that the Base Case 2010 land use scenario used for this alternative assumes less growth than the level allowable under the City and County LCPs and under Half Moon Bay's Measure A growth limits.

Discussion – Traffic Volume Projections

As discussed above, the applicant's transportation analysis does not comport with either of the methods to calculate cumulative impacts that are identified in CEQA. Consequently, the conclusions reached in the applicant's analysis regarding the cumulative traffic impacts of the project underestimate housing growth compared with the City and County Land Use Plans and the CTPAR.

In an October 19, 2000 memo, the applicant's transportation consultant asserts that CTPAR Transportation Alternative 6c does not accurately project future traffic congestion for the region because it overestimates population growth within the City of Half Moon Bay and does not account for improvements to the Highway 1 corridor within the City (Fehr & Peers 2000c). The applicant challenges the Scenario 6c growth projection based on the assertions that it does not consider the annual population growth restrictions under Half Moon Bay Measures A and D or limited water availability (Fehr & Peers 2000c).

Growth Restrictions

LUP Policy 9.4, Residential Growth Limitation, limits the number of new dwelling units that the City may authorize to that necessary to allow an annual population growth of no more than 3-percent. LUP Table 9.3, *Phasing Schedule to Year 2020 Based on Maximum of 3% Annual Population Growth*, forecasts a total of 6,149 households in the City in the year 2010. Scenario 6c is based on a forecast of 5,692 households in 2010. Thus, contrary to the applicant's position, Scenario 6c underestimates potential growth under Measure A.

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City of Half Moon Bay voters passed Measure D in November 1999, imposing a 1-percent annual population growth limit within the City (with an additional 0.5-percent allowed in the downtown area). Measure D is intended to replace the existing 3-percent growth restriction under Measure A. Litigation challenging the legality of Measure D was filed shortly after its passage. The lawsuit has been stayed pending Coastal Commission approval of an LCP amendment to enact the measure. On November 14, 2000, the Half Moon Bay City Council considered. If Measure D is enacted and withstands legal challenge, the new 1.5-percent growth restriction would become effective. However, before it is effective, and particularly before the litigation concerning its legality has concluded, the Commission finds that it is premature to assume a 1-percent³ annual population growth limit for purposes of evaluating the cumulative impacts of the proposed development as suggested by the applicant.

Land Use Scenario 1 is the only scenario used in the study that estimates 2010 housing levels under current zoning and growth restrictions. The reduced 2010 housing levels in Half Moon Bay and the Mid-Coast estimated under Land Use Scenarios 3, 4 and 5 all assume land use plan and zoning changes to significantly reduce future development in the City and the County. It would be inappropriate to use these scenarios for a cumulative impact analysis before such plan changes have occurred.

Notwithstanding the previous discussion, even if Measure D does go into effect in the future, it will only serve to slow growth within the incorporated area of Half Moon Bay. Measure D will not reduce the level of growth at LCP buildout within the City and will not slow the growth in areas outside of the City Limits.

Water Availability

The applicant asserts that limited water availability will limit housing growth below the levels predicted under Land Use Scenario 1 and the LUPs. The applicant's discussion of water availability is limited to the statement that "According to Blaire King (City Manager, Half Moon Bay) there are only about 800 available water hook-ups for the San Mateo Coast including Half Moon Bay." This statement is based on a memo that states that as of May 1997, approximately 800 non-priority and 1,100 priority water connections from the Crystal Springs water supply project remained uninstalled (pers. com. Blaire King 11/13/00).

The Coastside County Water District (CCWD) provides water service for a portion of the San Mateo County coast, including Half Moon Bay, El Granada, Miramar and Princeton-by-the-Sea. The Crystal Springs project, completed in 1994, serves the southern portion of the CCWD service area. The northern portion is served by the Denniston Creek project. The District also operates seasonal wells on Pilarcitos Creek and purchases water from the San Francisco Water Department's Pilarcitos and Upper Crystal Springs reservoirs.

The CCWD does not supply water to the South Coast area or the Mid-Coast areas north of Miramar including Montara. Water service in Montara is supplied by the Citizen's Utility District and private wells. The South Coast area is served by private wells and some small private reservoirs. Both the County and City LCPs allow private wells and new wells to continue to be drilled to serve some new development in the region.

³ The applicant's transportation consultant does not consider the additional 0.5-percent growth allowable in the downtown area.

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The applicant's contention that only 800 water connections are available to serve new development on the San Mateo Coast is inaccurate. Moreover, if water supply becomes a constraint on growth in the future, nothing prohibits upgrades to the water supply system to meet demand. This was in fact the reason that the CCWD constructed the Crystal Springs project. At this time, the CCWD's water transmission system is more of a constraint to growth than water supply.

Consequently, the CCWD is currently contemplating expansion of the transmission system. 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. 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.

For the reasons discussed above, the Commission cannot rely on the applicant's assertion that limited water supply will constrain growth in Half Moon Bay and the County below the levels projected in the CTPAR and the LUPs.

Highway 1 Improvements

The applicant's transportation consultant points out that the CTPAR does not consider the effects to traffic congestion of the Highway 1 widening and intersection improvements between North Main Street and Kehoe Avenue. The applicant's traffic analysis relies on these improvements to offset traffic impacts of the development and shows that without the widening and intersection improvements, the project will result in significant adverse impacts. The improvements proposed by the applicant to be provided as a part of the project are installation of a traffic signal at the Terrace Avenue/Highway 1 intersection and widening of Highway 1 to four lanes from North Main Street to 400 feet north of Terrace Avenue. As discussed on page 11 of this report, these improvements, along with other Highway 1 improvements in the City remain at an early stage of planning without funding, environmental review or regulatory approvals. The applicant cannot guarantee that if the project is approved, these improvements will actually be constructed. Thus, the Commission cannot rely on these potential Highway 1 improvements to mitigate the impacts to regional traffic congestion caused by the proposed development. Even if the section of Highway 1 from North Main Street to 400 feet north of Terrace Avenue is widened and the traffic signal is installed at Terrace Avenue, significant sections of both Highway 1 north of the City and Highway 92 east of the City will continue to operate at LOS F or worse. Highway improvements to this small section of roadway within the City will do little to mitigate the impacts of traffic congestion caused by new development to coastal visitors.

2.3.6 Scope of Cumulative Impact Analysis

The applicant's cumulative impact analysis is too narrow in its scope.

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Consideration of project impacts at a regional level is expressly required under the CEQA Regulations concerning cumulative impact analysis. In addition to underestimating growth, the applicant's cumulative impact analysis fails to consider the impacts of the development to traffic congestion at a regional level. The analysis contained in the Fehr & Peers report is based on forecasted operation of six intersections within the City, representing a very limited portion of the affected roadways. However, the project's contribution to the cumulative loading of coastal roads is not limited to these intersections. The analysis assumes that Highway 92 will be widened to four lanes between Highway 1 and the City limit, but it does not present an analysis of the cumulative impact of traffic east of the City limit where Highway 92 will remain two lanes. It also does not analyze the impact where Highway 1 will remain two lanes within the urban area, even after the assumed widening in the vicinity of the project, nor Highway 1 in the rural area north and south of the City where Coastal Act Section 30254 requires that it remain two lanes. Highways 1 and 92 are the only roads available to reach this part of the coast. An analysis of the contribution of the project to potential bottlenecks on these coastal arteries is essential in evaluating the potential cumulative impacts of the proposed development.

As discussed above, the applicant concludes that with the Highway 1 and 92 improvements contemplated by the City, the six studied intersections would operate at acceptable levels and that the project would not therefore result in cumulative traffic impacts. However, the CTPAR shows that even with the maximum investment of \$3.2 billion in highway and transit improvements, the regional level of service on Highways 1 and 92 will be significantly worse than the current unacceptable levels, *even with growth control measures in place*.

The applicant's transportation consultant provides the following reasons for not incorporating the CTPAR conclusions into its analysis (Fehr & Peers 2000a):

- *The environmental analysis required that intersection operations be analyzed, requiring traffic projections down to individual turning movement. By loading traffic to the road network from only two TAZs [Traffic Analysis Zones], the countywide model is not able to accurately reflect traffic flow at the intersection level.*
- *The countywide model does not contain the road network necessary to evaluate operations at secondary intersections within Half Moon Bay (i.e., Terrace, Grandview, and Bayview).*
- *In determining link levels of service, the countywide model does not take consider [sic] lane channelization, intersection control, signal timing and phasing, etc.*

In other words, the CTPAR analysis addresses broad-scale, regional impacts, whereas the Fehr & Peers analysis addresses specific intersections nearby the development site and a small section of the Highway 1 corridor.

While it is accurate to note that the CTPAR does not include analysis of the operation of secondary intersections, it does provide a very detailed analysis throughout the highway corridors and accounts for both lane widening and intersection improvements. The fact that the CTPAR does not study individual intersection operations does not invalidate its relevance in evaluating the regional cumulative traffic impacts of the proposed development.

The applicant suggests that CTPAR Alternative 7 best predicts future traffic congestion for the region. Alternative 7 is based on Transportation Scenario 6 and Land Use Scenario 3. As discussed above, Land Use Scenario 3 (Economic Growth Scenario) assumes a total of 4,087

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households for the City of Half Moon Bay in 2010. Based on the January 2000 California Department of Finance population and housing estimates, there are currently approximately 3,954 households in the City. Thus, the growth level assumed under Land Use Scenario 3 would allow construction of a total of approximately 133 households within the City between 2000 and 2010. This level of development would represent an annual housing growth rate of approximately 0.34-percent within the City for the next ten years, a rate far lower than those allowable under either Measures A or D. Land Use Scenario 3 assumes even greater reductions in growth in the unincorporated areas of the County's Mid-Coast, with a reduction of 87-percent that expected under the Base Case. Currently, there are no growth reduction measures in effect in the County Mid-Coast. It is highly improbable that such low growth rates will be realized in either the City or the County areas for the period from 2000 to 2010. Therefore, the housing growth rates assumed in developing CTPAR Alternative 7 are not appropriate for use in assessing the potential impacts to regional traffic congestion levels of the proposed development.

2.3.7 Traffic Impacts to Public Access and Visitor Serving Uses

Traffic congestion resulting from the proposed subdivision will interfere with the public's ability to access the coast.

LUP Policy 9-4 requires that development shall be served with adequate services and that lack of adequate services shall be grounds for denial of a development permit or reduction in the density otherwise allowed under the LUP.

Section 10.4.4 of the City's LCP states that:

- The Coastal Act requires that road capacity not be consumed by new, non-priority developments, at the expense of adequate service for priority uses, such as public recreation and visitor-serving commercial uses.
- The major issue involves potential conflict for transportation capacity between new residential development and reservation of adequate capacity for visitor travel to Coastside beaches.

LCP Policy 10-4 reserves public works capacity (including highway capacity) for priority uses to ensure that this capacity is not consumed by other development, and controls the rate of permitted new development to avoid overloading public works and services. In addition, the City adopted Coastal Act Sections 30210 and 30252 as guiding policies to the LCP. These policies require that development shall not interfere with the public's ability to access the sea, the location and amount of new development should maintain and enhance public access to the coast, and that new development be located in areas with adequate public services where it will not have a significant adverse effect, either individually or cumulatively, on coastal resources. Moreover, pursuant to LUP Policy 9-4, lack of adequate services shall be grounds for denial of a development permit or reduction in the density otherwise allowed under the LUP.

The Half Moon Bay shoreline includes approximately 4.5 miles of heavily used publicly owned beach. As the population of the greater San Francisco Bay area continues to grow, use of the Half Moon Bay beaches is expected to increase. The congestion on Highways 1 and 92 is currently at a level that significantly interferes with the public's ability to access the Half Moon Bay shoreline. Approval of new subdivisions in the area would increase the level of development beyond that required to be allowed under the current parcelization. Such action would further interfere with the public's ability to access the San Mateo coast, would consume

road capacity for a non-priority use, and would locate development in areas with inadequate services creating a significant adverse impact on coastal resources in conflict with the above cited policies.

2.3.8 Land Use Controls

The San Mateo County Congestion Management Plan (CCAG 1998) states that one of the key contributors to traffic congestion in the County is the imbalance between the number of people who work in the County and the County's housing supply. For most communities in the County, the problem is a shortage of housing near job centers. However, in the County mid-coast region including Half Moon Bay, the problem is reversed. It is primarily because the Mid-Coast housing supply far exceeds the job supply that commuter traffic congestion on Highways 1 and 92 is at its current state. The CMP finds that based on projected job growth the 2010 housing supply in the City will exceed local housing needs by 3,235 units. The CMP shows that given expected job growth rates, only 315 additional housing units above the 1990 level will be needed in the City by 2010. Additional job growth above that projected in the City could help to alleviate this imbalance. Congestion management dictates that the County's housing supply needs should be addressed by providing additional housing in the job centers of the County and not in the Mid-Coast area.

According to the data contained in Table 9.1 of the Half Moon Bay LUP, there are currently approximately 2,500 existing subdivided small lots that could potentially be developed under the LUP. These include 2,124 to 2,189 in-fill lots in existing residential neighborhoods and 325 to 340 lots in undeveloped "paper subdivisions." Many of these existing lots, particularly those in "paper subdivisions" do not conform with current zoning standards, and their development potential is unclear. Assuming arguendo that some of these lots are legal lots, constitutional principles upheld by the U.S. Supreme Court guarantee that an owners' land shall not be taken from them without just compensation. In accordance with this principle, Coastal Act Section 30010 provides:

The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

However, while the owners of legally subdivided lots are entitled to a reasonable economic use of their existing legally subdivided lots, the Commission is not obligated to create additional lots.

Buildout of the existing already subdivided small lots within the City could provide for as many as 2,529 new housing units, exceeding the City's 2010 housing supply need by 2,214 units (based on expected job growth) according to the County CMP. The Pacific Ridge Development site is made up of two existing lots. Given the inability of the area's highways to serve the potential development of the existing subdivided lots within the City, the Commission cannot, consistent with the policies of the LCP, approve new subdivisions that would serve to further increase the potential buildout of the area.

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One way in which the impacts of new subdivisions within the City to the highway congestion could be avoided is through a transfer of development rights (TDR) program. A TDR program (also known as transfer of development credit) could allow the overall buildout level within the City to be reduced by transferring the development rights of existing undeveloped small lots to unsubdivided areas. Such a program in the City could be used to retire the development potential of the many non-conforming lots in "paper subdivisions" and in existing neighborhoods. Such a program could facilitate more appropriate planning to allow development in areas more suitable for residential uses while preserving open space for public access, viewshed, and habitat protection.

In December 1999, the City Manager presented a "Draft Preliminary Assessment of the Feasibility of Establishing a TDR Program in Half Moon Bay" to the City Council. The report presented to the City Council recommended that after additional research concerning primarily an evaluation of the supply of potential "donors" and "receivers" for TDR credits, the City could consider the TDR Program as a part of its General Plan/LCP update.

2.3.9 Conclusion

Current traffic volumes in numerous bottleneck sections of both highways within the City and in the broader county region exceed maximum capacity with a v/c ratio worse than LOS F. The CTPAR, which represents the most comprehensive regional transportation study undertaken for the area, finds that even with the maximum level of investment in transit and highway improvements, congestion in the Mid-Coast region of the County will continue to increase over the next decade. The resulting traffic volumes on both Highways 1 and 92 will greatly exceed the capacity of these roadways. The proposed development will significantly contribute to the existing traffic congestion, adversely impacting the public's ability to access the coast for priority uses such as public access and recreation.

The LUP contains several policies that require new development to be served by adequate road facilities to serve priority uses such as public access and recreation, including Policies 9-2, 9-4, 10-4, and 10-25. These LCP policies carry out the requirements of Coastal Act Sections 30250(a) and 30252, which the City has adopted as guiding policies to the LCP. Section 30250(a) requires that new development be located in areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. Section 30252 states that the amount and location of new development should maintain and enhance public access to the coast. LUP Policy 9-4 requires that development shall be served with adequate services and that lack of adequate services shall be grounds for denial of a development permit or reduction in the density otherwise allowed under the LUP. Policy 10-4 states that the City shall reserve public works capacity for priority land uses including public access and recreation from consumption by other non-priority uses such as residential development. LUP Policy 10-25 designates LOS C as the desired level of service on Highways 1 and 92 except during the weekday and weekend peak-hours when LOS E may be accepted. The proposed subdivision would create additional demand on area highways for a non-priority use far in excess of their current and future capacity. In accordance with the requirements of the LCP, the proposed subdivision must be denied because it does not fully mitigate the impacts of such development to regional traffic congestion.

Because adequate road capacity will not be available to serve the development upon completion, the Commission denies CDP Application A-1-HMB-99-022 on the basis that the proposed

development is inconsistent with LUP Policies 9-2, 9-4, 10-4, and 10-25 and with Coastal Act Sections 30210, 30250(a), and 30252.

2.4 Project Site Access

The development will not be served upon completion with adequate road facilities as required by the LCP.

2.4.1 Issue Summary

Both the LCP and the City's General Plan Circulation Element contemplate the future construction of Foothill Boulevard and/or Bayview Drive access to provide street access to the project site. Neither of these roads have been constructed and the applicant cannot assure at this time that construction of either of these streets will ever occur. Therefore, the applicant proposes access to the site via Terrace Avenue, an existing street that dead-ends at the west side of project site. As a part of this proposal, the applicant will provide funding for the installation of a traffic signal at the Terrace Avenue/Highway 1 intersection and for widening 400 feet of the highway to either side of this intersection.

The residents of the existing neighborhood along Terrace Avenue are concerned that the additional traffic from the Pacific Ridge Development will exceed the design capacity of this street and will create a safety hazard.

2.4.2 LCP Standards

LUP Policy 9-2 specifies that no permit for development shall be issued unless a finding is made that such development will be served upon completion by adequate road facilities. LUP Policy 9-4 states that (1) all new development shall be accessed from a public street or have access over private streets to a public street, (2) development shall be served with adequate services and that lack of adequate services shall be grounds for denial of a development permit or reduction in the density otherwise allowed under the LUP, (3) that the applicant shall assume full responsibility for the costs for service extensions or such share as shall be provided through an improvement or assessment district for required service extensions, and (4) that prior to issuance of a development permit, the Planning Commission or City Council shall make the finding that adequate services will be available to serve the proposed development upon its completion.

These policies are implemented by Zoning Code Section 18.20.070, which states in relevant part:

18.20.070 Findings Required. *A Coastal Development Permit may be approved or conditionally approved only after the approving authority has made the following findings:*

...

D. Adequate Services. *Evidence has been submitted with the permit application that the development will be provided with adequate services and infrastructure at the time of occupancy in manner that is consistent with the Local Coastal Program...*

LUP Policy 9.3.7(f) requires construction of the portion of Foothill Boulevard located within the PUD area as a part of the development.

2.4.3 Discussion

The project site is located approximately 3,300 feet north of Highway 92 and approximately 2,000 feet inland of Highway 1, and is separated from these highways by both developed and undeveloped areas. Terrace Avenue, which currently serves the Grandview Terrace neighborhood with a connection to Highway 1 to the west, is the only existing road connection to the project site. The LUP Map shows proposed future access to the site via Foothill Boulevard, which would run north from Highway 92 linking with the project site and with existing roadways. According to City planning staff, the currently preferred alternative access road to the development is Bayview Drive. Each of the alternative roadway connections to the project site are shown on Exhibits 2 and 3.

Foothill Boulevard

The Circulation Element of the City's General Plan shows Foothill Boulevard as a planned route to serve the neighborhoods to the north of Highway 92 and inland of Highway 1 including the Pacific Ridge Development site. Pursuant to this plan, Foothill would be designed as a four-lane arterial street with a median, bicycle lanes, and sidewalks. The Circulation Element defines arterial streets such as this as "Limited Access Facilities" designed to carry traffic from collector streets and to and from other parts of the City. The design criteria for Limited Access Facilities specify that direct access to abutting property shall be minimized. In accordance with this design criterion, LUP Policy 9.3.7(f) prohibits direct driveway access from lots within the Pacific Ridge Development to Foothill, and LUP Policy 10-31 requires developers of property along the planned alignment of Foothill Boulevard to participate in an assessment district to provide funding necessary to construct this roadway.

The project was initially designed with the primary access via Foothill Boulevard as specified in the LCP. However, the environmental review process undertaken for the City's approval revealed that the proposed alignment of Foothill Boulevard would encroach into wetlands. The City of Half Moon Bay LCP prohibits construction of roads within 100 feet of a wetland. According to a preliminary biological study conducted for the Draft EIR prepared for the City for the proposed construction of Foothill Boulevard, it appears that Foothill can be realigned to avoid wetlands. However, no final environmental review has been certified for this proposed new alignment.

The applicant, the appellants, and City staff have all indicated that the Half Moon Bay community supports the deletion of Foothill Boulevard from the Circulation Element of the City's General Plan as approved in 1992. Consistent with this preference, the Planning Commission recommended revisions to the 1992 Circulation Element that include elimination of Foothill Boulevard in draft circulation element revisions considered in September 1999. These draft revisions have not been finalized or approved by either the City or the Coastal Commission and are therefore not effective at this time. Nevertheless, while they are not a part of the legal standard of review for the proposed project, the information contained in the draft revisions is relevant background for the Commission's consideration of this permit application.

Because of the outstanding issues concerning wetlands and the potential that the City may revise its General Plan and LCP to eliminate Foothill Boulevard, the applicant amended the original project plans to include only the portion of Foothill located within the project site with no connection to Highway 92 to the south. For purposes of the proposed project, Foothill would therefore serve as a residential street only, not as an arterial street. Nevertheless, the applicant

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has proposed to construct this portion of Foothill consistent with the design criteria specified for arterial streets, with no direct driveway access to any of the proposed lots. While only two lanes are proposed at this time, the project plans provide an 80-foot right-of-way sufficient to provide four lanes on this portion of Foothill consistent with the design contemplated in the 1992 Circulation Element and the certified LCP. Notwithstanding the applicant's proposed improvements, however, the Commission cannot find that the proposed development will be served by Foothill Boulevard as contemplated in the certified LCP.

Bayview Drive

Bayview Drive is a proposed street that would be located on the Beachwood subdivision project site directly west of the Pacific Ridge property. Bayview Drive could potentially connect the Pacific Ridge site to Highway 1 to the north of Terrace Avenue through the Beachwood property. The applicant proposes to use Bayview Drive if constructed as the primary access road to the development from Highway 1. However, the City recently denied a coastal development permit application for development of the Beachwood subdivision project. The Beachwood project included the construction of Bayview Drive. The owners of the Beachwood property have no incentive to pursue construction of Bayview Drive in the absence of an approval for the subdivision. The City could exercise eminent domain to acquire the Bayview alignment. However, at this time, the City has not indicated that it intends to pursue condemnation for the road. Therefore, Bayview Drive is not proposed as the access road to the Pacific Ridge site.

Terrace Avenue

Since the applicant cannot construct either Foothill Boulevard or Bayview Drive at this time, the sole access proposed to the Pacific Ridge Development is Terrace Avenue. Terrace Avenue is an existing road running east from Highway 1 to a dead end that abuts the western boundary of the Pacific Ridge property. The applicant proposes to provide both construction and post-construction access to the site via Terrace Avenue, connecting the project site to Highway 1 to the west.

Residents of the Grandview Terrace neighborhood are concerned that the additional traffic generated by the proposed development will exceed the capacity of Terrace Avenue, resulting in both congestion and safety hazards.

The unsignalized Terrace Avenue/Highway 1 intersection currently operates at LOS F due to delays caused by left turn movements from Terrace to southbound Highway 1. The applicant proposes to minimize the impacts of construction traffic to local traffic circulation by avoiding peak hour trips and through the following additional measures:

- Construction equipment and worker vehicles will be staged and parked on the project site.
- The applicant will notify the City 24 hours in advance if more than 25 worker vehicles are to exit the site during the PM peak-hour, and reimburse the City for the cost of any resulting traffic controls at the intersection of Terrace Avenue and Highway 1.
- The applicant will maintain Terrace Avenue free of dirt and debris throughout project construction.
- Heavy construction vehicles will access the site during non-peak hours.
- The applicant will install speed bumps on Terrace Avenue.

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As stated above, the completed development will generate 156 new trips during the PM peak-hour and 144 new trips during the Saturday noon peak-hour. These new trips represent an approximately 4.7-percent increase of traffic within the Highway 1 corridor north of North Main Street. The applicant proposes to mitigate the post-construction traffic impacts by:

- providing approximately \$1 million to the City towards the Highway 1 improvements described in Section 2.3.3 above,
- installing a traffic signal at the Terrace Avenue/Highway 1 intersection at such time that Caltrans determines that the "signal warrants" are met⁴,
- widening Highway 1 for a distance of 400 feet on either side of the Highway 1/Terrace Avenue intersection to provide an additional northbound lane prior to occupancy of the residences, and
- at such time that an alternative access to the site is constructed in the future (i.e., Bayview Drive), the applicant proposes to remove the traffic signal at Terrace Avenue and convert Terrace to an emergency vehicle only access with knockdown barriers at the entrance to the project site.

The applicant's transportation consultant has determined that these measures would improve the operation of the Highway 1/Terrace Avenue intersection from the current LOS F to LOS A (Fehr & Peers 2000b). These measures would substantially contribute toward the completion of the City's proposed \$3 million Highway 1 improvement plan.

Although the proposed signalization would improve left turn movements into and out of Terrace Avenue, it would interrupt flow of through traffic on Highway 1. The distance between the currently signalized North Main Street/Highway 1 intersection and Terrace is approximately 1,000 feet. Spacing signalized intersections on Highway 1 this close could increase congestion on the highway because of insufficient "stacking" space on the highway. Better intersection spacing would be accomplished through the provision of Bayview Drive, located approximately 2,000 feet to the north of Terrace, as the consolidated signalized intersection north of North Main Street. Both the City's existing General Plan Circulation Element and the proposed revised Circulation Element show Bayview Drive as an arterial street with a signalized intersection at Highway 1, and both plans show Terrace Avenue as a neighborhood street without a traffic signal.

The applicant addresses this issue by proposing to remove the signal at Terrace at such time that Bayview Drive is constructed. However, as discussed above, neither the City nor the applicant possess the property rights necessary to construct Bayview. In addition, the City has neither conducted the environmental review nor granted the permits necessary for the construction of Bayview, the Highway 1 improvement project, or the signalization of the Terrace Avenue intersection. Thus, the feasibility of each of these proposed mitigation measures remains in question at this time.

2.4.4 Conclusion

The applicant proposes to provide the improvements to the Terrace Avenue/Highway 1 intersection and widening of Highway 1 that are necessary to serve the development prior to

⁴ A signal warrant is granted by Caltrans upon a determination that the signal is needed at the intersection.

occupancy of the homes. Although this commitment attempts to address the requirements of the LCP, it does not fully satisfy LUP Policies 9-2 and 9-4 or Zoning Code Section 18.20.070.D. These policies require that in order to approve or conditionally approve the permit application, the Commission must first find that evidence has been submitted with the permit application that demonstrates that the development will be served with adequate road facilities at the time of occupancy in manner that is consistent with the Local Coastal Program. The Commission interprets this requirement to mean that evidence provided with the permit application must provide assurance that the required infrastructure will actually be available to serve the proposed development. This interpretation is supported by the language used in LUP Policies 9-2 and 9-4, which both require services to be available "upon completion" of the development. The use of the term "prior to occupancy" in the Zoning Code's implementation of these policies is intended to provide a deadline by which the improvements must be completed. However, this deadline does not eliminate the additional requirement that development actually demonstrate that the required infrastructure will actually be available to serve it before the development is approved. The Commission needs more than the applicant's commitment that the project will not be occupied until services are available. In this case, where the availability of adequate services for the development is contingent on future improvements, the Commission must have reasonable assurances that the service improvements are feasible and will be approved and constructed.

Given these factors, the permit application does not provide sufficient assurances that the improvements to Terrace Avenue and Highway 1 will be constructed. Until such time that a coastal development permit has been granted for the improvements and financial commitments necessary to carry them out have been made, the Commission cannot make the findings required to approve the proposed subdivision. Therefore, the Commission denies the permit application because the proposed development does not meet the requirements of LUP Policies 9-2 and 9-4 and Zoning Code Section 18.20.070.D.

2.5 Biological Report

The Commission denies the permit application because the applicant has not provided a Biological Report that fully describes and maps all sensitive resource areas on and within 200 feet of the project site in accordance with the requirements of the LCP.

2.5.1 Issue Summary

The project site contains environmentally sensitive habitat areas (ESHA) as defined in the LCP including wetlands, riparian areas and sensitive habitat areas. The site is located within an area mapped as a Significant Natural Area by the California Department of Fish and Game. This designation is intended to identify high-priority sites for the conservation of the State's biological diversity.

The LCP contains specific standards for the type of biological information required to be provided for coastal development permit applications for development with potential adverse impacts to environmentally sensitive areas. This information is vital to the determination of whether a proposed development conforms to the biological resource protection policies of the LCP.

2.5.2 LCP Standards

LUP Policy 3-5(a) requires all coastal development permit applicants proposing development in and adjacent to sensitive habitat areas to prepare a biological report by a qualified professional selected jointly by the applicant and the City to be submitted prior to development review. Zoning Code Section 18.38.035.A further specifies that a biological report shall be completed as a part of any permit application for development within 100 feet of any sensitive habitat area, riparian corridor, or wetland. Both of these policies, along with Zoning Code Section 18.38.030, specify the procedures for the preparation and the required contents of such a report, which include⁵:

- describe and map existing sensitive habitats, riparian areas, and wetlands located on or within 200 feet of the project site,
- for areas containing rare and endangered species habitat, define the specific requirements of the species including (for animals) predation, foraging, breeding, migration, water, nesting or denning sites, and (for plants) life histories, soil, climate, and geographic requirements,
- be prepared by a qualified biological consultant selected by the City and paid for by the applicant,

2.5.3 Discussion

The biological information collected for the project site is contained in the following documents:

July 1986 Biological Inventory and Sensitivity Analysis prepared for Allanto Properties by Western Ecological Services Company (WESCO 1986)

The WESCO 1986 biological inventory identified some, but not all of the wetland areas presently delineated on the site, identified coastal scrub habitat in the uncultivated/plowed eastern portion of the site, and documented the presence of sensitive species including: a pair of red tailed hawks, a nesting great horned owl, and migrating waterfowl. The WESCO report states that the site contains suitable habitat, including a former irrigation pond, for several threatened and endangered species, including the San Francisco garter snake, the red-legged frog, California tiger salamander, and western pond turtle. The WESCO biological inventory included an April 1986 survey for San Francisco garter snakes. This survey was conducted by walking transect lines. Live trapping was not used for this survey. The report concludes that because "Site examination in the spring of 1986 and summer of 1987 revealed no rare or endangered plants or wildlife on the Dykstra Ranch property, it can be assumed that the proposed development would have no direct impact on rare and endangered species." The Environmental Impact Report (EIR) also states that suitable habitat for a number of sensitive species may have occurred on the site prior to 1985, but that cultivation had eliminated the natural vegetation that would have constituted sensitive species habitat.

April 1990 Final EIR for the Dykstra Ranch Development prepared for the City by Western Ecological Services Company (HMB 1990);

The biological information contained in the project EIR is primarily based on the WESCO 1986 biological inventory prepared for the applicant. The EIR references the survey conducted by the

⁵The full text of these zoning code provisions, which contain additional requirements to those listed here, is contained in Appendix A.

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consultant in April 1986 to determine the presence or absence of the San Francisco garter snake on the site. As stated above, this survey did not include live trapping. As with the WESCO 1986 inventory, the EIR states that no other species for which the site provides suitable habitat were found but does not describe the survey techniques used to make this determination.

December 1997 Wetland Mitigation and Monitoring Plan prepared for Allanto Properties by Resource Management International (RMI 1997)

The wetland delineation conducted by RMI in June 1997 did not accurately describe the full extent of wetlands on the site in accordance with the definition of wetlands contained in the Half Moon Bay LCP. The wetland delineation was subsequently revised to conform to the LCP definition as discussed below.

The RMI mitigation and monitoring plan states that based on information provided in the project EIR and field surveys conducted by RMI in June 1997, no special status plant species have been identified on the site. The RMI report also states that no protected wildlife species have been documented on the site. This conclusion is based on the surveys conducted by WESCO in 1986 and 1987, and on surveys conducted by RMI in July and August 1997 for California red-legged frogs.

November 1998 U.S. Fish and Wildlife Service formal consultation to the U.S. Army Corps of Engineers (USFWS 1998)

The project, as originally proposed, included approximately one acre of wetland fill and therefore required a fill permit from the U.S. Army Corps of Engineers (Corps) under Section 404 of the Clean Water Act. In March 1998, the Corps initiated formal consultation with the U.S. Fish and Wildlife Service (USFWS) concerning potential impacts resulting from the proposed development to the federally endangered San Francisco garter snake and threatened California red-legged frog. Consequently, the USFWS prepared a Biological Opinion for the Corps, in accordance with Section 7 of the Endangered Species Act. The Biological Opinion was based on information provided in the 1987 RMI site assessment and surveys and corresponding mitigation and monitoring plan, correspondence exchanged between the applicant's consultants and USFWS staff, and a site visit by USFWS staff and the applicant's representatives. USFWS states in the opinion that no Biological Assessment was provided for the project.⁶

The Biological Opinion determined that the project site provides suitable habitat for California red-legged frogs and has potential habitat for San Francisco garter snakes. This determination was based on the presence of vegetated water bodies on the site, including the stock pond, the widespread distribution of California red-legged frogs in the area, and evidence that San Francisco garter snakes are potentially present at any water body in the Half Moon Bay area that supports emergent vegetation and amphibians. The Biological Opinion was inconclusive concerning the presence or absence on the site of either of these species, and recommended pre-construction surveys for both species prior to any development. The USFWS also recommended that no development including grading should occur within 150 feet of the pond.

June 1999 Biological Resources Report prepared for Allanto Properties by LSA

⁶ A Biological Assessment is an evaluation of potential project impacts provided by the federal permitting agency to the USFWS for the preparation of a Biological Opinion in accordance with 50 CFR § 402.12.

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Associates (LSA 1999a)

Following the appeal of the City's approval of the project to the Commission, LSA Associates prepared a revised wetland delineation for the applicant. Although this new delineation depicted wetland areas in addition to those previously identified in the 1997 RMI delineation, it did not accurately show the full extent of wetland habitat on the site as defined under the LCP. The report states that no California red-legged frogs or San Francisco garter snakes were observed on the site during the 1986 WESCO surveys. LSA did not undertake new surveys for these species in preparing this biological report.

November 1999 Wetland Delineation prepared for Ailanto Properties by LSA Associates (LSA 1999b)

In response to Commission staff comments concerning the June 1999 wetland delineation, LSA prepared a revised delineation of wetland habitat on the site dated November 4, 1999. The Commission's staff biologist reviewed this delineation with the applicant's consultant in the field and verified that it accurately depicted all of the wetland areas on the site in accordance with the definition of wetlands contained in the LCP. Like the June 1999 delineation, this wetland study did not involve wildlife surveys.

August 2000 California Red-Legged Frog Survey prepared for Ailanto Properties by LSA Associates (LSA 2000)

In response to the June 22, 2000 staff recommendation for denial of the proposed project, LSA conducted a new survey for California red-legged frogs on August 3 and 10, 2000. The survey report identifies the potential habitat areas surveyed as: "a wetland area dominated by cattails in the northwest corner of the site; a stock pond, also in the northwest corner of the site; and an outlet channel that flows from the north end of the stockpond [sic]." Although the survey report does not include a map, it appears from this description that the areas surveyed include the Pond, Wetland A, and Stream 5 as shown in Exhibit 9. It does not appear that the other wetlands and riparian areas identified on the site were included in the areas surveyed. The survey report states that "Three drainages also cross the site from east to west. All three drainages were dry at the time of the survey and did not provide habitat for red-legged frogs." This survey did not document the presence of red-legged frogs in the areas surveyed. The survey did document the presence of bullfrogs on the project site.

The appellants contend that the LCP requirements for a Biological Report have not been triggered for the proposed development because (1) none of the studies conducted for the project describe and map existing sensitive habitats, riparian areas, and wetlands located within 200 feet of the project site, and (2) most of the information concerning biological resources on the site is out of date. Alternatively, the applicant contends that the LCP requirements for the assessment of the potential impacts of the project to biological resources have been satisfied by the various biological resource studies described above.

The applicant has concluded that because none of the studies of the site have affirmatively documented the presence of either the San Francisco garter snake or the California red-legged frog, no threatened or endangered species are on the site. In a May 4, 2000 letter to the Commission, the applicant's representative states:

There are no threatened or endangered species on the Project site, including the red-legged frog or the San Francisco garter snake. Neither species has been observed on the

site during surveys conducted pursuant to USFWS protocols or during any of the other surveys for the EIR, wetland delineations, and or other habitat assessments. (Shimko 2000)

Staff of the U.S. Fish and Wildlife Service has indicated that documenting the presence of this species is extremely difficult to detect and that a simple transect survey is not sufficient to document the presence or absence of the snake (pers. com. Larson 6/16/00). Both the San Francisco garter snake and the California red-legged frog are extremely rare and shy and quickly seek cover when approached. The only survey of the site conducted for the San Francisco garter snake was conducted for the 1986 WESCO biological inventory prepared for the applicant. The WESCO report states that all suitable habitats were surveyed by walking transect lines only, and that live trapping was not used for the survey.

The WESCO report contains no description of the survey techniques used to support the conclusion that the California red-legged frog, California tiger salamander, and western pond turtle were absent from the site. Therefore, the Commission is unable to verify absence or presence of the sensitive species based on the information contained in the 1986 WESCO report, and finds that this report is too far out of date to reliably describe the current biological resources of the project site consistent with the requirements of the LCP.

Zoning Code Section 18.38.055.B.3 provides that the information and analysis contained in an EIR prepared under California Environmental Quality Act may be accepted in lieu of a separate biological report for a coastal development permit application if the EIR adequately meets the requirements of the LCP and the Final EIR was accepted as complete and adequate no more than one year prior to the date of submittal of the permit application. Ailanto submitted its permit application to the City in 1998, eight years after certification of the final EIR. The biological information contained in the project EIR is thirteen to fourteen years old and is therefore too out of date to reliably describe the resources currently located on the site.

Zoning Code Section 18.38.035.B.1 specifies that the Biological Report required for a coastal development permit application must describe and map all wetlands, riparian areas, and other sensitive habitat areas located on or within 200 feet of the project site. None of the studies cited above describe or map the biological resources located within 200 feet of the project site boundaries. Wetland delineations and biological resource assessments have been conducted for the Beachwood Development site located directly to the west of the Pacific Ridge Development site. The Beachwood site studies describe and map some of the biological resources within 200 feet of the approximately one third of the of the western boundary of the Pacific Ridge site. However, the Beachwood site studies do not satisfy the requirement that the Biological Report required for the proposed development describe and map all sensitive coastal resources within 200 feet of the site.

2.5.4 Conclusion

The information provided by the various biological resource studies of the project site does not satisfy the informational requirements described under the LCP for a Biological Report. Most of the information concerning biological resources for the project is out of date. In fact, the only survey for San Francisco garter snakes conducted on the site is fourteen years old, and this survey did not employ techniques necessary to determine the presence or absence of this species. Moreover, both the San Francisco garter snake and the California red-legged-frog are secretive species. The USFWS does not therefore find failure to document presence of these species is

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determinative. The California red-legged-frog is very common in suitable aquatic habitat areas in Half Moon Bay, and it is therefore highly likely that the species is present at the project site. The presence or absence on the site of these protected species has not been determined. None of the studies described above included a description of sensitive coastal resources located within 200 feet of the project site as required by the LCP.

Without the biological information required to be provided in accordance with Zoning Code Sections 18.38.030 and 18.38.035, the Commission cannot find that the proposed development provides adequate protection to sensitive species and habitat both on and near the project site. Therefore, the Commission denies Coastal Development Permit Application A-1-HMB-99-022.

2.6 Threatened and Endangered Species

The Commission denies the permit application because the proposed development does not conform to the LCP policies concerning the protection of the habitat areas of the California red-legged frog and the San Francisco garter snake.

2.6.1 Issue Summary

The U.S. Fish and Wildlife Service has determined through a formal consultation to the U.S. Army Corps of Engineers that the pond and riparian areas on the site provide important habitat for the threatened California red-legged-frog and the endangered San Francisco garter snake (USFWS 1998). In addition, two large ponds to the north of the site provide suitable habitat for these two species.

The applicant has changed the project plans since the time that USFWS prepared the Biological Opinion in an attempt to respond to the Commission and USFWS concerns regarding habitat impacts. These changes include the elimination of the proposed wetland fill and reconfiguration of the plot plan to provide a minimum 100-foot buffer between the lots and the pond. Riparian buffers remain 30 feet wide. Additional mitigation measures proposed by the applicant include installation of pipes beneath the portion of the subdivision loop road separating the pond on site from the ponds to the north. "Wing walls" are proposed along either side of this corridor to funnel frogs and snakes into these pipes. As discussed in Section 2.7 below, arched culverts are proposed for all stream crossings to avoid direct disturbance to the streambeds. The applicant also proposes to implement measures to ensure that the water level in the pond is maintained, and to implement a bullfrog eradication program. The latter would involve periodically draining the pond.

Although these proposed mitigation measures would reduce some of the potential impacts of the project to biological resources on the site, they are not sufficient to bring the development into conformance with all of the LCP policies concerning protection of sensitive habitat and species. The primary remaining issue is that the project does not provide adequate wetland and riparian buffers to protect the San Francisco garter snake and the California red-legged frog.

2.6.2 LCP Standards

The LCP contains several policies pertinent to protection of threatened and endangered species habitat, including both general ESHA policies and specific policies for both the California red-legged frog and the San Francisco garter snake, including LUP Policies 3-3, 3-4, 3-24, and 3-25 and Zoning Code Sections 18.38.085 and 18.38.090. These policies require that the habitat of

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both the San Francisco garter snake and the California red-legged-frog are given the highest level of protection.

Sensitive habitat is defined by LUP Policy 3-1 as any area in which plant or animal life or their habitats are either rare or especially valuable and specifically includes habitats containing or supporting "rare or endangered" species as defined by the State Fish and Game Commission.

LUP Policy 3-22 and Zoning Code Sections 18.38.085.B and 18.38.090.B, limits permitted uses in habitat areas of the San Francisco garter snake and the California red-legged-frog to (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitats, and (3) fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species.

LUP Policy 3-3 prohibits any land use and/or development that would have significant adverse impacts on sensitive habitat areas, and requires that development adjacent to such areas shall be sited and designed to prevent impacts that could significantly degrade the habitat. LUP Policy 3-4 permits only resource dependent or other uses which will not result in significant adverse impacts to sensitive habitats, and requires that permitted uses in such areas comply with USFWS and California Department of Fish and Game requirements.

As discussed in Section 2.8 and 2.7 below, the LCP also contains policies specifying the required widths of wetland and riparian buffers. The proposed project plans conform to these minimum setback standards. However, nothing in the LCP limits the ability of the City or the Commission on appeal to require wider riparian and/or wetland buffers than the minimum distances specified when necessary to meet the requirements of other resource protection policies of the LCP. As further discussed below, the minimum setback distance proposed by the applicant are insufficient to provide the protections required by all of the above cited policies for the habitat of the San Francisco garter snake and the California red-legged-frog.

2.6.3 Discussion

California red-legged frogs

California red-legged frogs have been extirpated or nearly extirpated from over 70 percent of their former range and are federally listed as threatened. Habitat loss, competition with and direct predation by exotic species, and encroachment of development are the primary causes for the decline of this species throughout its range. The remaining populations are primarily in central coastal California and are found in aquatic areas that support substantial riparian and aquatic vegetation and lack non-native predators. The project site is located within the Central Coast Range Recovery Unit for the California red-legged frog as defined in the federal listing for this species.

San Francisco garter snake

The San Francisco garter snake is a federal and state listed endangered species. The San Francisco garter snake's preferred habitat is densely vegetated ponds near open hillsides where it can sun itself, feed, and find cover in rodent burrows. The species is extremely shy, difficult to locate and capture, and quick to flee to water when disturbed. On the coast, the snake hibernates during winter in rodent burrows, and may spend the majority of the day during the active season in the same burrows.

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California red-legged frogs are an essential prey species to the San Francisco garter snake, and the snakes have not been found in areas where red-legged frogs are absent. In addition, newborn and juvenile San Francisco garter snakes depend heavily on Pacific tree frogs. Adult snakes may also feed on juvenile bullfrogs. The decline of this species is due principally to habitat loss, the loss of red-legged frog, illegal collection, and the introduction of bullfrogs. Adult bullfrogs prey on both San Francisco garter snakes and California red-legged frogs.

Project Impacts

On September 11, 2000, the USFWS published a proposed rule in the Federal Register designating critical habitat for the California red-legged frog (USFWS 2000). The proposed rule defines critical habitat for the red-legged frog as areas that:

include two (or more) suitable breeding locations, a permanent water source, associated uplands surrounding these waterbodies up to 150 m (500 ft) from the water's edge, all within 2 km (1.25 miles) of one another and connected by barrier-free dispersal habitat that is at least 150 m (500 ft) in width. When these elements are all present, all other suitable aquatic habitat within 2 km (1.25 miles), and free of dispersal barriers, is also considered critical habitat.

The pond on the project site and two ponds to the north of the site property boundary are considered by USFWS to be potential breeding habitat for the red-legged frog. These three ponds are well fed by numerous drainages from the large, undeveloped watershed to the east and by seeps and springs, and contain water throughout the year. The ponds are all located well within 1.25 miles of each other, and are connected by barrier-free dispersal habitat that is more than 500 feet wide. Thus, under the proposed rule, it appears that the ponds and all suitable aquatic habitat within 1.25 miles that is free of dispersal barriers may be critical habitat for the red-legged frog.

The USFWS determined in its Biological Opinion for the project that the development proposed within 300 feet of both sides of the several unnamed drainages (Streams 3, 4, and 5) and two ponds on the site will result in the direct loss of riparian and upland habitat suitable for the California red-legged-frog and the San Francisco garter snake (USFWS 1998). This determination of habitat loss was due to insufficient buffer distances between the riparian corridors and the pond on the site, which would inhibit dispersal of both species between adjacent aquatic and upland habitat areas. In addition to interfering with dispersal corridors, the USFWS found that the proposed development would reduce the quality of the surrounding habitat as foraging and breeding habitat. The loop road along the northern side of the property would separate the aquatic habitat on the site and the ponds to the north and would further interfere with species movement. Although the Biological Opinion requires a minimum buffer around the pond and other wetland areas of 150 feet, it also states that development within 300 feet of these areas will result in adverse impacts to the species including incidental take due to direct loss of habitat (USFWS 1998).

As discussed in Section 2.8 and 2.7 below, the applicant proposes to provide only the minimum wetland and riparian buffers required by some of the policies of the LCP. The buffers proposed are 100 feet around the pond and wetlands, 30 feet from the limit of riparian vegetation to either side of the upper portion of Stream 3 and Stream 5, and 30 feet from the centerline of Stream 4. These buffer distances fall far short of the distances that the USFWS has indicated are necessary to avoid significant impacts to the San Francisco garter snake and the California red-legged-frog.

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In response to the discussion of these issues in the April 27, 2000 Issues Summary Report for this permit application, the applicant states in a letter to the Commission dated May 4, 2000:

- The 150-foot buffer recommended in the Biological Opinion is moot because the project plans have been substantially modified since the opinion was written.
- USFWS is pleased with the current project plan.
- There are no threatened or endangered species on the project site, including the California red-legged-frog and the San Francisco garter snake. Neither species has been observed on the site during surveys conducted pursuant to USFWS protocols or during any of the other surveys for the EIR, wetland delineations, and or other habitat assessments.

As discussed above, the August 2000 red-legged frog survey documented the presence of bullfrogs on the project site (LSA 2000). According to the applicant, the pond also contains introduced fishes (Foreman 2000). Predation by introduced fishes is one of the factors contributing to the decline of the California red-legged frog (USFWS 2000). The applicant's biological consultant concludes that red-legged frogs are absent from the project site because of the presence of bullfrogs and introduced fishes, stating:

While California red-legged frogs can co-exist in rare instances with bullfrogs, the presence of two predator groups (bullfrogs and fish) virtually eliminates the potential for California red-legged frogs to regularly inhabit a site...

The applicant's consultant further contends that the project site is a hazard to red-legged frogs and San Francisco garter snakes and not valuable habitat for these species, stating:

The on-site habitats are more of a hazard or "ecological sink" to both species rather than being especially valuable habitats. Any California red-legged frogs and San Francisco garter snakes which might reach the onsite habitats are likely to die (be eaten) or waste any reproductive effort because of high predation rates and competition from bullfrogs and non-native fish. Clearly, on-site habitats are not "valuable" to the species under current conditions. (Foreman 2000)

Commission staff consulted with the USFWS concerning the applicant's contention that the presence of non-native predators renders the project site unsuitable and hazardous to California red-legged frogs and San Francisco garter snakes. According to USFWS Fish and Wildlife Biologist Curtis McCasland, bullfrogs have a significant effect on the ability of a site to support California red-legged frogs where the habitat is degraded or constrained, but not in areas where habitat suitable for both species is abundant. The habitat is not degraded or constrained in the coastal region within which the project site is located. Coexistence of the two species been documented in several areas in the Mid-Coast region including Crystal Springs Reservoir and Pescadero State Park (pers. com. McCasland 11/14/00).

Commission staff discussed the potential impacts of the currently proposed project to the snakes and frogs in a telephone conferences with McCasland on June 19 and 21, 2000. McCasland responded to staff's inquiries as follows:

- Development within 300 feet of the pond and wetland areas and the riparian areas associated with these wetlands (i.e., the portion of Stream 3 above the diversion, and Streams 4 and 5) will result in significant adverse impacts to the San Francisco garter snake and California

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red-legged-frog due to loss of suitable habitat. Protection of these species requires a 300-foot-wide buffer around the wetlands and the riparian areas.

- There is no biological basis for a 150-foot buffer. This distance was the result of negotiations with the applicant. A 150-foot buffer will result in loss of habitat suitable for both species.
- The portion of the loop road along the northern side of the development will interfere with the dispersal corridor between the wetland areas and the ponds offsite to the north, and this road could potentially result in the direct mortality of either of the species. A 300-foot buffer should be provided for Stream 5 from the outlet of the pond to the northern property boundary to minimize this potentially significant impact.
- Arched culverts will not allow adequate movement of the frogs and snakes within the riparian areas. All road crossings of Streams 3, 4 and 5 should be via elevated bridges to allow free movement of wildlife for the width of the corridors.
- Both the San Francisco garter snake and the California red-legged-frog are secretive species. The USFWS does not find failure to document presence of these species exempts a project from the requirements of the Endangered Species Act. The California red-legged-frog has been found in suitable aquatic habitat areas in Half Moon Bay. Therefore, it is highly likely that the species is present at the project site. Preservation of suitable habitat, such as that found on the project site, is critical to the recovery of both species.

2.6.4 Conclusion

The proposed development includes non-resource dependent uses in sensitive habitat areas, and does not therefore limit uses within and adjacent to sensitive habitat areas consistent with the limitations of the certified LCP. Consequently, the project will result in the direct loss of habitat for and will potentially result in the direct mortality of the San Francisco garter snake and the California red-legged frog. These impacts could be avoided by protecting the habitat areas, and, as discussed below, by spanning the full width of the riparian corridors where road crossings cannot feasibly be avoided. Therefore, the Commission finds the proposed project is inconsistent with LUP Policies 3-3, 3-4, 3-22, 3-24, 3-25 and Zoning Code Sections 18.38.085 and 18.38.090 and denies Coastal Development Permit Application A-1-HMB-99-022.

2.7 Riparian Corridors

The Commission denies the permit application because: (1) the proposed project includes two bridges within riparian corridors for which there are practical and feasible alternatives in conflict with the LCP; and (2) while the proposed riparian buffers conform with some of the resource protection requirements of the LCP, they are not sufficient to protect the habitat of the San Francisco garter snake and the California red-legged-frog.

2.7.1 Issue Summary

The property contains five streams, two are ephemeral or seasonal and three are intermittent or storm water drainages. These streams are indicated on Exhibit 9 as Streams 1-5. The LCP permits bridges to be constructed in riparian corridors and/or buffers only where no feasible or practical alternative exists. The proposed development includes the construction of seven arched

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culverts that would bridge the five riparian corridors located on the site (Exhibit 9). It appears that feasible alternatives exist for at least two of these bridges:

- Bridge 6 could be avoided without any other modification to the project plans.
- Bridge 7 could be avoided with the elimination of 4 lots.

The applicant proposes to divert one of the streams into the pond on the site. Although this activity could be permitted as a fish and wildlife management activity under the LCP, the applicant has not demonstrated that such diversion is necessary to maintain or improve the habitat of the pond or that there is no less environmentally damaging feasible alternative to the proposed diversion.

The proposed development provides only the minimum allowable buffer along the riparian corridors on the site. These buffers are inadequate to protect the habitat of the endangered San Francisco garter snake and the threatened California red-legged frog as further discussed in Section 2.6 above.

2.7.2 LCP Standards

LUP Policies 3-7 through 3-13 specify the LCP definition of riparian corridor, the permitted uses in riparian corridors and buffers, the standards for development affecting riparian areas and buffers, and the minimum width of riparian buffer zones. These requirements are further defined in Zoning Code Section 18.38.075.

2.7.3 Discussion

Stream Crossings

A total of seven road crossings are proposed via arched culverts with one culvert across Streams 1, 2, 4, and 5 and three across Stream 3. These crossings are shown on Exhibit 9 as Bridges 1-7. Such bridges are permitted within riparian corridors in accordance with LUP Policy 3-9 (b) and Zoning Code Section 18.38.075.B.1 only if no feasible or practical alternative exists and when bridge supports are not in significant conflict with corridor resources.

As discussed in Section 2.4 above, Allanto proposes to construct the portion of Foothill Boulevard located within the project site. Beginning at the southern boundary of the site and running north to Grandview, this section of Foothill Boulevard crosses Streams 1, 2, and 3. Because Streams 1, 2, and 3 run perpendicular through the alignment of Foothill Boulevard as designated on the LUP Access and Circulation Map, it is not feasible to construct Foothill Boulevard without crossing these streams. The proposed bridges would span the streams with no supports located within the riparian corridor. Therefore, there are no feasible alternatives to proposed Bridges 1 and 2 and these stream crossings are not in significant conflict with corridor resources. However, because Foothill Boulevard will not extend south of the site to State Route 92 at this time, the applicant does not propose to construct the section of Foothill that would cross Stream 1 (shown as Bridge 8 on Exhibit 9). Moreover, since it now appears that Foothill Boulevard may not be constructed to the south of the project site in the future, Bridge 8 may never be constructed.

Bridges 3, 4, and 5 allow the main internal roadway system for the development to form a complete loop. However, it would be feasible to eliminate one of these bridges and still provide access to all of the proposed lots. If, for example, Bridge 4 were eliminated, the lots on either

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side of Stream 4 could still be reached. However, the applicant has asserted that the City of Half Moon Bay Fire Code prohibits dead end roads of this length. Staff has not found a specific provision of the Fire Code supporting this assertion. Thus, it is unclear at this time whether there are feasible or practical alternatives to Bridges 3, 4, or 5. Since bridges 3, 4, and 5 would span the streams with no supports located within the riparian corridors, they would not be in significant conflict with corridor resources.

Bridge 6 would create a third crossing of Stream 3. Ailanto has not demonstrated that there is no feasible or practical alternative to this stream crossing. Because the length of the roads on either side of Bridge 6 are much shorter than the main loop road discussed above, Bridge 6 could be eliminated without any other modifications to the internal road system consistent with the fire code and the proposed plot plan. Therefore, the proposed construction of Bridge 6 is inconsistent with LUP Policy 3-9 (b) and Zoning Code Section 18.38.075.B.1 because feasible alternatives to this stream crossing exists.

As proposed, Bridge 7 is required to provide access to four lots, numbers 4 through 7, at the southern boundary of the development, as the only proposed crossing of Stream 1 at this time. This stream crossing could be avoided through the elimination of these four lots from the proposed development. The elimination of such four lots is a feasible alternative to the project as proposed. Therefore, the Commission finds that Bridge 7 is also inconsistent with LUP Policy 3-9 (b) and Zoning Code Section 18.38.075.B.1 because a feasible and practical alternative to this stream crossing exists.

Diversion of Stream 3

Stream 3 was diverted in the 1950s to help fill the pond. Subsequent siltation and construction of berms has redirected most of the flow back into the natural, westerly flowing channel. Currently, this stream flows partially into Wetland E and the pond with the remaining flow following the natural stream alignment off site to the west where it is intercepted by a 48-inch storm drain pipe on the Beachwood property (see Section 2.10 below). The applicant proposes to construct a channel to divert most of the normal flow of Stream 3 into Wetland E and the pond with only high water flows continuing west into the storm drain system. The purpose of this proposed diversion is to help maintain the water level in the pond necessary to support San Francisco garter snakes and California red-legged frogs, if present, as further discussed in Section 2.6 above. However, the applicant has not demonstrated that additional water is needed to maintain the level of the pond. Fish and wildlife management activities are a permitted use in riparian corridors in accordance with LUP Policy 3-9(a) and Zoning Code Section 18.38.075.A.3, and the proposed stream diversion could potentially be characterized as such an activity. However, without a showing of need, the Commission cannot find that the proposed diversion may be legitimately characterized as a fish and wildlife management activity.

None of the various biological studies considered the proposed diversion or evaluated the impacts of the diversion to the lower portion of Stream 3. The proposed diversion would result in less water reaching the lower portions of the riparian corridor with potentially significant adverse impacts to sensitive habitat. If upon investigation it is determined that an additional water source is needed for the pond, then the impacts of diversion to the lower portion of Stream 3 as well as potential alternatives to diversion should be thoroughly evaluated in accordance with the requirements of the certified LCP and the California Environmental Quality Act (CEQA). Without a showing that an additional water supply for the pond is needed and without a complete

analysis of potentially less environmentally damaging feasible alternatives, the Commission cannot find that the proposed diversion of Stream 3 is consistent with the LCP and CEQA.

Riparian Buffers

LUP Policy 3-11 and Zoning Code Section 18.38.075.D set the minimum riparian buffer zone for intermittent streams as 30 feet outward from the limit of riparian vegetation or 30 feet from the midpoint of intermittent streams where no riparian vegetation exists. Some portions of the riparian corridors on the site are beneath eucalyptus canopy. Consequently, these areas are without riparian vegetation and the proposed setback is 30 feet from the midpoint of the stream. In the areas that are not covered by eucalyptus, willows and other riparian vegetation are established. In these areas, the riparian buffer is shown on the project plans as 30 feet from the limit of the riparian vegetation. Thus, the plans provide only the minimum required buffers.

The riparian corridors on the project site provide suitable habitat for the San Francisco garter snake and the California red-legged-frog. Zoning Code Section 18.38.085.D specifies that the minimum buffer surrounding habitat of a rare or endangered species shall be 50 feet. LUP Policy 3-3 prohibits development that would cause significant adverse impacts to sensitive habitat areas and requires that development adjacent to such areas shall be sited and designed to prevent impacts to sensitive habitat. As further discussed in Section 2.6 above, the minimum buffer widths proposed for the development are not sufficient to protect these areas for use by the San Francisco garter snake and the California red-legged-frog.

2.7.4 Conclusion

As proposed, the project includes two bridges for which there are feasible less environmentally damaging alternatives. The proposed stream diversion has not been established as a fish and management activity consistent with LUP Policy 3-9(a) and Zoning Code Section 18.38.075.A.3. Although the riparian buffers proposed meet the minimums specified under LUP Policy 3-11 and Zoning Code Section 18.38.075.D, they do not meet the LCP requirements to protect the habitat of threatened and endangered species. Therefore, the Commission finds that the proposed development is inconsistent with LUP Policies 3-3, 3-9, and 3-11 and with Zoning Code Sections 18.38.075.A.3, 18.38.075.B.1 and 18.38.075.D.

2.8 Wetlands

The wetland buffers provided by the proposed development are not sufficient to protect the habitat of the San Francisco garter snake and the California red-legged-frog.

2.8.1 Issue Summary

The applicant has provided a delineation of wetlands on the project site that conforms with the definition of wetlands contained in the LCP as verified by the Commission's staff biologist. The project plans indicate a 100-foot buffer surrounding the wetland areas on the site in accordance with the minimum required setback under the LCP. The applicant proposes additional measures to protect the wetland areas on the site from impacts resulting from the proposed development. These measures meet some of the resource protection requirements of the LCP. However, as discussed in Section 2.6 above, the proposed 100-foot wetland buffer is insufficient to adequately protect these areas for use by the San Francisco garter snake and the California red-legged-frog.

2.8.2 LCP Standards

The LCP contains policies that define wetlands and sensitive habitats, specifying uses permitted in and adjacent to such areas, and setting development standards for the protection of these areas. These policies include LUP Policies 3-1, 3-3, 3-4, 3-11, LUP Appendix A, and Zoning Code Sections 18.02.040, 18.38.020.E, and 18.38.080.

2.8.3 Discussion

In its action on the substantial issue portion of this appeal in March 2000, the Commission found that a substantial issue existed regarding whether the project plans approved by the City included all of the wetland areas on the site. Subsequent to the City's approval, Ailanto has submitted a series of reports and memoranda culminating in a revised wetland delineation dated November 4, 1999 (Exhibit 8). The revised wetlands delineation shows eight vegetated wet areas, three ephemeral and two intermittent streams and a pond. The Commission's staff biologist has determined that the revised delineation accurately depicts the wetland areas on the site in accordance with the LCP. The Commission notes that the provisions regarding wetlands contained in the certified LCP, including Section 30233 of the Coastal Act, which the City incorporated into its certified LCP, require the protection of all areas within the project site where the water table is near the land surface long enough to support the growth of hydrophytes or to support the formation of hydric soils.

Numerous gullies are located in the area. The site's vegetation has been affected by historic cultivation. Mature eucalyptus and cypress trees exist on portions of the site. The pond and streams contain willows, cypress and other plants associated with wetlands. The 1.6-acre pond shown in the revised wetland delineation was created in the 1950s as a stock pond. This was accomplished through construction of a 23-foot-high earthen dam on the west side of the pond and diversion of a stream (Stream 3). Stream 4 also drains into the pond and surrounding wetlands. The pond outflows into Stream 5, which eventually leads to Pilarcitos Creek. The pond and a 100-foot buffer around it are shown on the project plans. Although the project plans include a 100-foot buffer around the pond, the applicant asserts that no buffer is required under the LCP because it is a man-made pond used for agricultural purposes (Cassidy 1999). While disagreeing with the staff's position with respect to required buffers for the pond and Wetlands A, E, and G, the applicant has amended the permit application de novo to include a 100-foot buffer around each of these areas.

LUP Policy 3-11(c) states:

Along lakes, ponds, and other wet areas, extend buffer zones 100 feet from the high water point, except for man-made ponds and reservoirs used for agricultural purposes for which no buffer zone is designated. [Emphasis added]

This policy is implemented by Zoning Code Section 18.38.080.D, which defines "Wetlands Buffer Zone" as:

The minimum buffer surrounding lakes, ponds, and marshes shall be 100 feet, measured from the high water point, except that no buffer is required for man-made ponds and reservoirs used for agriculture. [Emphasis added]

Ailanto states that the pond will be used for agricultural purposes because water from the pond is proposed to be used to irrigate a community garden.

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Chapter 8 of the LUP incorporates the definition of "Agricultural Use" contained in Government Code Section 51201(b) which states:

"Agricultural use" means use of land for the purpose of producing an agricultural commodity for commercial purposes.

The proposed community garden is not a use of land for the purpose of producing an agricultural commodity for commercial purposes and is not therefore an agricultural use under the LCP. Although the pond was originally created for agricultural purposes, the proposed development will not continue this or any other agricultural use on the site. Consequently, a 100-foot buffer is required around the pond in accordance with LUP Policy 3-11(c) and Zoning Code Section 18.38.080.D.

The applicant also contend that Wetlands A, E and G are exempt from the Commission's review authority under §13577(b)(2) of the Commission's regulation. Section 13577(b)(2) provides that wetlands subject to the Commission's appeal jurisdiction do not include:

"... wetland habitat created by the presence of and associated with agricultural ponds and reservoirs where the pond or reservoir was in fact constructed by a farmer or rancher for agricultural purposes; and there is no evidence [...] showing that wetland habitat predated the existence of the pond or reservoir. Areas with drained hydric soils that are no longer capable of supporting hydrophytes shall not be considered wetlands."
[Emphasis added]

In support of this contention, Ailanto asserts that Wetlands A, E and G are exempt because they were created to supply water to the pond and reservoir (Wetland E) or as a result of runoff and seepage from the pond and reservoir (Wetlands A and G). However, as discussed above, the record documents that the pond will no longer be used for agricultural purposes. Since the site no longer contains an agricultural pond, the other wetlands are no longer associated with or created by an agricultural pond. The Commission finds that the exemption provided in Section 13577(b)(2) does not apply to wetlands that currently exist independent of and disassociated from preexisting agricultural activities. The Commission also notes that if the wetlands were filled, they would support residential, not agricultural activities. The Commission also finds that the exemption in § 13577(b)(2) is inapplicable to the proposed fill of wetlands for other than agricultural purposes.

While stating that it reserves the right to amend the project with respect to protection of the pond, Ailanto reduced the number of proposed lots and reconfigured the subdivision plan to conform with the wetland buffer policies of the LCP. As modified, no portion of any lot line is proposed within 100 feet of the delineated wetlands, including the pond.

The project plans also provide for the construction of a public trail within the 100-foot buffer zone surrounding the pond and wetlands C, D, and E (Exhibit 9). While the LCP allows trails within wetland buffer areas, LUP Policy 3-3(b) specifies that development adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the habitat. The placement of a trail within the wetland buffer increases the likelihood that dogs entering the wetlands may disturb the habitat. The presence of humans, dogs, and cats could be particularly harmful in the pond area where they would likely harass birds and small mammals using this habitat. Ailanto proposes to minimize this potential impact by constructing a 3-foot-high chain link fence between the pathway and the wetland areas, and by planting native coastal

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scrub species along the fence line. These measures are appropriate to ensure that the proposed trail will be sited and designed in a manner that will not significantly degrade the adjacent sensitive habitat.

In addition to the fencing, Ailanto proposes other measures designed to protect and enhance the wetland areas on the site, including:

- installation of a slotted weir at the outlet of the pond to assure that a minimum water level is maintained in the pond,
- planting of coastal scrub species and willows in the upland areas surrounding the pond,
- bullfrog eradication (as further discussed in Section 2.6 above),
- implementation of the storm water and water quality management measures,
- modifications to Stream 3 to divert more water into Wetland E and the pond, and
- installation of temporary construction fencing to prevent construction equipment from unintentionally entering wetland and wetland buffer areas.

The applicant proposes to prepare a Final Habitat Enhancement and Management Plan that will provide for monitoring to determine the success of the proposed habitat enhancement measures and for the long-term management and preservation of these habitat areas. The project as proposed also includes installation of an overflow storm drain intake in the southwest corner of the pond. This drain would also provide for periodic draining of the pond as necessary for bullfrog eradication as discussed in Section 2.6 above.

2.8.4 Conclusion

The project plans correctly delineate wetland habitat on the site in accordance with the definition of wetlands contained in the LCP. The proposed development provides a 100-foot buffer and additional mitigation measures to protect the wetland areas on the site. Therefore, the Commission finds the proposed development in conformance with LUP Policy 3-11 and Zoning Code Section 18.38.080.D. However, as further discussed in Section 2.6 above, the minimum buffer widths proposed for the development are not sufficient to protect these areas for use by the San Francisco garter snake and the California red-legged frog.

2.9 Visual Resources

The Commission denies the permit application because the proposed development does not conform to the LCP policies concerning the protection of the scenic qualities of the hillsides inland of Highway 1.

2.9.1 Issue Summary

Because the project site is located at the base of hills inland of Highway 1, the development will not affect views of the coast. However, the development could significantly alter views of the hillsides. The LCP contains policies intended to protect inland views of these hillsides above the 160-foot contour. The LCP also adopts Coastal Act Section 30251, which requires development to minimize the alteration of landforms and be visually compatible with the character of the surrounding areas. Although none of the proposed lots would be located above the 160-foot contour, some of the homes proposed to be built on the upper lots would block views of the

hillsides up to the 190-foot contour. The construction of these homes would be inconsistent with the visual resource protection policies of the LCP.

2.9.2 LCP Standards

The LCP includes policies intended to protect views of these scenic hillsides. Included in these policies is Zoning Code Section 18.37.020.B, which designates the hillside areas above the 160-foot contour east of the project site as a scenic area, and LUP Policy 7-10, which states that new development on upland slopes visible from Highway 1 shall not involve grading or building siting which results in a significant modification of hillscapes. These hillsides are included on the Visual Resources Overlay Map of the LUP.

LUP Policy 9.3.7(g) requires that development of the Dykstra Ranch PUD shall minimize interruption of views of these hillsides, stating:

Structures shall be sited so as to minimize interruption of views of the upper hillsides from Highway 1 and the public recreation area along the shoreline.

2.9.3 Discussion

As proposed, no portion of any building footprint would be located above the 160-foot contour line, but portions of the homes to be constructed on the upper lots would project above this elevation to as high as the 190-foot contour. In their appeal, the appellants contended that the LCP prohibits any portion of a structure to project above the 160-foot elevation. LUP Policy 9.3.7(c) specifies that no development shall be permitted on slopes above the 160-foot contour. Given the policies' limitation on development on slopes above the 160-foot contour, no portion of any structure may be constructed on slopes above the 160-foot contour. Policy 9.3.7(c) does not expressly prohibit development that projects above this elevation.

However, Zoning Code Section 18.37.020.B and the Visual Resources Overlay Map unambiguously designate the "hillsides" above the 160-foot contour east of the project site as a scenic resource, and LUP Policy 9.3.7(g) requires that development of the Dykstra Ranch PUD minimize interruption of views of the upper hillsides from Highway 1 and the shoreline. It is clear from these policies that the LCP designates the hillsides above the 160-foot contour east of the project site as a protected scenic resource. It is also clear that the LCP requires views of these hillsides from Highway 1 and the shoreline to be protected from impacts associated with the development of the Dykstra Ranch PUD. Development that interferes with views from Highway 1 or the shoreline of the hillsides above the 160-foot contour east of the project site would be in conflict with these policies..

The applicant provided a visual analysis of the project consisting of panoramic photographs of the site from various locations along Highway 1 showing the 160-foot contour line and the maximum height to which the proposed residences would project (190 feet). This analysis demonstrates that the project as proposed would block views of a portion of the hillsides above the 160-foot elevation.

2.9.4 Conclusion

The LCP designates the hillsides above the 160-foot contour as a scenic resource. The project as proposed would interfere with and significantly modify views of hillsides identified on the Visual Resources Overlay Map above the 160-foot contour in conflict with LUP Policy 9.3.7(g), incorporated Coastal Act Policy 30251, and Zoning Code Section 18.37.020.B. The

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Commission therefore finds that the project as proposed is inconsistent with the visual resource protection policies of the LCP. This LCP inconsistency could be corrected through modifications to the project plans to prevent any structures from projecting above the 160-foot contour line.

2.10 Water Quality/Polluted Runoff

The permit application does not include complete information necessary for the Commission's review of potential impacts to coastal resources and water quality, both on and off the project site resulting from runoff and erosion.

2.10.1 Issue Summary

The proposed development may adversely affect coastal water quality both on and off site through increased runoff from new impervious surfaces, sedimentation resulting from grading and vegetation removal, and use of herbicides, pesticides and other hazardous substances. Polluted runoff and sedimentation could significantly impact the viability of the threatened and endangered species habitat discussed in Section 2.6 above. Ailanto proposes to avoid such impacts by implementing a Storm Water Pollution Prevention Plan and a Pond Water Quality Management Plan. Ailanto also proposes to label all storm drain inlets, grade each lot to direct drainage to the storm drain system and not over adjacent lots or slopes, construct swales for water detention and filtration, and ensure a 0.5 percent minimum street grade along the face of the curb.

2.10.2 LCP Standards

LUP Policy 4-8 states that no new development shall cause or contribute to flood hazards. Policy 4-9 requires new development to be designed and constructed to (1) prevent increases in runoff, erosion, and flooding, (2) minimize runoff from graded areas, and (3) dissipate the energy of storm water discharges from outfalls, gutters, and other conduits. The LCP also adopts Coastal Act Policy 30253, which requires new development to neither create nor contribute significantly to erosion or destruction of the site or surrounding area, and Coastal Act Section 30231 which requires protection of the biological productivity and quality of coastal waters.

In addition to these policies directly addressing storm water runoff, erosion, and flooding, the LCP policies discussed in Section, 2.6, 2.7 and 2.8 above, concerning protection of wetlands, riparian areas, and other sensitive habitat areas must be considered when evaluating the potential impacts of the project due to storm water runoff and erosion.

2.10.3 Discussion

Site Drainage Characteristics

The project site drains to the west by sheet flow, channelized flow through the five streams running through the site, and by shallow (perched) groundwater flow. The site contains springs, seeps, and wet areas, particularly in the northern portion of the site near the pond. Streams 4 and 5 flow into the pond on the site, which originate to the east in the Chesterfield Watershed (Exhibit 11). The pond is drained by Stream 5 which flows off the site to the northwest and drains into ditches and culverts along Grandview Boulevard and Highway 1, eventually discharging into Pilarcitos Creek (Exhibits 8 and 9).

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The project site is part of the Terrace Avenue Assessment District, which was formed in the early 1980s to construct storm drain facilities for this area. Streams 1 and 2 are intercepted by existing storm drains at the western edge of the property. As discussed in Section 2.7 above, Stream 3 was diverted in the 1950s to help fill the pond. Subsequent siltation and construction of berms has redirected most of the flow back into the natural, westerly flowing channel, which is intercepted downstream by a 48-inch storm drain pipe on the Beachwood property.

Project Impacts

The proposed development could result in adverse impacts to coastal water quality both on and off site through increased storm water runoff from new impervious surfaces, sedimentation resulting from grading and vegetation removal, and use of herbicides, pesticides and other hazardous substances. Polluted runoff and sedimentation could significantly affect the viability of the threatened and endangered species habitat discussed in Section 2.6 above.

The project includes approximately 190,000 cubic yards of grading, primarily in the northern area of the project site. Grading, road construction, vegetation removal, and other construction related site disturbance could result in significant impacts to the wetlands and riparian areas on the site as well as to off-site coastal waters due to erosion and sedimentation.

Proposed Erosion Control Measures and Storm Water Pollution Prevention Plan

Ailanto proposes to mitigate the impacts of the development to water quality through design features to treat storm water and increase infiltration of runoff, erosion control features that will be addressed in a Storm Water Pollution Prevention Plan (SWPPP), and minimization of disturbances to wetlands and riparian corridors. The project drainage plan is designed to direct runoff into the existing drainages and underground pipes, which include the Terrace Avenue Assessment District storm drainage facilities. Runoff will be diverted into the existing system facilities through underground pipes and surface flow. Untreated runoff from roads and other developed areas will be diverted away from existing wetlands and creeks. During construction, wetlands and riparian corridors will be fenced off to minimize disturbance. The project description states that post-construction water quality management objectives for the project are provided to the maximum extent practicable to:

- reduce directly connected impervious surface areas (roads, driveways, and houses),
- provide for passive treatments to filter pollutants and sediment from storm water and urban runoff prior to discharge into the storm drainage system,
- increase runoff infiltration, and
- minimize long term operation and maintenance requirements.

The applicant states that the project layout and topography provides passive treatments of storm water from small, sub-watersheds that will increase infiltration into the soil and trap or filter sediments and other pollutants prior to discharge into the storm drain system, local creeks, or the pond. While detailed engineering and grading studies have not been completed, design features to be part of the final plan design include using cobble/gravel around drop inlet structures where practicable and directing runoff into biofilters such as grassy/landscaped swales and vegetated filter strips. The SWPPP will implement the standard required features such as:

- drop inlet signs (e.g., No Dumping, Flows to Bay or similar theme),
- traps in the drop inlet structures to capture sediment and

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- educational materials to be provided to homebuyers and posted in the proposed gazebo containing information about the local ecosystem and the need to protect water quality.

Specific locations of the water quality treatment facilities will be completed as part of the final grading and design once the project site plan has been finalized. The Homeowners Association will be responsible for the maintenance of these facilities. The passive water treatment features will minimize the operation and maintenance requirements.

Ailanto proposes to implement the following measures to minimize impacts to water quality:

1. Ailanto shall prepare and implement a SWPPP to the satisfaction of the Regional Water Quality Control Board requirements. The SWPPP shall be submitted for review and approval by the city engineer prior to the issuance of any grading permits. The SWPPP shall be implemented by the general contractor and all subcontractors and suppliers of material and equipment. Construction site cleanup and control of contraction debris shall also be addressed in the SWPPP.
2. Ailanto will install silt traps on the property as part of the on-site storm drain system. The homeowners shall be responsible to pay for the on-going maintenance of that portion of the storm drain system necessary for the City to achieve compliance with its NPDES permit. The homeowners may fund this on-going maintenance either through the homeowner's association as required by the CC&R's or through an assessment district.
3. The May 1990 Dykstra Ranch Pond Water Quality Management Plan shall be revised and implemented to the satisfaction of the San Francisco Regional Water Quality Control Board.
4. Prior to the commencement of any clearing, grading or excavation resulting in a land disturbance greater than five acres, the developer shall provide evidence that a Notice of Intent (NOI) has been sent to the State Water Resources Control Board.
5. All storm drain inlets shall be labeled "No Dumping – Drains to Bay" using thermoplastic lettering or as approved by the public works director/city engineer.
6. Street grade along the face of curb shall have a minimum of 0.5 percent.
7. No drainage shall be directed over slopes.
8. All lots shall be graded so as not drain onto any other lot adjoining property prior to being deposited to an approved storm drainage system.
9. Twelve-inch minimum storm drainpipe shall be used.
10. Equipment shall not be operated in the lake or its margins except during excavation and as may be necessary to construct barriers or fills. If work in the lake is unavoidable, a curtain enclosure to prevent siltation of the lake beyond the immediate working area shall be installed. The enclosure and any supportive material shall be removed when the work is completed. Wash water containing mud or silt from aggregate washing or other operations shall not be allowed to enter a lake or flowing stream.
11. If operations require moving equipment across a flowing stream, such operations shall be conducted without substantially increasing stream turbidity. For repeated crossings, the operator shall install a bridge, culvert, or rock-fill crossing.
12. No debris, soil, sand, bark, slash, sawdust, rubbish, cement or concrete or washing thereof, oil or petroleum products or other organic or earthen material from logging, construction, or associated activity of whatever nature shall be allowed to enter into or placed where it may be washed by rainfall or runoff into waters of the state. When operations are completed, any

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excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream or lake.

13. The applicant shall obtain a Streambed Alteration Agreement with the California Department of Fish and Game prior to commencing construction activities and shall comply with any conditions that the agency may impose.

Adequacy of Proposed Mitigation

The permit application contains some of the information needed to assess the potential project impacts from polluted runoff and erosion, including appropriate BMPs to minimize and control erosion and runoff. However, the project plans and description are lacking key information necessary to fully evaluate the effectiveness of the proposed project plans, construction methods, and mitigation measures to address the potential project impacts and therefore the project's conformity with the policies of the LCP. For example, the applicant provides a "general estimate" of the average pre-and post-development average runoff rates into Wetlands C, D, and E and the pond, but does not provided estimates of the changes that the development would cause in either average or peak runoff rates from the project site. The information provided is related to the potential impacts of runoff and sedimentation to onsite wetlands. While this is an important issue, additional information is necessary to allow the Commission to evaluate the offsite impacts of polluted runoff generated by the proposed development. This additional information is needed because the project plans show that a substantial volume of the runoff from rooftops and paved areas will be directed into a storm drain system that discharges into Pilarcitos Creek. Pilarcitos Creek is identified in the LCP as an important riparian habitat area and is known to provide habitat for the California red-legged frog. Drainage from the northern portion of the project site will be directed into an open drainage ditch south of Grandview Avenue. This ditch flows to the west through a culvert under Highway 1 into the Kehoe drainage ditch, which has been subject to flooding in the past. Both the Kehoe drainage ditch and Pilarcitos Creek discharge directly into the sea. The applicant has not provided estimates of the changes to peak and average runoff volumes from the project site into either the Kehoe drainage or Pilarcitos Creek. Without this information the Commission is unable to assess the potential impacts of the project to the quality and biological productivity of coastal waters in accordance with the requirements of the certified LCP.

The applicant proposes to provide this information prior to construction of the development through a SWPPP. However, the Commission needs the information proposed to be provided subsequently through the SWPPP for its current consideration of the permit application. Without this information, the Commission cannot determine that the project as proposed conforms to the requirements of LUP Policies 4-8 and 4-9 and Coastal Act Section 30253. Therefore, the proposed project cannot be approved.

In order for the Commission to evaluate the potential impacts of the project to environmentally sensitive resources and coastal water quality due to generation of polluted runoff and erosion, the applicant must provide the following information prior to Commission action on any subsequent permit application.

General Project/Site Information

1. A description of any temporary or permanent development needed for construction (e.g., site access points for construction traffic, staging areas, contractor's yard for automobile parking, and equipment, material, and debris storage/stockpile areas).

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2. A list and description of all potential pollutants expected to be generated as a result of the proposed project construction and/or project use after construction.
3. A project schedule.

Runoff & Drainage Plan

(To be prepared by a licensed/registered civil or professional engineer.)

1. Estimates of the pre-development peak runoff rate and average volume for the entire project site;
2. Detailed drainage improvement plans (e.g., locations of diversions/conveyances for upstream runoff);
3. Description of potential flow paths where erosion may occur during and after construction;
4. Estimates of the expected post-development peak runoff rate and average volume from the site with all proposed non-structural and structural BMPs implemented.
5. Methods to accommodate onsite percolation, revegetate disturbed portions of the site, and address onsite and/or offsite impacts and necessary improvements constructed.
6. Measures to treat, infiltrate, or filter runoff from impervious surfaces (e.g., roads, driveways, parking structures, building pads, roofs, patios, etc.) on the subject parcel(s) and to discharge the runoff in a manner that avoids erosion, gullyng on or downslope of the subject parcel, ponding on building pads, discharge of pollutants (e.g., oil, heavy metals, toxins) to coastal waters, or other potentially adverse impacts. Such measures may include, but are not limited to, the use of structures (alone or in combination) such as on-site desilting basins, detention ponds, dry wells, etc.
7. A long-term plan and schedule for the monitoring and maintenance of all drainage-control devices.

Landscaping Plan

(To be prepared by a licensed/registered landscape architect or similar licensed/registered biotic resources specialist.)

1. Local soil chemistry, physiology, and biology.
2. Species of plant(s) to be established. Preference should be given to nonirrigated, rain-dependent natives.
3. Timing of planting.
4. Irrigation plan, if necessary. Preference should be given to species that require no artificial irrigation beyond that necessary to establish new plantings.
5. Mechanical maintenance measures (e.g., mowing).
6. Chemical maintenance measures (e.g., pesticides and fertilizers).
7. Specific maintenance measures for BMPs with vegetation.

2.10.4 Conclusion

Although the applicant has provided some of the information necessary to evaluate the project's potential impacts to coastal resources and water quality resulting from runoff and erosion, including specific structural and non-structural BMPs, before the Commission can approve a project consistent with the requirements of the certified LCP, the Commission must evaluate the more specific information proposed by the applicant to be provided in the future in the project's SWPPP. Because this information has not been provided for the Commission's review as part of

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the permit application, the Commission cannot find that the project conforms to the requirements of LUP Policies 4-8 and 4-9 and Coastal Act Section 30253. The specific information described under the subheadings: *General Project/Site Information*; *Runoff & Drainage Plan*; and *Landscaping Plan* should be provided as a part of any future permit application for development of the project site.

2.11 Conversion of Agricultural Lands

Although the proposed development will result in the conversion of 36 acres of prime agricultural lands to residential use, agricultural use of the site is severely limited by conflicts with urban uses and is therefore designated in the LUP as an area suitable for development. Therefore, the proposed conversion of agricultural lands is consistent with the City of Half Moon Bay LCP.

2.11.1 Issue Summary

In the past, the lower slopes and flatlands within the 114-acre Pacific Ridge site were used for pasture. Approximately 36 acres of the site (32 percent) contain Class II soils as shown on the U.S. Department of Agriculture Soils Conservation Service Soil Survey (USDA 1961) and are therefore classified as prime agricultural lands under the LCP (Exhibit 10). The proposed project would commit these prime agricultural lands to urban use.

2.11.2 LCP Standards

The LCP incorporates Coastal Act Sections 30241 and 30242, which provide that the maximum amount of prime agricultural land shall be maintained in agricultural production and that conversion to nonagricultural uses of other non-prime lands shall be limited. Conformance with these policies is to be accomplished through, among other means, the establishment of stable urban/rural boundaries and by limiting conversion of agricultural lands where the viability of agricultural uses is severely limited by conflicts with urban uses.

The LUP adopts the Coastal Act definition of prime agricultural lands, which incorporates by reference Government Code Section 51201. This definition includes all land that qualifies for rating as Class I or Class II in the Soils Conservation Service land use capability classifications.

LUP Policy 8-12 sets the urban/rural boundary for the region as the Half Moon Bay City Limit.

Coastal Act Section 30250(a), also incorporated into the LCP, requires that new development shall be located within, contiguous with, or in close proximity to existing developed areas.

2.11.3 Discussion

Chapter 8 of the LUP provides for the urbanization of former agricultural lands where farming is no longer economically viable. The land use designations and agricultural policies of the LUP establish a system for phasing the conversion of agricultural lands to urban use. The criteria used to form this phasing plan include availability of necessary infrastructure, proximity to existing developed areas, and parcel size. Lands clearly no longer suitable for agriculture are designated for development first. Lands that are expected in the short term to be suitable for agricultural use are designated as Urban Reserve. These lands are to be developed only after substantial build-out of the lands designated for development. The LUP designates lands capable of continuing to support viable agricultural uses (at the time that the LUP was certified in 1985) as Open Space Reserve. Open Space Reserve lands may be developed under the LUP only after

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all other remaining lands in the City suitable for development have been developed or committed to other uses. Chapter 9 of the LUP further provides that new development shall be located within, contiguous with, or in close proximity to existing developed areas to (1) avoid urban sprawl, (2) prevent premature commitment of rural lands to development, and (3) preserve the maximum amount of land in urban areas suitable for agricultural use.

All undeveloped lands designated in the LUP as potentially suitable for new residential development are classified into six categories in accordance with their relationship to existing development, prior commitment to urbanization, and the coastal resource protection policies of the Coastal Act. These categories are intended to prioritize development within the City as follows:

1. Existing Neighborhoods. In-fill development of existing neighborhoods.
2. Paper Subdivisions. Undeveloped areas previously committed to urbanization by subdivision.
3. Contiguous Unsubdivided Lands Without Significant Resource Value. Unsubdivided lands generally contiguous with or surrounded by existing development without significant agricultural, habitat, or coastal recreational value.
4. Unsubdivided And Other Lands Not Contiguous With Existing Development Without Significant Resource or Recreational Value. The Wavecrest Restoration Project is the only area in the City that falls within this category.
5. Unsubdivided Lands Contiguous with Existing Development and Having Agricultural, Coastal Recreation or Habitat Value.
6. Unsubdivided Lands not Contiguous with Existing Development and Having Agricultural, Coastal Recreation, Habitat, and Scenic Value.

The LUP designates the Pacific Ridge Development site as a Category 3 area suitable for development.

2.11.4 Conclusion

The project site is not currently in agricultural production, and is not considered a viable agricultural site under the LUP. The site is located within the urban rural boundary and is contiguous with the existing Grandview Terrace and Newport Terrace subdivisions. Agricultural use of the site is severely limited by conflicts with urban uses. For example, pesticide use would be restricted due to proximity to residential development and to the high school. For all of these reasons, the project site is designated in the LUP as an area suitable for development. Therefore, the Commission finds that the proposed conversion of agricultural lands is consistent with the City of Half Moon Bay LCP.

2.12 California Environmental Quality Act

Section 13096 of the Commission's administrative regulations requires Commission approval of CDP applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are feasible alternatives or feasible mitigation measures available

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that would substantially lessen any significant impacts that the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As specifically discussed in the preceding findings, which are hereby incorporated by reference, the proposed development will result in significant adverse environmental impacts. There are less environmentally damaging feasible alternatives to the project as proposed and feasible mitigation measures to avoid or substantially lessen adverse impacts that the project will cause to the environment have not been provided. Alternative development siting and design would lessen the environmental impact of the proposed project on coastal resources. For example, the impacts of the proposed development to regional cumulative traffic congestion, environmentally sensitive habitat areas, and visual resources could be minimized and/or avoided by limiting development of the site to a minimum of one single-family residence on each of the existing legal lots. Project impacts to the San Francisco garter snake and the California red-legged-frog could be mitigated or avoided through the provision of adequate buffers around the wetlands and riparian areas on the site and by spanning the full width of the riparian corridors where road crossings cannot feasibly be avoided. Therefore, the Commission denies this permit application on the grounds that the proposed development is inconsistent with Section 21080.5(d)(2)(A) of CEQA.

APPENDIX A

Substantive File Documents

References:

- Caltrans 2000. "Initial Study/Environmental Assessment – State Route 92 Widening Project, Half Moon Bay, San Mateo County, California," State Clearinghouse Number 2000032103, March 22, 2000.
- CCAG 1997. "San Mateo County Countywide Transportation Plan Alternatives Report," City/County Association of Governments, San Mateo County (C/CAG), June 1997.
- CCAG 1998. "San Mateo County Congestion Management Plan," City/County Association of Governments, San Mateo County (C/CAG), January 1998.
- CCS 1998. "Supplemental Traffic Study, Foothill Boulevard Access Alternatives," CCS Planning & Engineering, December 1998.
- CDP 1-95-40. Findings for the approval of Coastal Development Permit No. 1-95-40, November 14, 1995.
- Cassidy 1999. Letter from Stephan K. Cassidy to Steven Scholl, October 28, 1999.
- Dowling 1998. "Highway 92 Traffic Assessment," Dowling Associates, June 22, 1998.
- Fehr & Peers 2000a. "Transportation Issues – Pacific Ridge Development Project," Fehr & Peers Associates, Inc., January 12, 2000.
- Fehr & Peers 2000b. "Pacific Ridge Development – Response to Coastal Commission Questions," Fehr & Peers Associates, Inc., March 23, 2000.
- Foreman, Steve 1999. "Letter to Bob Henry – California Coastal Commission Questions," LSA Associates, Inc., December 21, 1999.
- Foreman, Steve 2000. "Letter to Bob Henry – California Coastal Commission Questions," LSA Associates, Inc., October 30, 2000.
- Half Moon Bay 1990. "Final Environmental Impact Report for Dykstra Ranch," Western Ecological Services Company, Inc., December 1988.
- HLA 1990. "San Francisco Garter Snake Survey and Riparian Mitigation Plan; Beachwood Subdivision, Half Moon Bay," Harding Lawson Associates, April 21, 1990.
- LSA 1999a. "Biological Resource Report, Pacific Ridge at Half Moon Bay, LSA Associates, Inc.," June 15, 1999.
- LSA 1999b. "Pacific Ridge at Half Moon Bay, Revised Plan," LSA Associates, November 11, 1999.
- LSA 2000. "Results of Red-legged Frog Survey at Pacific Ridge at Half Moon Bay," LSA Associates, Inc., August 21, 2000.
- RMI 1997. "Pacific Ridge at Half Moon Bay Wetland Mitigation and Monitoring Plan," Resource Management International, Inc., December 1997.
- Shimko 2000. Letter to Chairperson Wan and Honorable Members of the California Coastal Commission from Anna C. Shimko, May 4, 2000.
- WESCO 1996. "A Biological Inventory and Sensitivity Analysis of the Dykstra Ranch Property, Half Moon Bay, California," Western Ecological Services Company, July 29, 1986.

APPENDIX A
Substantive File Documents

USFWS 1998. "Formal Consultation on the Proposed Pacific Ridge Development Project, Half Moon Bay, San Mateo County, California (PCN 23053 S)," Wayne S. White, U.S. Department of Interior Fish and Wildlife Service November 16, 1998.

USFWS 2000. "Proposed Designation of Critical Habitat for the California Red-Legged Frog (*Rana aurora draytonii*); Proposed Rule," U.S. Department of the Interior, Fish and Wildlife Service, September 11, 2000.

Personal Communications:

Sheila Larson, U.S. Fish and Wildlife Service, June 16, 2000.

Curtis McCasland, U.S. Fish and Wildlife Service, June 19, June 21 and November 14 2000.

Appendix B Trip Generation Calculations

1.a) Total Traffic for a weekday PM Peak Hour, 197 Units

Model: $\ln(T) = 0.887 \ln(X) + 0.605$

T= Trips; X= Number of Dwelling Units

Scenario: Single Family Detached Housing

Average Vehicle Trip Ends vs. Dwelling Units

Weekday, P.M. Peak Hour

$$\ln(T) = 0.887 \ln(197) + 0.605$$

$$\ln(T) = 0.887 \times (5.283) + 0.605$$

$$\ln(T) = 4.686 + 0.605$$

$$\ln(T) = 5.29$$

$$e^{\ln(T)} = e^{5.29}$$

$$T = 198.58 \Rightarrow \underline{199 \text{ Trips Total}} \text{ (vs. 199 in Table1)}$$

Inbound and outbound traffic are calculated using the Directional Distribution presented in the model (64% entering, 36% exiting); thus,

$$199 \times 0.64 = 127.36 \Rightarrow 128 \text{ Trips IN (vs. 128 in Table1)}$$

$$199 - 128 = 71 \Rightarrow 71 \text{ Trips OUT (vs. 71 in Table1)}$$

1.b) Total Traffic for a weekday PM Peak Hour, 150 Units

Model: $\ln(T) = 0.887 \ln(X) + 0.605$

T= Trips; X= Number of Dwelling Units

Scenario: Single Family Detached Housing

Average Vehicle Trip Ends vs. Dwelling Units

Weekday, P.M. Peak Hour

$$\ln(T) = 0.887 \ln(150) + 0.605$$

$$\ln(T) = 0.887 \times (5.0106) + 0.605$$

$$\ln(T) = 4.444 + 0.605$$

$$\ln(T) = 5.0494$$

$$e^{\ln(T)} = e^{5.0494}$$

$$T = 155.9 \Rightarrow \underline{156 \text{ Trips Total}} \text{ (vs. 152 in Table1)}$$

Inbound and outbound traffic (64% entering, 36% exiting):

$$156 \times 0.64 = 99.84 \Rightarrow 100 \text{ Trips IN (vs. 98 in Table1)}$$

$$156 - 100 = 56 \Rightarrow 56 \text{ Trips OUT (vs. 54 in Table1)}$$

2.a) Total Traffic for a Saturday Noon Peak Hour, 197 Units

Model: $T = 0.886X + 11.065$

T= Trips; X= Number of Dwelling Units

Scenario: Single Family Detached Housing

Average Vehicle Trip Ends vs. Dwelling Units

Saturday Peak Hour

$$T = 0.886 \times (197) + 11.065$$

$$T = 174.542 + 11.065$$

$$T = 185.607 \Rightarrow \underline{186 \text{ Trips Total}} \text{ (vs. 185 in Table1)}$$

Inbound and outbound traffic (54% entering, 46% exiting):

$$186 \times 0.54 = 100.44 \Rightarrow \underline{101 \text{ Trips IN}} \text{ (vs. 100 in Table1)}$$

$$186 - 101 = 85 \Rightarrow \underline{85 \text{ Trips OUT}} \text{ (vs. 85 in Table1)}$$

2.b) Total Traffic for a Saturday Noon Peak Hour, 150 Units

Model: $T = 0.886X + 11.065$

T= Trips; X= Number of Dwelling Units

Scenario: Single Family Detached Housing

Average Vehicle Trip Ends vs. Dwelling Units

Saturday Peak Hour

$$T = 0.886 \times (150) + 11.065$$

$$T = 132.90 + 11.065$$

$$T = 143.965 \Rightarrow \underline{144 \text{ Trips Total}} \text{ (vs. 142 in Table1)}$$

Inbound and outbound traffic (54% entering, 46% exiting):

$$144 \times 0.54 = 77.76 \Rightarrow \underline{78 \text{ Trips IN}} \text{ (vs. 77 in Table1)}$$

$$144 - 78 = 66 \Rightarrow \underline{66 \text{ Trips OUT}} \text{ (vs. 65 in Table1)}$$

Analysis of results:

1.a) Total Traffic for a weekday PM Peak Hour, 197 Units

The results for this section indicate that the numbers presented in Table 1 for this scenario are accurate.

1.b) Total Traffic for a weekday PM Peak Hour, 150 Units

In this section, the results differ from those presented in Table1. Using the model from *Trip Generation, 6th Edition* a 150 unit development would generate a total of 156 trips, 4 more than those presented in Table 1.

One possible reason for his difference could be that the model used in the report (*Trip Generation, 5th Edition*) was slightly different due to its "outdated" status. This option can be ruled out since the results for 1.a) indicate that the model is the same.

A more likely explanation is that the consultant used the 150 unit development as a proportion of the 197 unit proposal, and calculated the trips accordingly.

In other words, if 150 represents 76.14% of 197, then trips generated by a 150 unit development would have to be 76.14% of those generated by a 197 unit development .

$$\text{IN: } 128 \times 0.7614 = 97.46 \Rightarrow \underline{98 \text{ Trips}}$$

$$\text{OUT: } 71 \times 0.7614 = 54.06 \Rightarrow \underline{54 \text{ Trips}}$$

$$\text{TOTAL: } 98 + 54 = 152 \Rightarrow \underline{152 \text{ Trips}}$$

It seems that this could be the way the consultants reached their results. In spite of the accuracy of the calculations, this approach is incorrect due to the non-linear character of the model.

The calculations using the model (156 trips instead of 152) are the appropriate ones to follow.

2.a) Total Traffic for a Saturday Noon Peak Hour, 197 Units

The results in this section differ by one trip from those in the consultant's report.

Since we do not have their detailed calculations it is hard to determine the reason for the difference. Assuming that there are no calculation errors, it is possible that the model used by the consultants is slightly different than the one presented in the latest edition of the manual.

2.b) Total Traffic for a Saturday Noon Peak Hour, 150 Units

Keeping in mind the possible difference in the model explained above, the same reasoning used in 1.b) seems to have been used to calculate the Saturday Noon Peak Hour trips for the 150 unit development. Again, the results applying the model (144 trips instead of 142) are the appropriate ones to follow.

Single-Family Detached Housing (210)

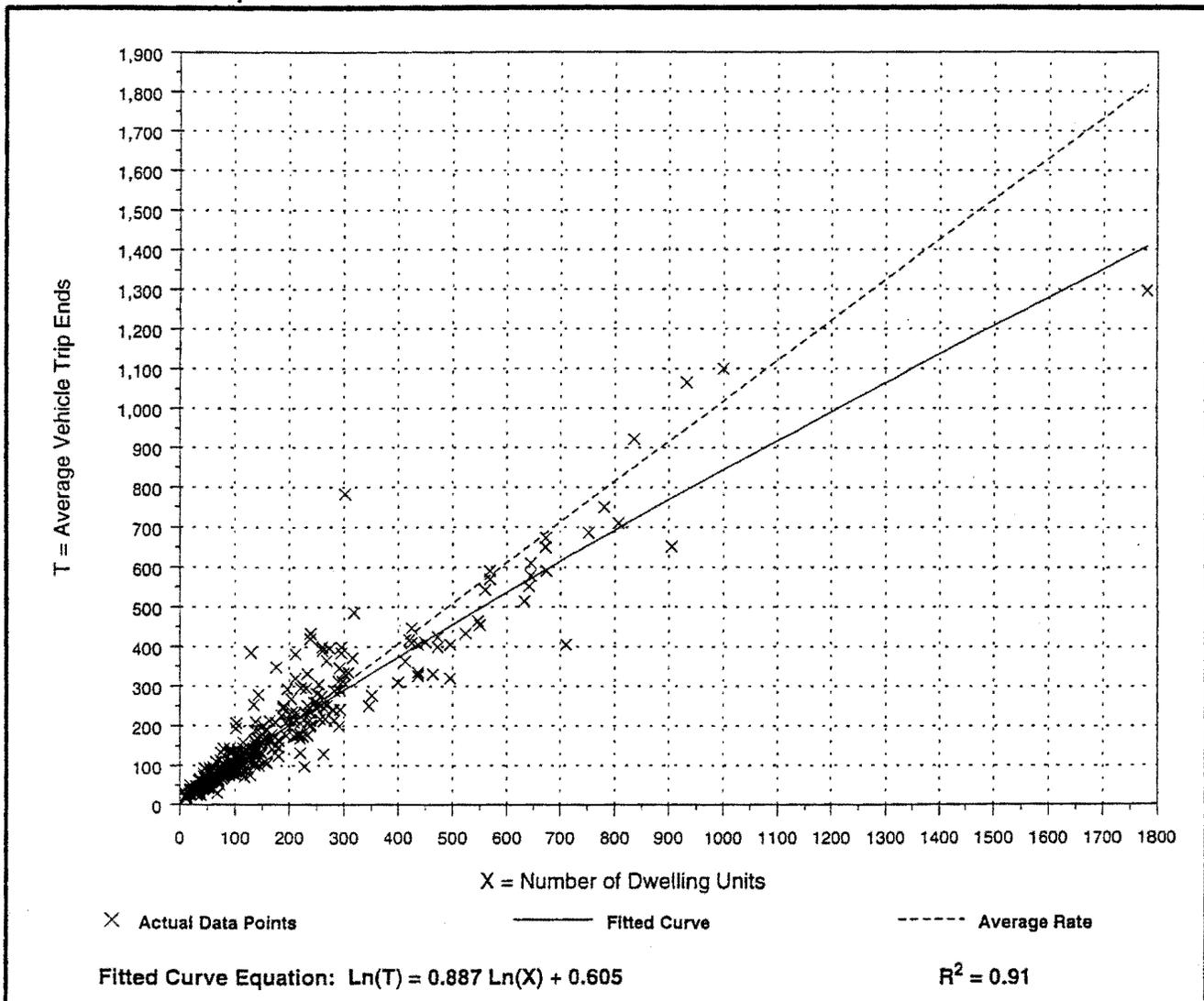
Average Vehicle Trip Ends vs: Dwelling Units
On a: Weekday,
P.M. Peak Hour of Generator

Number of Studies: 352
Avg. Number of Dwelling Units: 177
Directional Distribution: 64% entering, 36% exiting

Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
1.02	0.42 - 2.98	1.05

Data Plot and Equation



Model used for 2.a & 2.b

Single-Family Detached Housing (210)

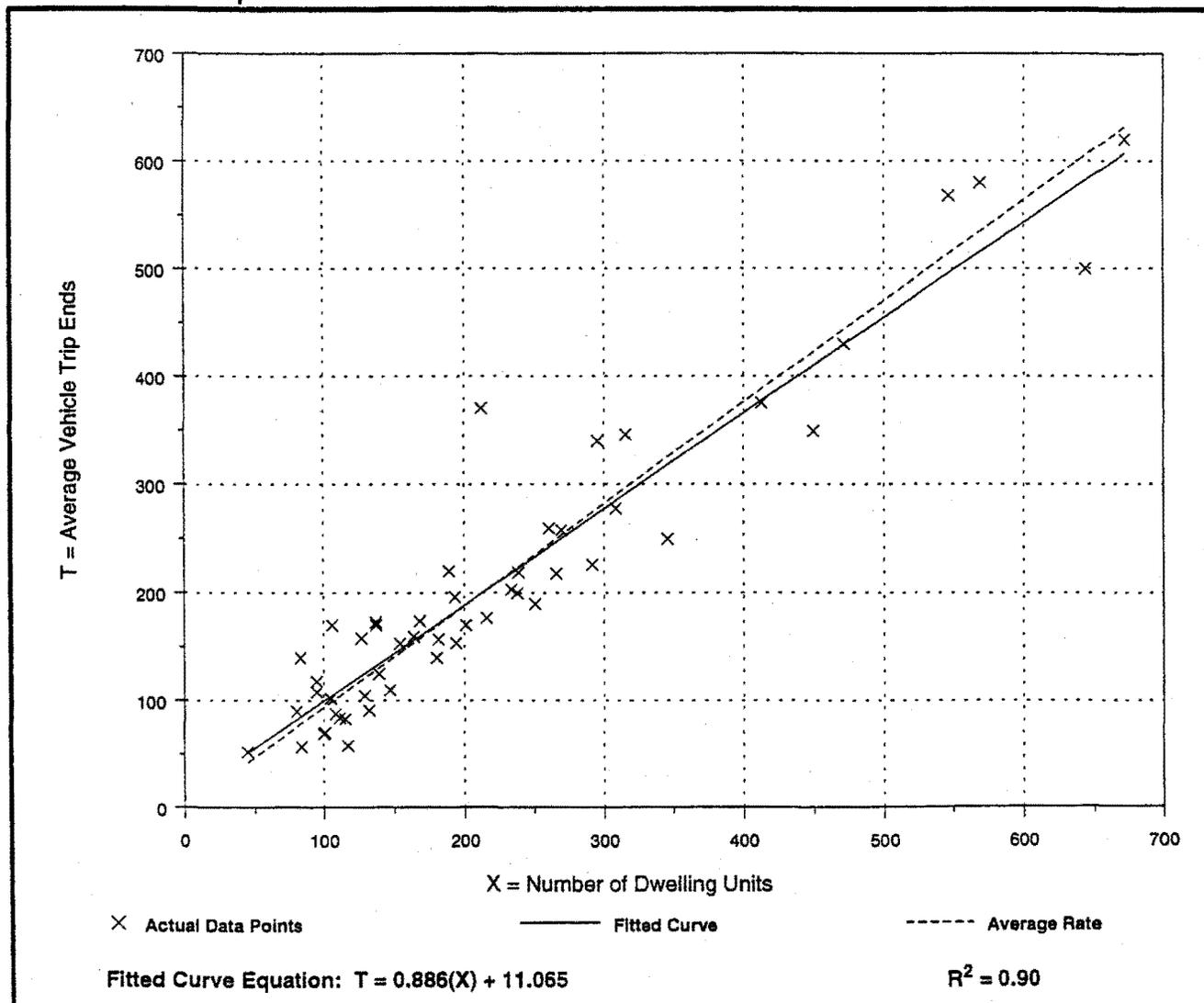
Average Vehicle Trip Ends vs: Dwelling Units
On a: Saturday,
Peak Hour of Generator

Number of Studies: 51
Avg. Number of Dwelling Units: 224
Directional Distribution: 54% entering, 46% exiting

Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.94	0.50 - 1.75	0.99

Data Plot and Equation



APPENDIX C

Referenced Policies

California Coastal Act

Section 30010

The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30241

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.

(b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.

(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.

(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.

(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.

(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

Section 30242

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Section 30250

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

(b) Where feasible, new hazardous industrial development shall be located away from existing developed areas.

(c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

Section 30252

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

Section 30254

New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. 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.

Section 30603

(a) After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments:

(1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance.

(2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.

(3) Developments approved by the local government not included within paragraph (1) or (2) that are located in a sensitive coastal resource area.

(4) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500).

(5) Any development which constitutes a major public works project or a major energy facility.

(b) (1) 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) The grounds for an appeal of a denial of a permit pursuant to paragraph (5) of subdivision (a) shall be limited to an allegation that the development conforms to the standards set forth in the certified local coastal program and the public access policies set forth in this division.

(c) Any action described in subdivision (a) shall become final at the close of business on the 10th working day from the date of receipt by the commission of the notice of the local government's final action, unless an appeal is submitted within that time. Regardless of whether an appeal is submitted, the local government's action shall become final if an appeal fee is imposed pursuant to subdivision (d) of Section 30620 and is not deposited with the commission within the time prescribed.

(d) A local government taking an action on a coastal development permit shall send notification of its final action to the commission by certified mail within seven calendar days from the date of taking the action.

Section 30604

(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for that conclusion.

(b) After certification of the local coastal program, a coastal development permit shall be issued if the issuing agency or the commission on appeal finds that the proposed development is in conformity with the certified local coastal program.

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

(d) No development or any portion thereof which is outside the coastal zone shall be subject to the coastal development permit requirements of this division, nor shall anything in this division authorize the denial of a coastal development permit by the commission on the grounds the proposed development within the coastal zone will have an adverse environmental effect outside the coastal zone.

(e) No coastal development permit may be denied under this division on the grounds that a public agency is planning or contemplating to acquire the property on, or property adjacent to the property on, which the proposed development is to be located, unless the public agency has been specifically authorized to acquire the property and there are funds available, or funds which could reasonably be expected to be made available within one year, for the acquisition. If a permit has been denied for that reason and the property has not been acquired by a public agency within a reasonable period of time, a permit may not be denied for the development on grounds that the property, or adjacent property, is to be acquired by a public agency when the application for such a development is resubmitted.

Section 30621

(a) The commission shall provide for a de novo public hearing on applications for coastal development permits and any appeals brought pursuant to this division and shall give to any affected person a written public notice of the nature of the proceeding and of the time and place of the public hearing. Notice shall also be given to any person who requests, in writing, such notification. A hearing on any coastal development permit application or an appeal shall be set no later than 49 days after the date on which the application or appeal is filed with the commission.

(b) An appeal that is properly submitted shall be considered to be filed when any of the following occurs

(1) The executive director determines that the appeal is not patently frivolous pursuant to subdivision (d) of Section 30620.

(2) The five-day period for the executive director to determine whether an appeal is patently frivolous pursuant to subdivision (d) of Section 30620 expires without that determination.

(3) The appellant pays the filing fee within the five-day period set forth in subdivision (d) of Section 30620.

Section 30625

(a) Except as otherwise specifically provided in subdivision (a) of Section 30602, any appealable action on a coastal development permit or claim of exemption for any development by a local government or port governing body may be appealed to the commission by an applicant, any aggrieved person, or any two members of the commission. The commission may approve, modify, or deny such proposed development, and if no action is taken within the time limit specified in Sections 30621 and 30622, the decision of the local government or port governing body, as the case may be, shall become final, unless the time limit in Section 30621 or 30622 is waived by the applicant.

(b) The commission shall hear an appeal unless it determines the following:

(1) With respect to appeals pursuant to subdivision (a) of Section 30602, that no substantial issue exists as to conformity with Chapter 3 (commencing with Section 30200).

(2) 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.

(3) With respect to appeals to the commission after certification of a port master plan, that no substantial issue exists as to conformity with the certified port master plan.

(c) Decisions of the commission, where applicable, shall guide local governments or port governing bodies in their future actions under this division.

California Coastal Commission Regulations

§ 13096. Commission Findings.

(a) All decisions of the commission relating to permit applications shall be accompanied by written conclusions about the consistency of the application with Public Resources Code section 30604 and Public Resources Code section 21000 and following, and findings of fact and reasoning supporting the decision. The findings shall include all elements identified in section 13057(c).

(b) Unless otherwise specified at the time of the vote, an action taken consistent with the staff recommendation shall be deemed to have been taken on the basis of, and to have adopted, the reasons, findings and conclusions set forth in the staff report as modified by staff at the hearing. If the commission action is substantially different than that recommended in the staff report, the prevailing commissioners shall state the basis for their action in sufficient detail to allow staff to prepare a revised staff report with proposed revised findings that reflect the action of the commission. Such report shall contain the names of commissioners entitled to vote pursuant to Public Resources Code section 30315. 1.

(c) The commission vote taken on proposed revised findings pursuant to Public Resources Code section 30315.1 shall occur after a public hearing. Notice of such hearing shall be distributed to the persons and in the manner provided for in section 13063. The public hearing shall solely address whether the proposed revised findings reflect the action of the commission.

§ 13115. Substantial Issue Determination.

(a) At the meeting next following the filing of an appeal with the Commission or as soon thereafter as practical, the executive director shall make a recommendation to the commission as to whether the appeal raises a significant question within the meaning of Section 30625(b).

(b) Unless the Commission finds that the appeal raises no significant question as to conformity with the certified local coastal program or, in the case of a permit application for a development between the sea and the first public road paralleling the sea (or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach) that there is no significant question with regard to the public access and public recreation policies of Chapter 3 of the Coastal Act of 1976, the Commission shall consider the application de novo in accordance with the procedures set forth in Sections 13057-13096.

(c) The Commission may ask questions of the applicant, any aggrieved person, the Attorney General or the executive director prior to determining whether or not to hear an appeal. A majority vote of the members of the Commission present shall be required to determine that the Commission will not hear an appeal.

§ 13577. Criteria for Permit and Appeal Jurisdiction Boundary Determinations.

(b) Wetlands.

(2) For the purposes of this section, the term "wetland" shall not include wetland habitat created by the presence of and associated with agricultural ponds and reservoirs where:

(A) the pond or reservoir was in fact constructed by a farmer or rancher for agricultural purposes; and

(B) there is no evidence (e.g., aerial photographs, historical survey, etc.) showing that wetland habitat pre-dated the existence of the pond or reservoir. Areas with drained hydric soils that are no longer capable of supporting hydrophytes shall not be considered wetlands.

Half Moon Bay Land Use Policies

Policy 1-1

The City shall adopt those policies of the Coastal Act (Coastal Act Sections 30210 through 30264) cited herein, as the guiding policies of the Land Use Plan.

Policy 1-4

Prior to the issuance of any development permit required by this Plan, the City shall make the finding that the development meets the standards set forth in all applicable Land Use Plan policies.

Policy 3-1 Definition of Sensitive Habitats

- (a) Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and as those areas which meet one of the following criteria: (1) habitats containing or supporting "rare and endangered" species as defined by the State Fish and Game Commission, (2) all perennial and intermittent streams and their tributaries, (3) coastal tidelands and marshes, (4) coastal and offshore areas containing breeding and/or nesting sites and coastal areas used by migratory and resident water-associated birds for resting and feeding, (5) areas used for scientific study and research concerning fish and wildlife, (6) lakes and ponds and adjacent shore habitat, (7) existing game and wildlife refuges and reserves, and (8) sand dunes.

Such areas include riparian areas, wetlands, sand dunes, marine habitats, sea cliffs, and habitats supporting rare, endangered, and unique species.

APPENDIX A: Special Definitions...

WETLAND

Wetland is an area where the water table is at, near, or above the land surface long enough to bring about the formation of hydric soils or to support the growth of plants which normally are found to grow in water or wet ground. Such wetlands can include mudflats (barren of vegetation), marshes, and swamps. Such wetlands can be either fresh or saltwater, along streams (riparian), in tidally influenced areas (near the ocean and usually below extreme high water of spring tides), marginal to lakes, ponds, and man-made impoundments. Wetlands do not include areas which in normal rainfall years are permanently submerged (streams, lakes, ponds and impoundments), nor marine or estuarine areas below extreme low water of spring tides, nor vernal wet areas where the soils are not hydric.

3-3 Protection of Sensitive Habitats

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

3-4 Permitted Uses

- (a) Permit only resource-dependent or other uses which will not have a significant adverse impact in sensitive habitats.
- (b) In all sensitive habitats, require that all permitted uses comply with U.S. Fish and Wildlife Service and State Department of Fish and Game regulations.

3-5 Permit Conditions [Biologic Report]

- (a) Require all applicants to prepare a **biologic report** by a qualified professional selected jointly by the applicant and the City to be submitted prior to development review. The report will determine if significant impacts on the sensitive habitats may occur, and recommend the most feasible mitigation measures if impacts may occur.

The report shall consider both any identified sensitive habitats and areas adjacent. Recommended uses and intensities within the sensitive habitat area shall be dependent on such resources, and shall be sited and designed to prevent impacts which would significantly degrade areas adjacent to the habitats. The City and the applicant shall jointly develop an appropriate program to evaluate the adequacy of any mitigation measures imposed.

- (b) When applicable, require as a condition of permit approval, the restoration of damaged habitat(s) when, in the judgment of the Planning Director, restoration is partially or wholly feasible.

3-7 Definition of Riparian Corridors

- (a) Define riparian corridors by the "limit of riparian vegetation" (i.e. a line determined by the association of plant and animal species normally found near streams, lakes, and other bodies of fresh water: red alder, jaumea, pickleweed, big leaf maple, narrowleaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder). Such a corridor must contain at least a 50% cover of some combination of the plants listed.

3-8 Designation of Riparian Corridors

- (a) Establish riparian corridors for all perennial and intermittent streams and lakes and other bodies of fresh water in the Coastal zone. Designate those corridors shown on the Habitat Areas and Water Resources Overlay and any other riparian area as sensitive habitats requiring protection, except for man-made irrigation ponds over 2,500 square feet surface area.

3-9 Permitted Uses in Riparian Corridors

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

3-10 Performance Standard in Riparian Corridors

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

3-11 Establishment of Buffer Zones

- (a) On both sides of riparian corridors, from the "limit of riparian vegetation," extend buffer zones 50 feet outward for perennial streams and 30 feet outward for intermittent streams.
- (b) Where no riparian vegetation exists along both sides of riparian corridors, extend buffer zones 50 feet from the bank edge for perennial streams and 30 feet from the midpoint of intermittent streams.
- (c) Along lakes, ponds, and other wet areas, extend buffer zones 100 feet from the high water point, except for man-made ponds and reservoirs used for agricultural purposes for which no buffer zone is designated.

3-12 Permitted Uses in Buffer Zones

- (a) Within buffer zones, permit only the following uses: (1) uses permitted in riparian corridors, (2) structures on existing legal building sites, set back 20 feet from the limit of riparian vegetation, only if no feasible alternative exists, and only if no other building site on the parcel exists, (3) crop growing and grazing consistent with Policy 3.9, (4) timbering in "streamside corridors" as defined and controlled by State and County regulations for timber harvesting, and (5) no new parcels shall be created whose only building site is in the buffer area except for parcels created in compliance with Policies 3.3, 3.4, and 3.5 if consistent with existing development in the area and if building sites are set back 20 feet from the limit of riparian vegetation or if no vegetation 20 feet from the bank edge of a perennial and 20 feet from the midpoint of an intermittent stream.

3-13 Performance Standards in Buffer Zone

- (a) Require uses permitted in buffer zones to: (1) minimize removal of vegetation, (2) conform to natural) topography to minimize erosion potential, (3) make provisions to (i.e. catch basins) to keep runoff and sedimentation from exceeding pre-development levels, (4) replant where appropriate with native and non-invasive exotics, (5) prevent discharge of toxic substances, such as fertilizers and pesticides, into the riparian corridor, (6) remove vegetation in or adjacent to man-made agricultural ponds if the life of the pond is endangered, (7) allow dredging in or adjacent to man-made ponds if the San Mateo County Resource Conservation District certifies that siltation imperils continued use of the pond for agricultural water storage and supply.

3-22 Permitted Uses

- (a) Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species.

- (b) If the critical habitat has been identified by the Federal Office of Endangered Species, permit only those uses deemed compatible by the U. S. Fish and Wildlife Service in accordance with the provisions of the Endangered Species Act of 1973, as amended.

3-24 Preservation of Critical Habitats

- (a) Require preservation of all habitats or rare and endangered species using the policies of this Plan and other implementing ordinances of the City.

3-25 San Francisco Garter Snake

- (a) Prevent any development where there is known to be a riparian location for the San Francisco garter snake with the following exception: (1) existing man-made impoundments smaller than 1/2 acre in surface, and (2) existing man-made impoundments greater than 1/2 acre in surface, providing mitigation measures are taken to prevent disruption of not more than one-half of the snake's known habitat in that location in accordance with recommendations from the State Department of Fish and Game.
- (b) Require developers to make sufficiently detailed analyses of any construction which could impair the potential or existing migration routes of the San Francisco garter snake. Such analyses will determine appropriate mitigation measures to be taken to provide for appropriate migration corridors.

Policy 4-8:

No new permitted development shall cause or contribute to flood hazards.

Policy 4-9:

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

Policy 7-10:

New development on upland slopes visible from Highway 1 and Highway 92 as indicated on the Visual Resources Overlay Map, shall not involve grading or building siting which results in a significant modification of the hillscape; where trees must be removed for building purposes, reforestation shall be provided as a part of any new development to maintain the forested appearance of the hillside. Structures shall be subordinate in appearance to the natural landform, shall be designed to follow the natural contours of the landscape, and shall be sited so as not to intrude into the skyline as seen from public viewing places.

Policy 8-12:

The Urban/Rural Boundary shall be the City Limit boundary of the City of Half Moon Bay.

Policy 9-2:

The City shall monitor annually the rate of build-out in categories designated for development. If the rate of build-out exceeds the rate on which the estimates of development potential for Phase I and Phase II in the Plan are based, further permits for development or land divisions shall not be issued outside existing subdivisions until a revised estimate of development potential has been made. At that time the City shall establish a maximum number of development permits to be granted each year in accordance with expected rates of build-out and service capacities. No

permit for development shall be issued unless a finding is made that such development can be served with water, sewer, schools, and road facilities, including such improvements as are provided with the development. (See Table 9.3)

9.3.7 Dykstra Ranch

This is a parcel of 114 acres of gentle to steep slopes on the eastern edge of the City. Only a very small portion of the site contains prime soils. In the past, the lower slopes and flatlands had been used for pasture. A Planned Unit Development and tentative tract has been previously approved for development in this area, with a total of 228 units.

Eastern portions of the Dykstra Ranch have steep slopes. These slopes have been identified as having landslide potential. Residential development and road construction on these steep slopes would require a substantial amount of hillside cutting and filling and would increase the possibility of slope failure, posing a hazard to homes and development on lower slopes. Most of the Dykstra Ranch has development potential without such hazards or conflicts.

Residential development is appropriate as an alternative to development of more rural lands and those with significant coastal resources, in accordance with Coastal Act policies. It could also contribute to improvement in local traffic circulation by contributing to the development of a new collector road parallel to Highway 1. However, such development must conform with protection of views of the hillside, avoidance of hazards, and minimum alteration of natural landforms. Development of this site does offer the potential for solving local drainage problems in the Terrace Avenue subdivisions.

It is proposed that this area be permitted for development of a limited variety of residential unit types to meet needs for new housing in Half Moon Bay. Such development should occur in a manner which minimizes conflicts with Coastal Act policies with respect to preservation of the natural environment and hillside and watershed protection and promote achievement of policies on improved coastal access.

New development would involve a combination of single-family detached homes on moderate slopes, clustered high-density single family attached homes, and apartments on lower slopes near the high school, extension of the long-proposed Foothill Boulevard to connect with Foster Drive and Grandview (with possible extensions in the future to the north) and retention of drainage courses and steep slopes in open space.

Proposed Development Conditions

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

The plan and accompanying environmental documents shall be submitted to the Planning Commission, who may recommend additional conditions for development of the site. The Planning Commission may reduce the allowable density if it is determined that Highway 92 is inadequate to accommodate the amount of proposed

residential development. In adopting the specific plan, the Planning Commission shall specify the number and type of housing units and open space requirements for each of the parcels which is under separate ownership or for each group of parcels which is to be developed as a unit.

- b) A maximum of 228 residential units, including single-family detached, attached, and garden apartments, may be developed on the site.
- c) No development shall be permitted on slopes in excess of 25% or above the 160' contour and, as a condition of approval, an open space easement shall be dedicated which ensures the permanent retention of such slopes in open space. Development shall be clustered to the maximum extent feasible on lower slopes.
- d) Existing major drainage courses shall be dedicated, after suitable landscaping, to protect against erosion and to provide for passive recreational use.
- e) Apartments and single-family attached housing shall be located on slopes of less than 15%, and shall involve as little grading and filling as is feasible.
- f) A right-of-way of not more than 80 feet shall be dedicated along an alignment as generally indicated in the Land Use Plan Map and as approved by the City for the location of Foothill Boulevard and connections with Grandview and Foster, and such right-of-way shall be improved with a suitable street and with bicycle, hiking, and equestrian trails as a part of development of the site. No curb cuts shall be permitted for driveway access to Foothill Boulevard.
- g) Structures shall be sited so as to minimize interruption of views of the upper hillsides from Highway 1 and the public recreation area along the shoreline.
- h) No residential development of the site shall precede completion of site grading and installation of all drainage improvements necessary to prevent erosion of the site or lands up and down slope. In addition, the developer shall agree to participate in an assessment district for Foothill Boulevard.

Policy 9-4:

All new development, other than development on parcels designated Urban Reserve or Open Space Reserve on the Land Use Plan Map permitted while such designations are effective, shall have available water and sewer services and shall be accessed from a public street or shall have access over private streets to a public street. Prior to issuance of a development permit, the Planning Commission or City Council shall make the finding that adequate services and resources will be available to serve the proposed development upon its completion and that such development is located within and consistent with the policies applicable to such an area designated for development. The applicant shall assume full responsibility for costs incurred in the service extensions or improvements that are required as a result of the proposed project, or such share as shall be provided if such project would participate in an improvement or assessment district. Lack of available services or resources shall be grounds for denial of the project or reduction in the density otherwise indicated in the Land Use Plan. (See Table 10.3).

Policy 9-8

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

Policy 9-14:

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

Policy 10-4 (Public Works Capacity)

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

Policy 10-25 (Levels of Service)

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

Policy 10-31

The City will require participation in an assessment district for properties for which new development is approved in accordance with this Plan along the designated Foothill Boulevard alignment, as indicated on the Land Use Plan Map, in order to provide funding for this new coastal access and bypass route. This roadway shall provide for through-traffic and local street connections shall be minimized to the extent feasible and on-street parking shall not be allowed.

10.4.4 Transportation Issues

Highways 1 and 92 are the only roads connecting Half Moon Bay with the rest of the region. Highway 1 also serves as the key northsouth collector road, providing for local traffic connections among neighborhoods and between them and the downtown commercial core. To a lesser extent, Highway 1 provides for local circulation in and around downtown.

Limited road capacity for movement into, out of, and within the City, has long been recognized as a problem and constraint on new development, as indicated in past studies and the former General Plan's Circulation Element.ⁱ The Coastal Act requires that limited road capacity not be consumed by new, non-priority development, at the expense of adequate service for priority uses, such as public recreation and visitor-serving commercial uses. The major issue involves potential conflict for transportation capacity between new residential development and reservation of adequate capacity for visitor travel to coastside beaches. The issue involves two components: commuter traffic and visitor traffic on Highways 1 and 92, and competition between local resident traffic and visitor traffic on local streets and Highway 1 (with some possible effect on

Highway 92). In addition, the commuter-visitor traffic conflict issue is related to the Coastal Act policy that Highway 1 be limited to two lanes in rural areas, which could include portions of Highway 1 which link Half Moon Bay to San Francisco and other employment centers to the north. Therefore, the overall capacity of the existing transportation system to accommodate resident population growth must be considered.

§ 51201. Definitions

As used in this chapter, unless otherwise apparent from the context:

(c) "Prime agricultural land" means any of the following:

(1) All land which qualifies for rating as class I or class II in the Soil Conservation Service land use capability classifications.

(2) Land which qualifies for rating 80 through 100 in the Storie Index Rating.

(3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.

(4) Land planted with fruit-or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.

(5) Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars (\$200) per acre for three of the previous five years.

Half Moon Bay LCP Implementation Ordinance Standards (Zoning Code Sections)

18.02.040 Definitions

Wetland: The definition of wetland as used and as may be periodically amended by the California Department of Fish and Game, the California Coastal Commission and the US Fish and Wildlife Service.

18.15.045 Implementation of a Planned Unit Development Plan

...

C. **Expiration of the Planned Unit Development Plan.** Unless otherwise approved by the City council, a Planned Unit Development Plan shall expire two years after its effective date unless a building permit has been issued, construction diligently pursued, and substantial funds invested.

...

18.37.020 Visual Resources Areas. The Planning Director shall prepare and maintain maps of all designated Visual Resource Areas within the City, based upon the Visual Resources Overlay Map contained in the City's Local Coastal Program Land Use Plan. Visual Resource Areas within the City are defined as follows: ...

B. Upland Slopes. Scenic Hillside which are visible from Highway One and Highway 92, as indicated on the Visual Resources Overlay Map. These areas occur include hillside areas above the 160 foot elevation contour line which are located:

1. East of the proposed Foothill Boulevard, comprising portions of Carter Hill and Dykstra Ranch properties.
2. South-east of Pilarcitos Creek and East of Arroyo Leon, comprising a portion of land designated as Open Space Reserve in the Land Use Plan.
3. East of the Sea Haven Subdivision, being a portion of the Gravance property designated Urban Reserve in the Land Use Plan.
4. East of the Nurseryman's Exchange properties and lower Hester-Miguel lands, comprising all of the upper Hester Miguel lands designated as Open Space Reserve in the Land Use Plan.

C. Planned Development Areas. New development within Planned Development Areas shall be subject to development conditions as stated in the Local Coastal Program Land Use Plan for each Planned Development, to Design Review Standards set forth in this Title, and Standards set forth in this Chapter regarding landscaping, signs, screening, lighting, parking areas and utilities.

18.38.020 Coastal Resource Areas. The Planning Director shall prepare and maintain maps of all designated Coastal Resource Areas within the City. Coastal Resource Areas within the City are defined as follows:...

E. Wetlands. As defined by the US Fish and Wildlife Service, a wetland is an area where the water table is at, near, or above the land surface long enough to bring about the formation of hydric soils or to support the growth of plants which normally are found to grow in water or wet ground. Such wetlands can include mud flats (barren of vegetation), marshes, and swamps. Such wetlands can be either fresh or saltwater, along streams (riparian), in tidally influenced areas (near the ocean and usually below extreme high water of spring tides), marginal to lakes, ponds, and man-made impoundments. Wetlands do not include areas which in normal rainfall years are permanently submerged (streams, lakes, ponds, and impoundments), nor marine or estuarine areas below extreme low water of spring tides, nor vernal wet areas where the soils are not hydric.

...

18.38.030 Required Reports. Biological, Archeological and Geological Reports shall be required as set forth in Sections 18.38.035, 18.38.040, and 18.38.045. Required Reports shall be prepared by a qualified professional selected by the City in accordance with established City procedures. Unless otherwise specified herein, all required Biological, Archaeological, and Geological Reports shall be performed by a consultant selected by the City and paid for by the applicant.

A. Report Requirements. The following requirements apply to reports.

1. Reports shall identify significant impacts on identified Coastal Resources on the project site that would result from development of the proposed project
2. Reports shall recommend feasible measures to mitigate any significant impacts and to protect the identified coastal resource. The adequacy of these measures shall be evaluated under a program developed jointly by the applicant and the Planning Director. These measures may include, but are not limited to:

- a. changes in development intensity;
- b. siting of buildings, structures or paving; and
- c. limitations on the timing and location of construction.

3. Reports shall contain a proposed monitoring and reporting program to ensure that development conditions imposed are adequately being carried out and that significant impacts on the coastal resources have not occurred.

4. Reports shall be reviewed by the City for consistency with this Title and with the California Environmental Quality Act.

5. Reports shall be completed to the satisfaction of the Planning Director prior to the determination that a required development permit application is considered complete.

B. Exceptions. The Planning Director may grant exceptions to the requirements of this Chapter if he or she finds that existing studies adequately fulfill the requirements of this Chapter, provided such studies were prepared by a qualified professional as a part of a previously Certified Final EIR in accordance with the provisions of this Chapter.

18.38.035 Biological Report.

A. When Required. The Planning Director shall require the applicant to submit a Biological Report, prior to development review, prepared by a qualified Biologist for any project located in or within 100 feet of any Sensitive Habitat Area, Riparian Corridor, Bluffs and Seacliff Areas, and any Wetland...

B. Report Contents. In addition to meeting the report requirements listed in Section 18.35.030, the Biological Report shall contain the following components:

1. **Mapping of Coastal Resources.** The Biological Report shall describe and map existing wild strawberry habitat on the site, existing sensitive habitats, riparian areas and wetlands located on or within 200 feet of the project site.

2. **Description of Habitat Requirements.**

- a. **For Rare and Endangered Species:** a definition of the requirements of rare and endangered organisms, a discussion of animal predation and migration requirements, animal food, water, nesting or denning sites and reproduction, and the plant's life histories and soils, climate, and geographic requirements;
- b. **For Unique Species:** a definition of the requirements of the unique organism; a discussion of animal food, water, nesting or denning sites and reproduction, predation, and migration requirements; and a description of the plants' life histories and soils, climate, and geographic requirements.

C. Distribution of Report. Any Biological Report prepared pursuant to this Title shall be distributed to the US Fish and Wildlife Service, the Army Corps of Engineers, the California Coastal Commission, the State Department of Fish and Game, the Regional Water Quality Control Board, and any other Federal or State agency with review authority over wetlands, riparian habitats, or water resources.

1. The Biological Report shall be transmitted to each agency with a request for comments from each agency with jurisdiction over the effected resource on the adequacy of the Report and any suggested mitigation measures deemed appropriate by the agency.

2. Included within the transmittal of the Biological Report to the various agencies shall be a request for comments to be transmitted to the Planning Director within 45 days of receiving the Report.

18.38.055 Environmental Impact Reports. At the discretion of the Planning Director, a project applicant may use the analysis contained in an Environmental Impact Report prepared under the California Environmental Quality Act or an Environmental Impact Statement prepared under the federal Environmental Policy Act to fulfill the requirements of this Title.

...
B. Use of Previously Prepared Environmental Impact Report. The Planning Director may accept the information and analysis contained in a previously prepared Environmental Impact Report required under the California Environmental Quality Act in lieu of a new Geological, Biological, or Archaeological Report if the Planning Director determines that:

3. In order to use any previously prepared Biological Report pursuant to this Section, the Biological Report must have been a part of a Certified Final EIR that was accepted as complete and adequate no more that one year prior to the date of submittal.

18.38.075 Riparian Corridors and Buffer Zones.

A. Permitted Uses. Except as may be specified in this Chapter, within Riparian Corridors, only the following uses shall be permitted:

1. Education and research;
2. Consumptive uses as provided for in the Fish and Game Code and Title 14 of the California Administrative Code;
3. Fish and wildlife management activities;
4. Trails and scenic overlooks on public land(s);
5. Necessary water supply projects;
6. Restoration of riparian vegetation.

B. No Alternative Permitted Uses. The following are permitted uses where no feasible or practical alternative exists:

1. Stream-dependent aquaculture provided that non-stream-dependent facilities locate outside of corridor;
2. Flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development;
3. Bridges when supports are not in significant conflict with corridor resources;
4. Pipelines and storm water runoff facilities;

5. Improvement, repair, or maintenance of roadways or road crossings;
6. Agricultural uses, provided no existing riparian vegetation is removed, and no soil is allowed to enter stream channels

C. Standards. Development shall be designed and constructed so as to ensure:

1. That the removal of vegetation is minimized;
2. That land exposure during construction is minimized and that temporary vegetation or mulching is used to protect critical areas;
3. That erosion, sedimentation, and runoff is minimized by appropriately grading and replanting modified areas;
4. That only adapted native or non-invasive exotic plant species are used for replanting;
5. That sufficient passage is provided for native and anadromous fish as specified by the State Department of Fish and Game;
6. That any adverse effects of waste water discharges and entrainment are minimized;
7. That any depletion of groundwater supplies and substantial interference with surface and subsurface water flows are prevented;
8. That waste water reclamation is encouraged;
9. That natural vegetation buffer areas which protect riparian habitats are maintained;
10. That any alteration of natural streams is minimized.

D. Riparian Buffer Zone. The Riparian Buffer Zone is defined as:

1. land on both sides of riparian corridors which extends from the "limit of riparian vegetation" 50 feet outward for perennial streams and 30 feet outward for intermittent streams;
2. land along both sides of riparian corridors which extends 50 feet from the bank edge for perennial streams and 30 feet from the midpoint of intermittent streams, where no riparian vegetation exists.

E. Permitted Uses within Riparian Buffer Zones include:

1. Uses permitted in riparian corridors;
2. Crop growing and grazing, provided no existing riparian vegetation is removed and no soil is allowed to enter stream channels;

3. Timbering in "stream side corridors" as defined and controlled by State and County regulations for timber harvesting.

F. No Alternative Permitted Uses. The following are Permitted Uses within Riparian Buffer Zones where no feasible alternative exists:

1. The construction of new structures on existing legal building sites, set back 20 feet from the limit of riparian vegetation, only if no other building site on the parcel exists;

2. The creation of new parcels only if the only building sites available are those within in buffer area, if the proposed parcels are consistent with existing development in the area, and if the building sites are set back 20 feet from the limit of riparian vegetation, or if there is no vegetation, 20 feet from the bank edge of a perennial stream or 20 feet from the midpoint of an intermittent stream.

G. Development Standards within Riparian Buffer Zones. Development shall be designed and constructed so as to ensure:

1. That the removal of vegetation is minimized;

2. That development conforms to natural topography and that erosion potential is minimized;

3. That provisions have been made to (i.e. catch basins) keep runoff and sedimentation from exceeding pre-development levels;

4. That native and non-invasive exotic vegetation is used for replanting, where appropriate;

5. That any discharge of toxic substances, such as fertilizers and pesticides, into the riparian corridor is prevented;

6. That vegetation in or adjacent to man-made agricultural ponds is removed if the life of the pond is endangered;

7. That dredging in or adjacent to man-made ponds is allowed if the San Mateo County Resource Conservation District, or any similar or successor agency or entity, certifies that siltation imperils continued use of the pond for agricultural water storage and supply.

H. Findings for Development within Riparian Buffer Zones. The following Findings shall be supported by the contents of the required Biological Report:

1. That there are special circumstances or conditions affecting the property;

2. That the project is necessary for the proper design and function of some permitted or existing activity on the property;

3. That the project will not be detrimental to the public welfare or injurious to other property downstream or in the area in which the project is located;

4. That the project will not significantly reduce or adversely impact the sensitive habitat, or there is no feasible alternative which would be less damaging to the environment;

5. That the project is in accordance with the purpose of this Chapter and with the objectives of the L.C.P. Land Use Plan;

6. That development on a property which has its only building site located in the buffer area maintains a 20-foot buffer from the limit of riparian vegetation, or if no vegetation exists, a 20-foot buffer from the bank of a perennial stream and a 20-foot buffer from the midpoint of an intermittent stream.

18.38.080 Wetlands

A. Permitted Uses:

1. Education and research;
2. Passive recreation such as bird-watching;
3. Fish and wildlife management activities.

B. Permitted Uses with approval of a Use Permit:

1. Commercial mariculture where no alteration of the wetland is necessary;
2. Bridges;
3. Pipelines and storm water runoff facilities;
4. Improvement, repair or maintenance of roadways.

C. Standards. The Riparian Corridor Standards listed in this Chapter shall apply to Wetlands.

D. Wetlands Buffer Zone. The minimum buffer surrounding lakes, ponds, and marshes shall be 100 feet, measured from the high water point, except that no buffer is required for man-made ponds and reservoirs used for agricultural purposes.

E. Permitted Uses within Wetlands Buffer Zones. The Riparian Buffer Zone Uses listed in this Title shall apply to Wetlands Buffer Zones.

F. Permitted Uses within Wetlands Buffer Zones, where no feasible alternative exists. The Riparian Buffer Zone Uses listed under this Title shall apply to Wetlands Buffer Zones.

G. Development Standards within Wetlands Buffer Zones. The Riparian Buffer Development Standards listed under this Title shall apply to Wetlands Buffer Zones.

H. Findings for Development within Wetlands Buffer Zones. The following Findings shall be supported by the contents of the required Biologic Report:

1. That there are special circumstances or conditions affecting the property;
2. That the project is necessary for the proper design and function of some permitted or existing activity on the property;
3. That the project will not be detrimental to the public welfare or injurious to other property in the area in which the project is located;
4. That the project will not significantly reduce or adversely impact the sensitive habitat, or there is no feasible alternative which would be less damaging to the environment;
5. That the project is in accordance with the purpose of this Chapter and with the objectives of the L.C.P. Land Use Plan;
6. That development on a property, which has its only building site located in the buffer area, maintains a 20-foot buffer from the outer edge of any wetland.

18.38.085 Habitats for Rare and Endangered Species

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

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

3. Plants: Rare Plants known in San Mateo County are the Coast rock cress, Davy's bush lupine, Dolores campion, Gairdner's yampah, Hickman's cinquefoil, Montara manzanita, San Francisco wallflower, and Yellow meadow foam (botanical names are listed in the City's LCP/LUP).

B. Permitted Uses. In the event that a Biological Report indicates the existence of any of the above species in an area, the following uses are permitted.

1. Education and research.
2. Hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat.
3. Fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species.

C. Permitted Uses within Critical Habitats. Within the critical habitat as identified by the Federal Office of Endangered Species, permitted uses are those which are deemed compatible by the US Fish and Wildlife Service in accordance with the provisions of the Endangered Species Act of 1973, as amended.

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

E. Standards:

1. Animals: Specific requirements for each rare and endangered animal are listed in Chapter 3 of the Local Coastal Program Land Use Plan.

2. Plants: When no feasible alternative exists, development may be permitted on or within 50 feet of any rare plant population, if the site or a significant portion thereof shall be returned to a natural state to enable reestablishment of the plant, or a new site shall be made available for the plant to inhabit and, where feasible, the plant population shall be transplanted to that site.

F. Habitat Preservation. Rare and endangered species habitats shall be preserved according to the requirements of the specific Local Coastal Program Land Use Plan policies tailored to each of the identified rare and endangered species and LCP/LUP implementing ordinances.

18.38.090 Habitats for Unique Species.

B. Permitted Uses. Permitted uses include:

1. education and research;
2. hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat; and
3. fish and wildlife management to the degree specified by existing governmental regulations.

California Environmental Quality Act (CEQA) and CEQA Guidelines

21080.5. Certified Regulatory Programs

(d) To qualify for certification pursuant to this section, a regulatory program shall require the utilization of an interdisciplinary approach that will ensure the integrated use of the natural and social sciences in decision making and shall meet all of the following criteria:

(2) The rules and regulations adopted by the administering agency for the regulatory program do all of the following:

(A) Require that an activity will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

15130. Discussion of Cumulative Impacts

(b) The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided ~~of~~ for the effects attributable to the project alone. The discussion should be guided by standards of practicality and reasonableness, and should focus on the cumulative impact to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative impact. The following elements are necessary to an adequate discussion of significant cumulative impacts:

(1) Either:

(A) A list of past, present, and-reasonably anticipated probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or

(B) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or

evaluated is designed to evaluate regional or areawide conditions contributing to the cumulative impact. Any such planning document shall be referenced and made available to the public at a location specified by the lead agency;

1. When utilizing a list, as suggested in paragraph (1) of subdivision (b), factors to consider when determining whether to include a related project should include the nature of each environmental resource being examined, the location of the project and its type. Location may be important, for example, when water quality impacts are at issue since projects outside the watershed would probably not contribute to a cumulative effect. Project type may be important, for example, when the impact is specialized, such as a particular air pollutant or mode of traffic.

2. "Probable future projects" may be limited to those projects requiring an agency approval for an application which has been received at the time the notice of preparation is released, unless abandoned by the applicant; projects included in an adopted capital improvements program, general plan, regional transportation plan, or other similar plan; projects included in a summary of projections of projects (or development areas designated) in a general plan or a similar plan; projects anticipated as later phase of a previously approved project (e.g. a subdivision); or those public agency projects for which money has been budgeted.

3. Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.

(2) A summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available; and

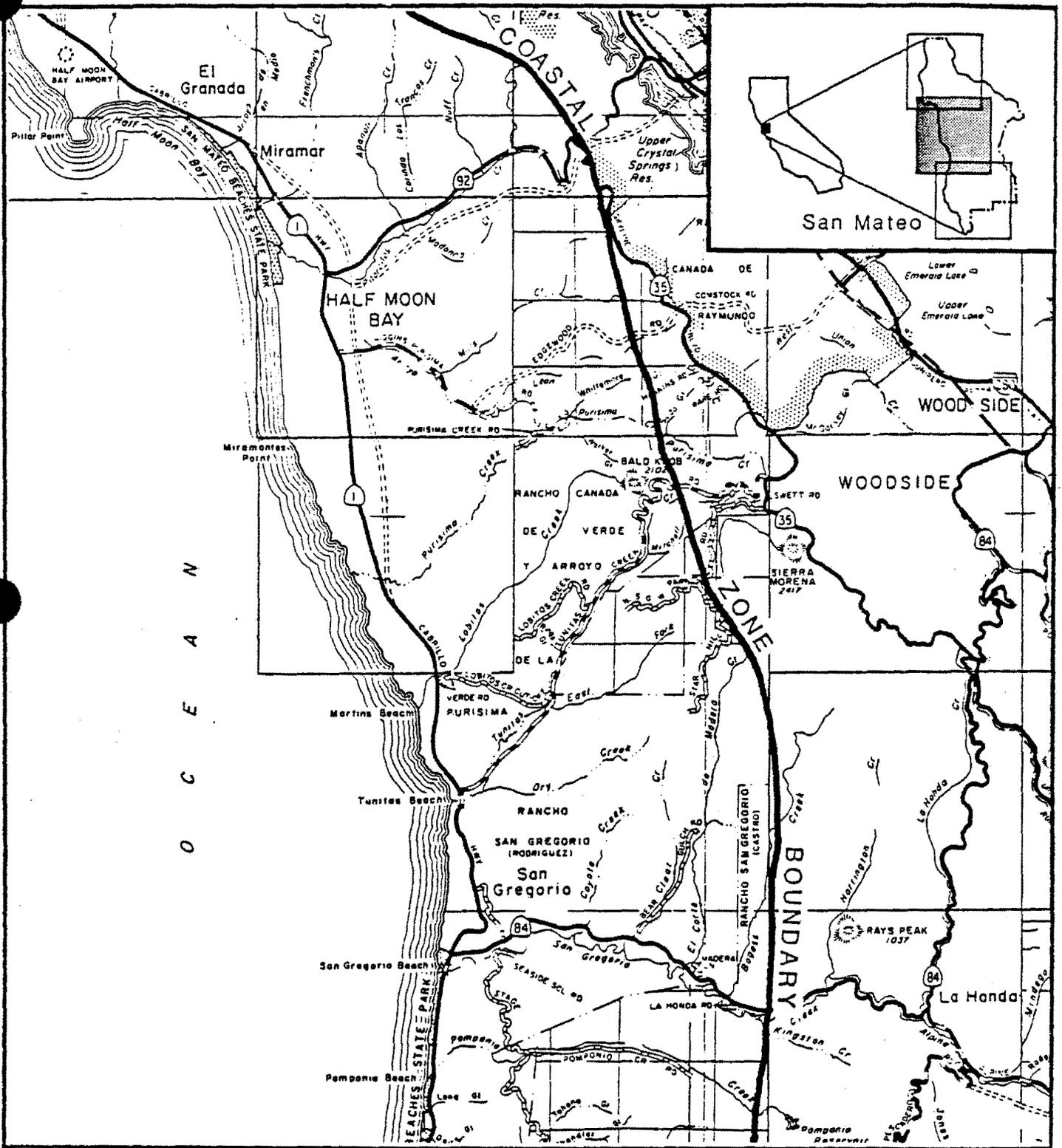
(3) A reasonable analysis of the cumulative impacts of the relevant projects. An EIR shall examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects of a proposed project.

15355. Cumulative Impacts

"Cumulative impacts" refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.

(a) The individual effects may be changes resulting from a single project or a number of separate projects.

(b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.



O C E A N



SITE BOUNDARY - - - - -

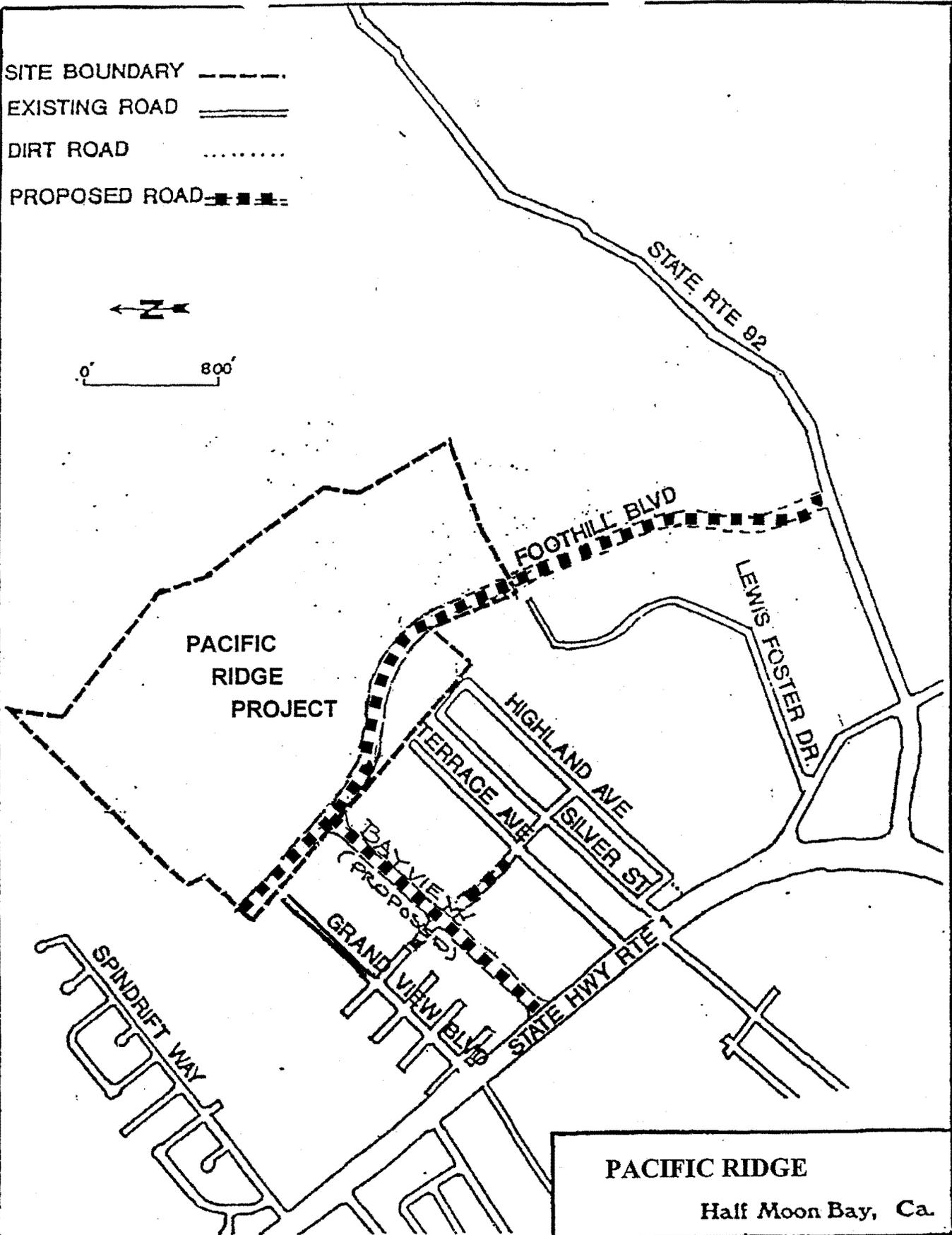
EXISTING ROAD = = = = =

DIRT ROAD

PROPOSED ROAD - + - + - + -



0' 800'



PACIFIC RIDGE PROJECT

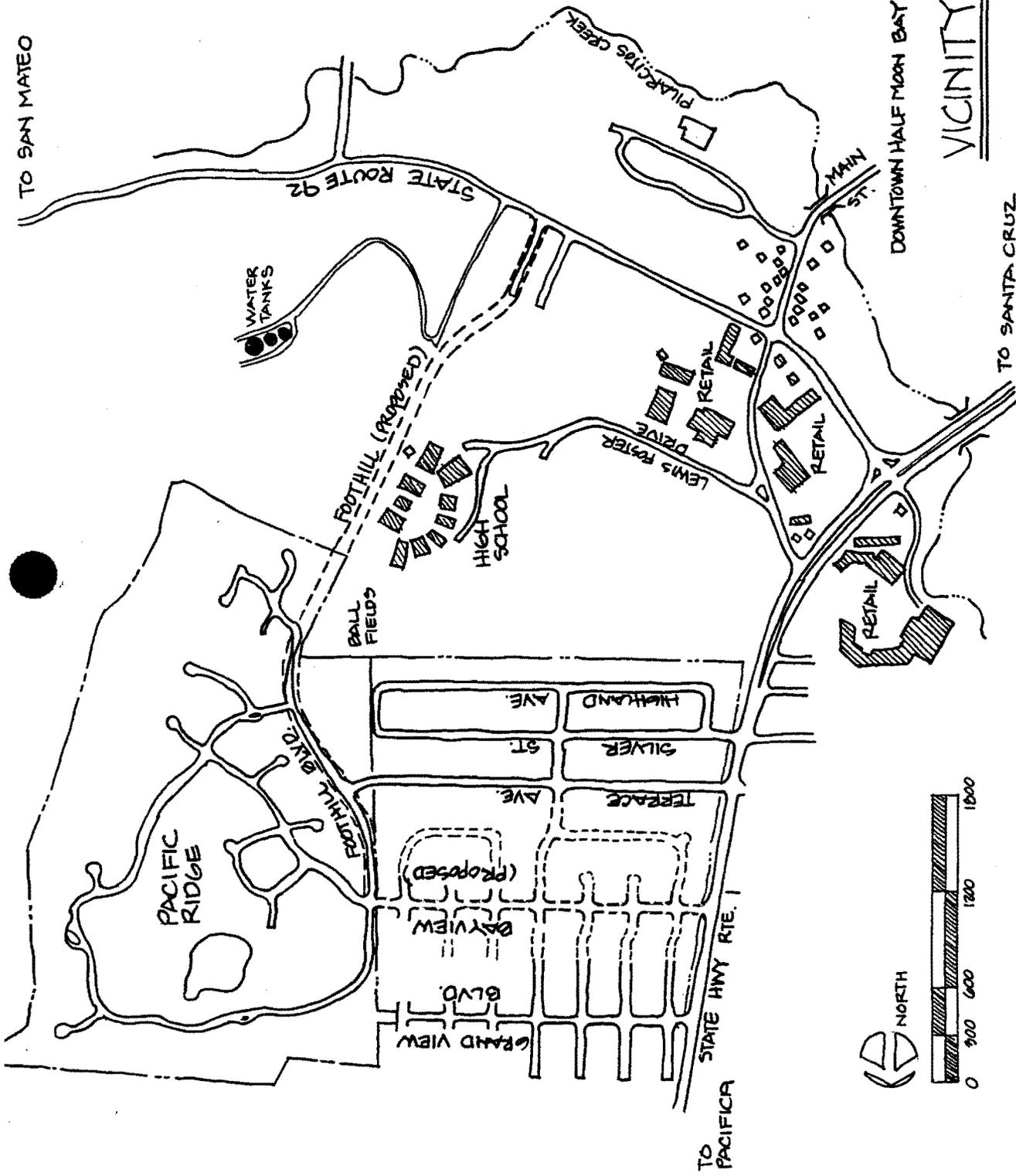
PACIFIC RIDGE

Half Moon Bay, Ca.

FOOTHILL BOULEVARD AND LOCAL STREET CONNECTIONS



TO SAN MATEO



VICINITY MAP



TO PACIFICA

TO SANTA CRUZ

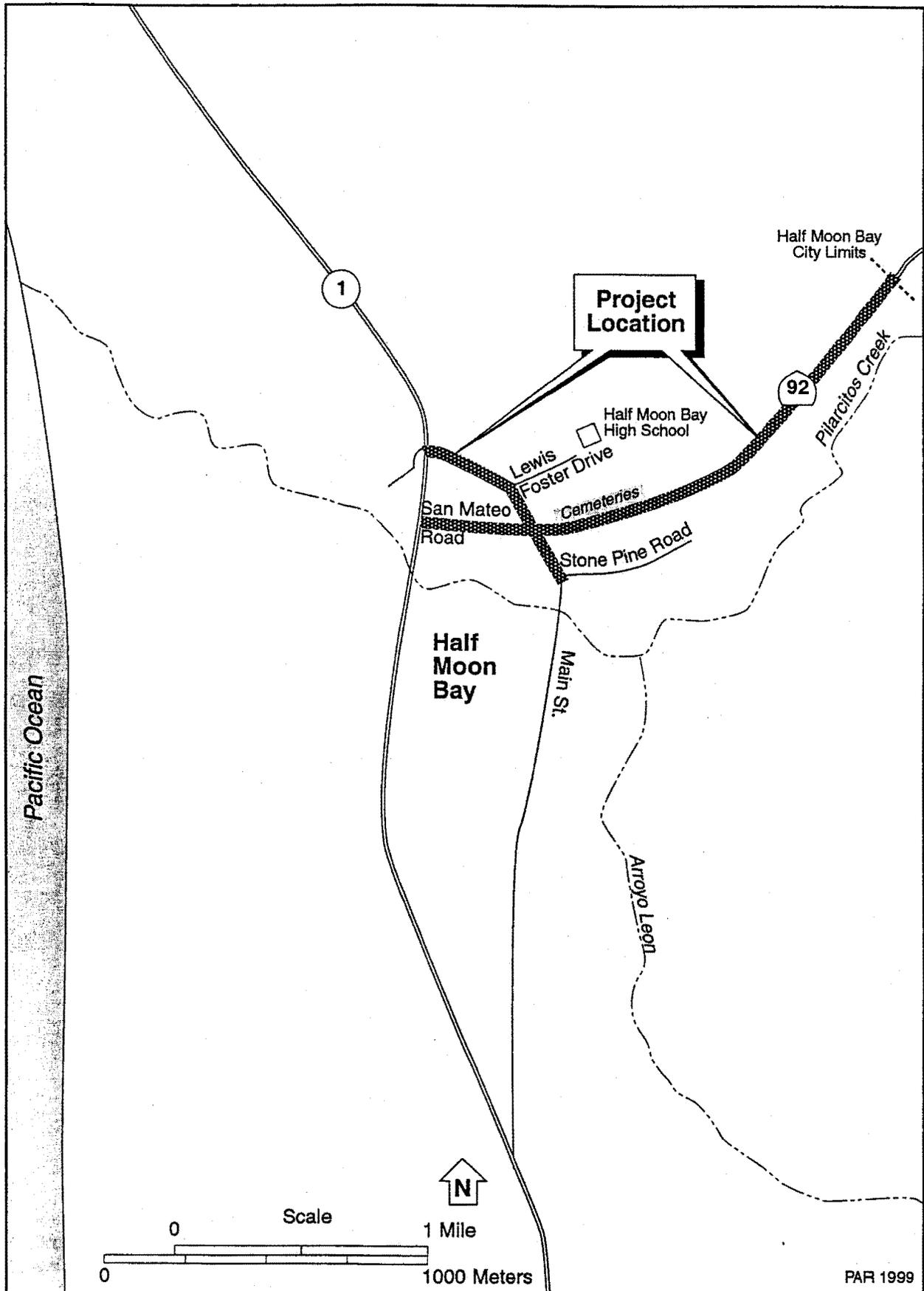


Figure 2. Project Location Map

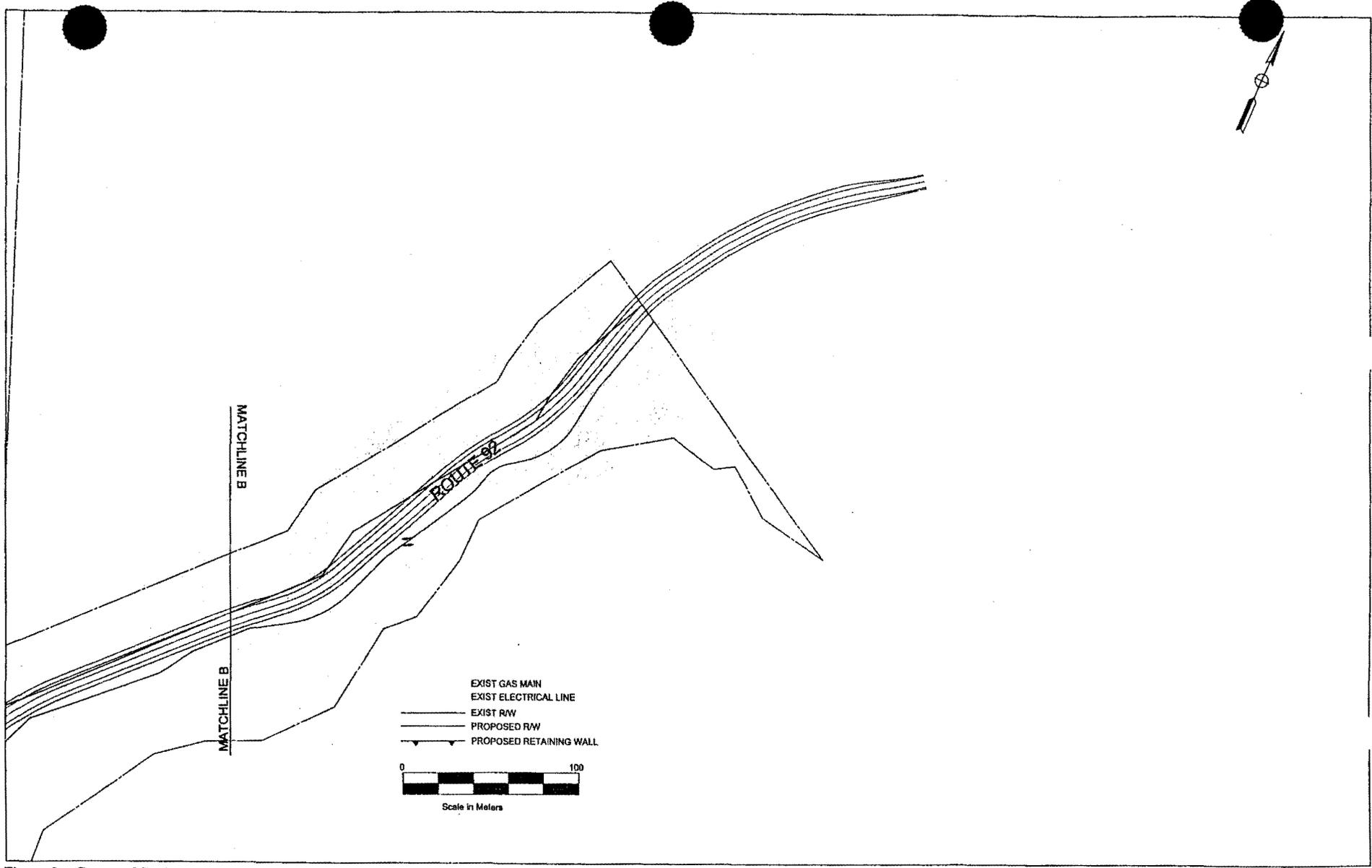


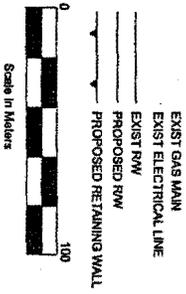
Figure 3c. Proposed Project

Initial Study/Environmental Assessment
State Route 92 Widening Project

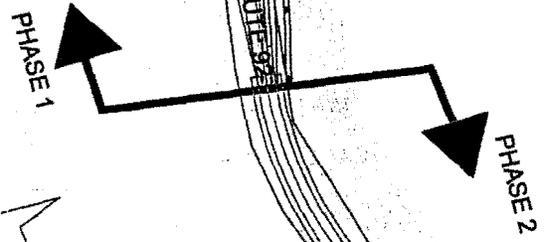


MATCHLINE A

STONE PINE ROAD



ROUTE 92



MATCHLINE B

Figure 3b. Proposed Project

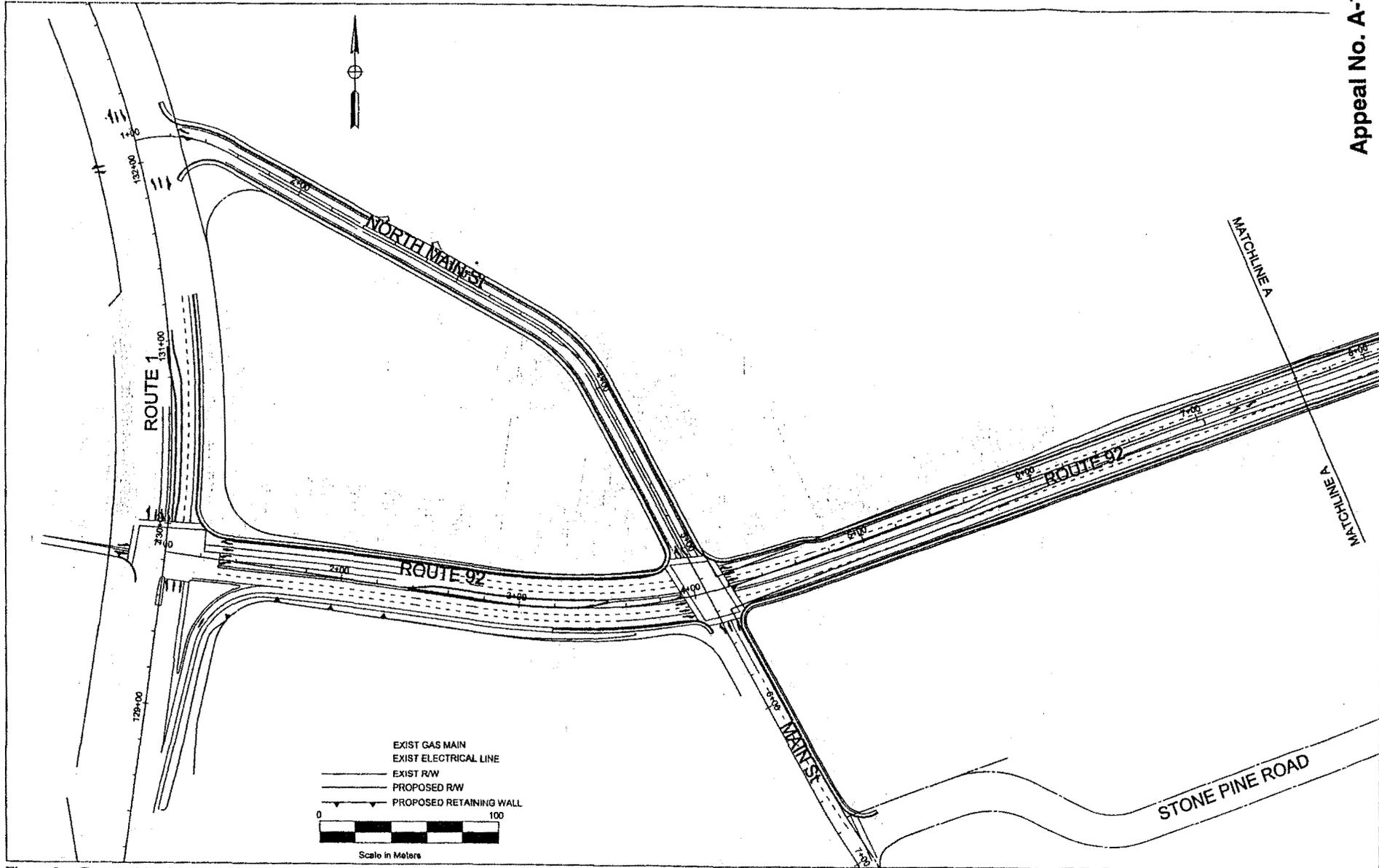
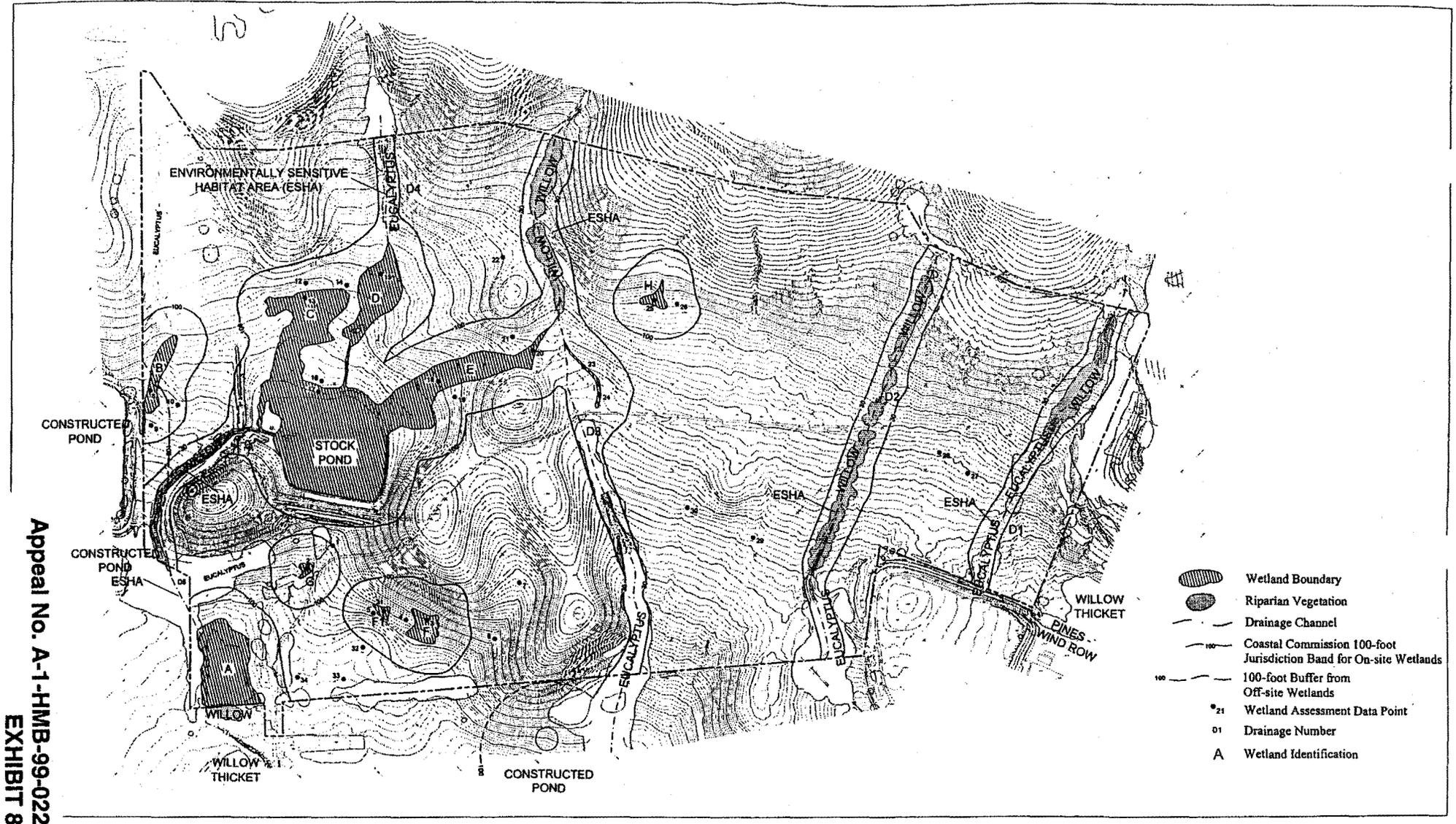


Figure 3a. Proposed Project



Appeal No. A-1-HMB-99-022
 EXHIBIT 8

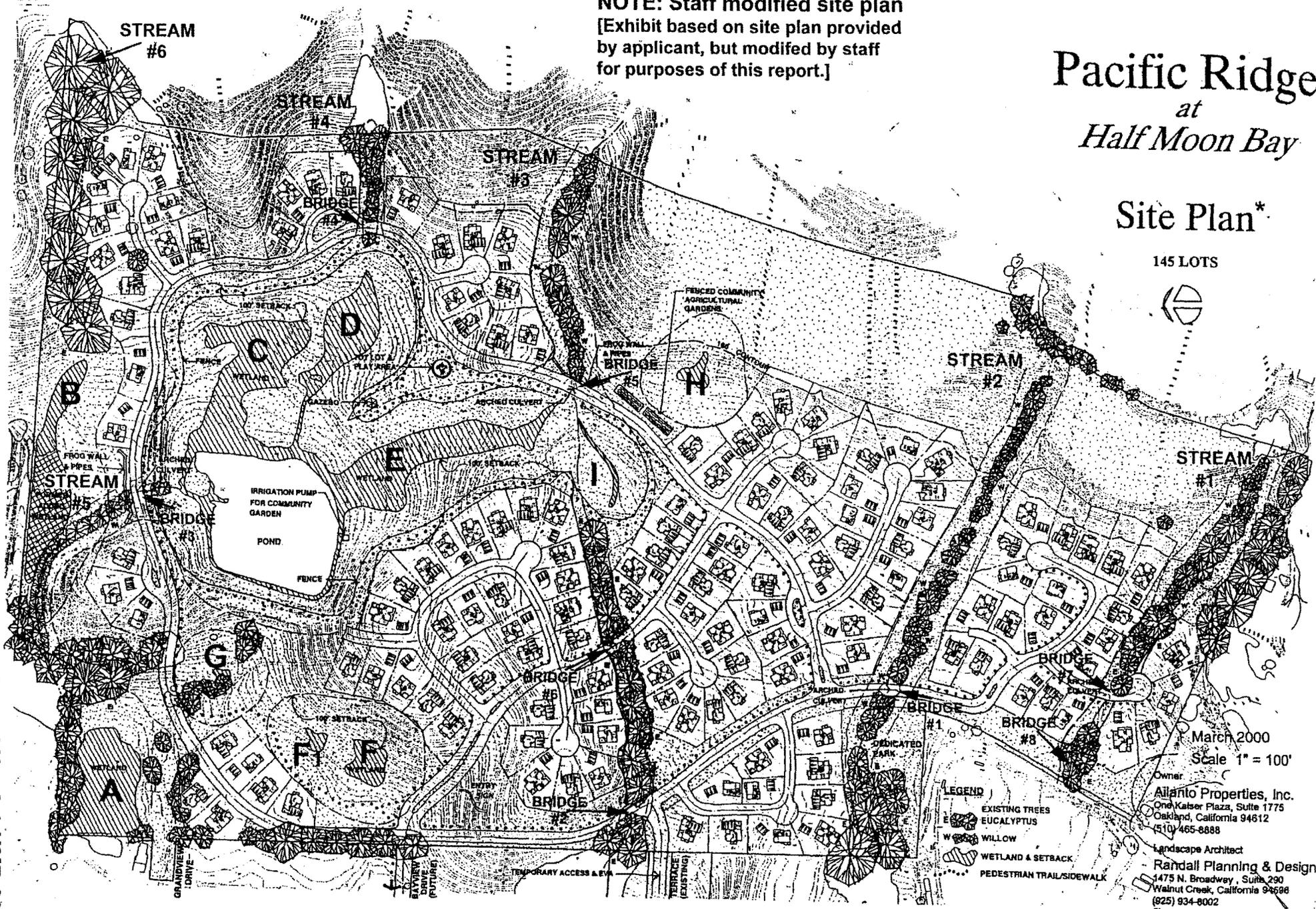
Map 2 Pacific Ridge at Half Moon Bay
 Existing Conditions and Required Buffer Zones

* NOTE: Staff modified site plan
 [Exhibit based on site plan provided
 by applicant, but modified by staff
 for purposes of this report.]

Pacific Ridge at Half Moon Bay

Site Plan*

145 LOTS



March 2000
 Scale 1" = 100'

Owner
 Allanto Properties, Inc.
 One Kaiser Plaza, Suite 1775
 Oakland, California 94612
 (510) 465-8888

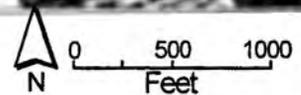
Landscape Architect
 Randall Planning & Design
 1475 N. Broadway, Suite 290
 Walnut Creek, California 94598
 (925) 934-8002

Appeal No. A-1-HMB-99-022
 EXHIBIT 9

Prime Agricultural Soils East of Highway 1 Vicinity of Pacific Ridge Subdivision



- Pacific Ridge Subdivision
- ▭ Prime Agricultural Soils *

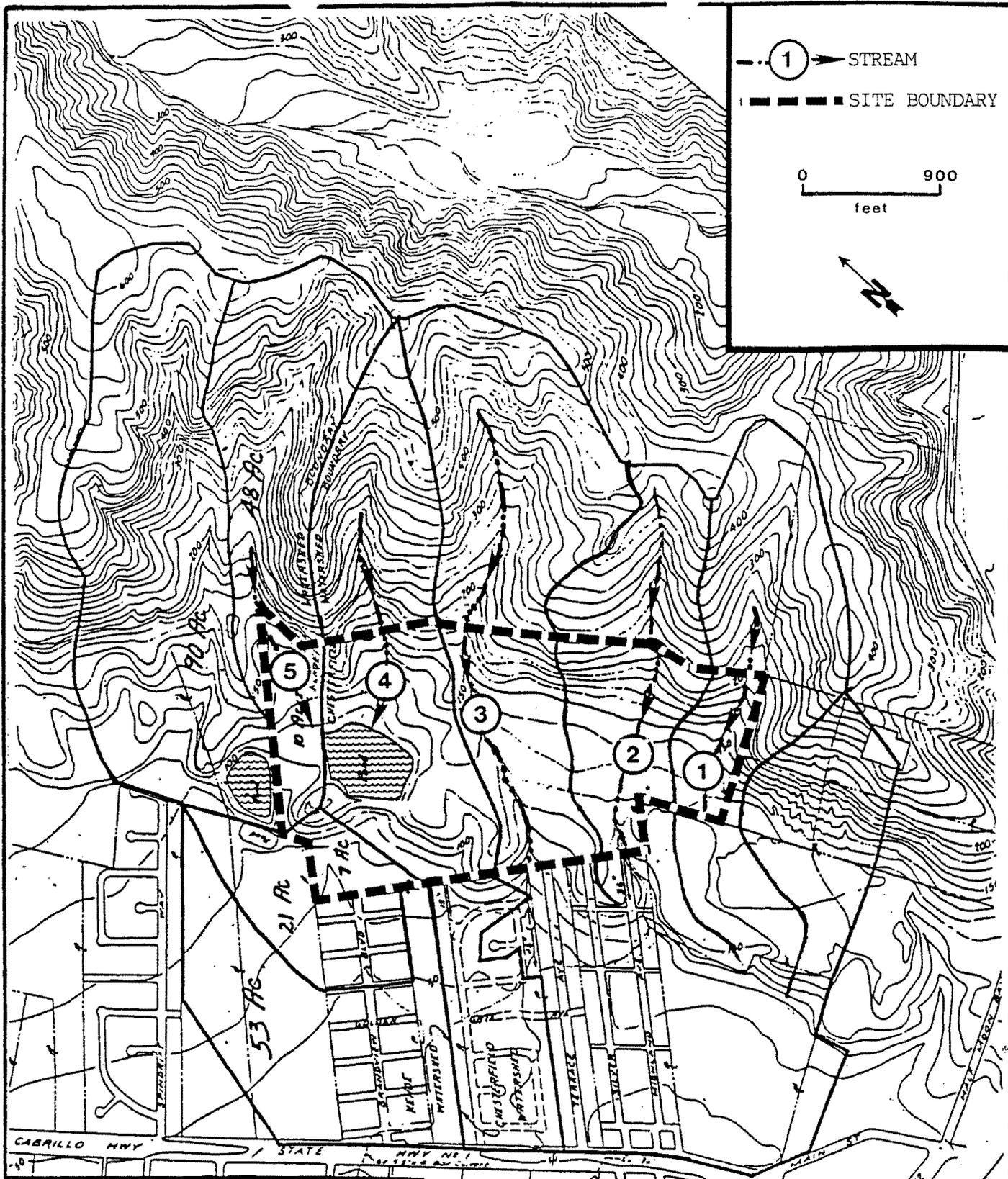


* Prime agricultural soils are also found west of Highway 1 and north of Frenchman's Creek.

- NOTE -

The information depicted on this map is subject to revision. Locations and scale approximate. For illustrative purposes only.

Data Source: Map 2 Pacific Ridge at Half Moon Bay Existing Conditions and Required Buffer Zones. LSA
Basemap Source: Soil Survey, San Mateo California. USDA, SCS National Cartography and GIS Center, Fort Worth, TX. 1993.



DYKSTRA RANCH
Half Moon Bay, Ca.

Figure 4.3-2 KEHOE-CHESTERFIELD WATERSHEDS



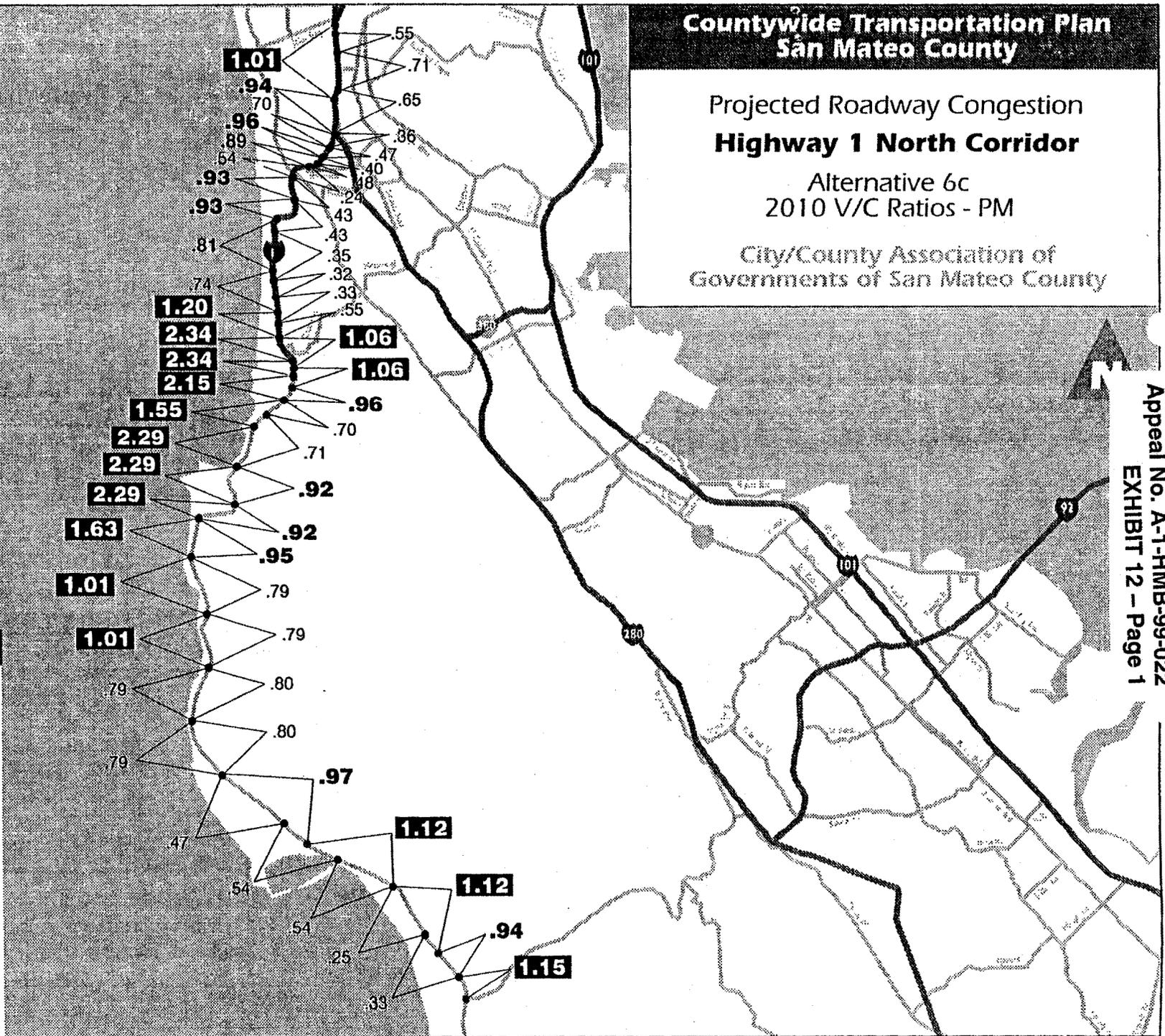
Countywide Transportation Plan San Mateo County

Projected Roadway Congestion Highway 1 North Corridor

Alternative 6c
2010 V/C Ratios - PM

City/County Association of
Governments of San Mateo County

Appeal No. A-1-HMB-99-022
EXHIBIT 12 - Page 1



Legend

- Regional Arterials
- Freeway
- 1.01** >1.00 (LOS F)
- .91** 0.91 - 1.00 (LOS E)
- .81** 0.81 - 0.90 (LOS D)
- .80** 0 - 0.80 (LOS C and below)

C:19

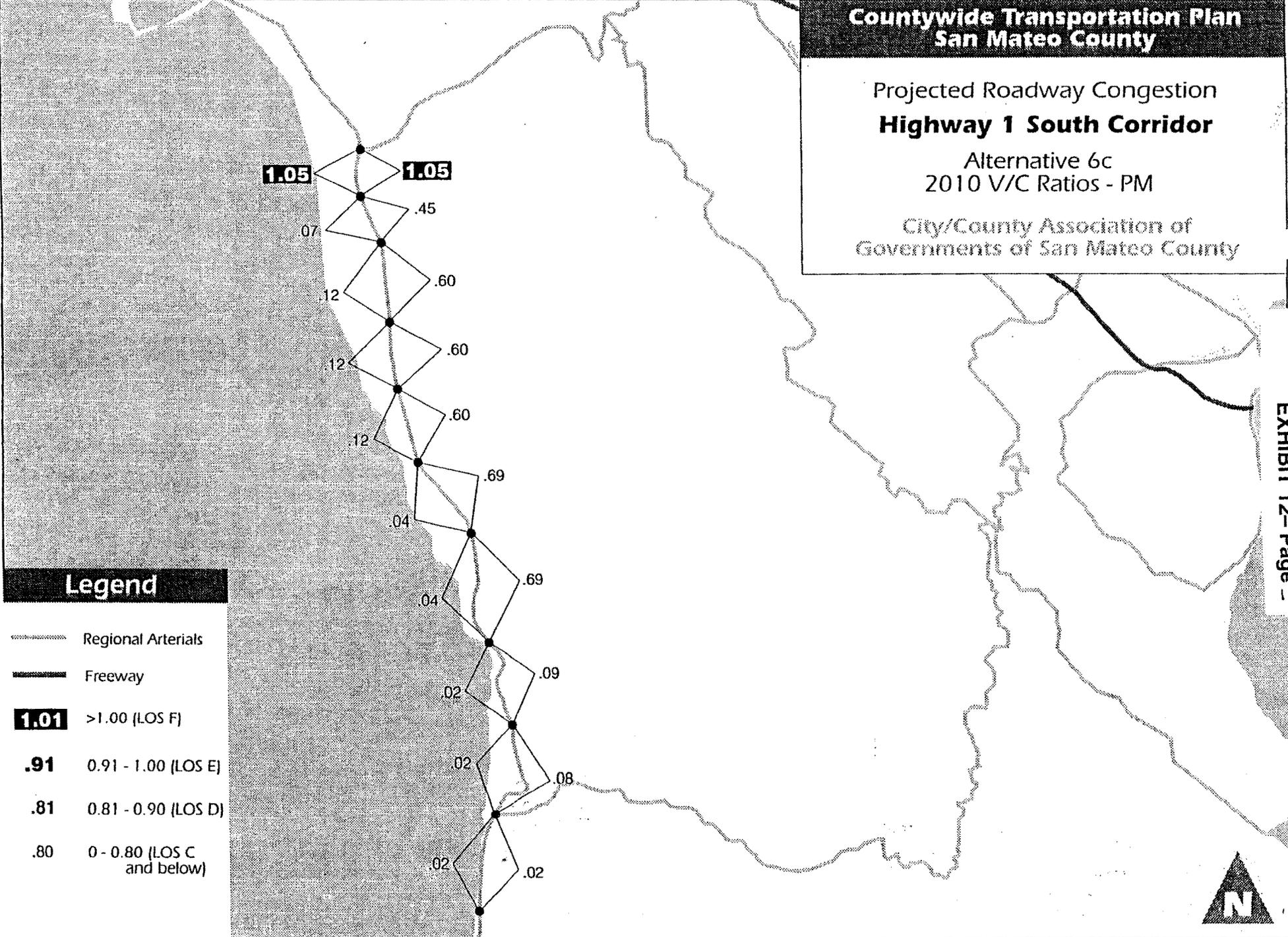
**Countywide Transportation Plan
San Mateo County**

**Projected Roadway Congestion
Highway 1 South Corridor**

Alternative 6c
2010 V/C Ratios - PM

City/County Association of
Governments of San Mateo County

Appeal No. A-1-HMB-99-07
EXHIBIT 12 - Page -



C-20



May 8, 2000

Appeal A-1-HMB-99-022, F7a

VIA FACSIMILE 415-904-5400

(Total of 16 pages)

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

Although I am a member of the City of Half Moon Bay's Planning Commission, I am writing you as an individual citizen to oppose the Pacific Ridge Project proposed by Ailanto Properties. The project's inconsistency with Local Coastal Program policies involving limits on circulation, noise and protection of on-site ESHAs has already been raised by the appellants and others, and I will not waste your time repeating them. I am deeply concerned, however, about the impact this project would have on the perennial stream and riparian corridor downstream from the project's storm drainage, and on the health and welfare of the nearby residents.

Water shed by the subject property drains into a storm sewer that passes under CA Highway 1 to reach a stream parallel to and just south of Kehoe Avenue. The Coastal Commission itself acknowledged the riparian quality of this stream on May 11, 1988 when it accepted a riparian corridor deed restriction on the Final Map of St. John Subdivision Unit #4. A copy of the recorded agreement, the map, and a CCC staff discussion of the stream accompany this letter. For at least the past six years this stream has been perennial. It supports an array of willow, cattail and other local plant species that intensifies as the stream flows west and approaches the north side of the SAM (Sewer Authority Mid-Coastside) plant. Although the stream is not shown in Habitat Area & Water Resources Overlay of Half Moon Bay's LCP, policy 3-2 explicitly notes that sensitive habitats are not limited to those shown on the referenced overlay. Policy 3-1 includes such streams, riparian areas and wetlands as sensitive habitats areas.

The Pacific Ridge Project would convert a significant amount of permeable upland acreage into impermeable surfaces, dramatically increasing the volume of either sheet flow or storm sewer flow. This larger and more rapidly flowing volume of water will seriously damage our stream and riparian corridor, which already fills to capacity in heavy rains (at the public hearing I will share photographs of the creek when full), a violation of LCP policy 3-3. The resulting erosion in the associated buffer zones would violate LCP policy 3-13 by increasing erosion and associated removal of willow trees and other buffer zone vegetation; it would also violate LCP policy 4-9 by increasing runoff that would erode natural drainage courses, exceeding the rate of erosion from undeveloped land, and failing to dissipate destructive offsite water flows.

JAMES BENJAMIN
400 PILARCITOS AVENUE
HALF MOON BAY, CALIFORNIA 94019-1475
(650)691-5598 (W) (650)712-0543 (H)

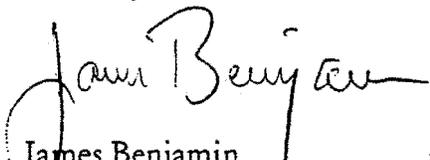
May 9, 2000

An eroding stream bank would also threaten existing housing along Kehoe Avenue. A paragraph in LCP section 4.2 titled "Surface-Drainage and Local Flooding" specifically cites the project vicinity as needing improved drainage for protection of developed areas. This is not a remote risk; in 1998 the City of Half Moon Bay spent over \$24,000 to repair an eroding bank of this stream that threatened homes on Kehoe Avenue (see attachment). The flood of water that would result from the Pacific Ridge Project would contribute to this flood hazard, in violation of LCP policy 4-8 ("No new permitted development shall cause or contribute to flood hazards.").

These problems are not insurmountable. Undeveloped land could include additional retention ponds, and land near the referenced stream might be converted into a second watercourse to accommodate some additional flow while restoring some of the wetlands destroyed by previous development. But unless these environmental impacts are acknowledged in the EIR and mitigated, the Pacific Ridge project is hopelessly at odds with Half Moon Bay's Local Coastal Program and the Coastal Act.

For the sake of this sensitive habitat area and the residents adjacent to it, I respectfully request that you to cite these impacts in denying this project in its current form.

Sincerely,


James Benjamin
400 Pilarcitos Avenue
Half Moon Bay, California

Enclosures: Excerpts of document #88058978 recorded May 13, 1988 in County of San Mateo:

- Copy of deed restriction agreement (5 pages)
- Page 17 of staff report (appl. #3-88-10, doc. #Q777P) discussing stream & riparian corridor
- Exhibit 3 of same staff report showing referenced riparian buffer zone

City of Half Moon Bay Public Works Director January 20, 1998 report to City Council of completed emergency repair work on Kehoe drainage ditch (Project No. 1997-06)

AILANTO PROPERTIES, INC.

ONE KAISER PLAZA / ORDWAY BUILDING / SUITE 1775
OAKLAND, CA 94612 • (510) 465-8888 • FAX (510) 465-5704

June 6, 2000

RECEIVED
JUN 07 2000

CALIFORNIA
COASTAL COMMISSION

Chairperson Sara Wan and
Honorable Members of the
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: Appeal No. A-1-HMB-99-022
Pacific Ridge at Half Moon Bay

Dear Chairperson Wan and Commissioners:

The above project was heard as agenda item 7a on Friday, May 12, 2000. Because staff did not make a recommendation in their staff report, the hearing was continued to July. For continuity purposes between these meetings, we would like to assist the Commissioners by providing our May 12th meeting presentation notes and copies of the slides that were shown, which are enclosed for your convenience. Thank you.

Sincerely,



Robert Henry
Project Manager

Cc: ✓ Chris Kern w/attachments
Anna Shimko w/attachments
Nancy Lucast w/o attachments

Coastal Commission Presentation Notes of 5/12/00, Item 7a
Appeal No. A-1-HMB-99-022 (Ailanto Properties, Pacific Ridge)

HISTORY

- Ailanto Properties purchased the subject property in Half Moon Bay in 1985. (slide) The 114-acre property was then known as Dykstra Ranch and it had this approved tentative map for 228 units.
- (slide) In 1990, the City Council approved the EIR, Vesting Tentative Map (slide) as shown here, and the Planned Unit Development Ordinance for 216 units, finding that the project was consistent with the City's Certified LUP.
- (slide) In 1991, the City imposed a sewer moratorium and Ailanto was not able to obtain a CDP or proceed with its development. While the moratorium was in effect, Ailanto was able to obtain all necessary water connection contracts and participate in the wastewater treatment plant expansion assessment district.
- (slide) In 1997, Ailanto's environmental consultant performed an updated biological survey, which included a wetland delineation, and an endangered specie survey. That information was used to apply for a U.S. Army Corp of Engineers Section 404 Permit.
- (slide) In February of 1998, a California Fish & Game Streambed Alteration Agreement was obtained. Also at this time, the City allowed Ailanto to submit a CDP application to the City for 213 units.
- (slide) In December of 1998, a Corp of Engineers Section 404 Permit was issued; and,
- (slide) In January of 1999, the Waiver of Waste Discharge and Water Quality Certification letter from the California Regional Water Quality Control Board was also issued.
- (slide) Finally, in March of 1999, the City Council did approve our CDP for 197 units, as pictured here.
- Since this appeal was filed over a year ago, we have met numerous times with the Commission Staff and diligently worked to satisfy their concerns. We have submitted revised reports and studies, performed another wetland delineation, and significantly revised the project to exceed all LCP requirements. (slide) This work resulted in the revised plan as shown here, dated January 24, 2000. This plan proposes 145 homes having many features which are attractive to empty nesters.

HIGHLIGHTS OF PROJECT

- We believe we have complied with ALL of the LCP's requirements. For example:
 - 1. (slide) The revised project complies with the 100-foot buffer zone restrictions at all wetlands.
 - 2. (slide) Riparian buffer zone requirements are all met or exceeded and arched culverts or bridges have been proposed to span over all drainages.
 - 3. (slide) Upland slopes and visual resources are protected as required by the LCP and Zoning Ordinances by the placement of building footprints below the 160' contour line, meeting building height requirements and using muted paint and roof shingle colors.
 - 4. (slide) In lieu of a traditional lot pattern, the lots have been clustered to the maximum extent feasible as required by the LCP.

- **5. (slide)** U.S. Fish & Wildlife Service has reviewed the revised project and, although no endangered species have ever been documented at the site, we have incorporated all of their comments for enhancement of wildlife migration corridors.
- **6. (slide)** The project meets or exceeds the 100-foot buffer zone around the on-site pond insisted upon by staff.
- **7. (slide)** The revised site plan now proposes only 145 units; this is a 33 % reduction by 71 units from the 216 approved on our VTM. More than half of the project is now proposed to be open space, which is all accessible to the public, with the exception of the pond and its surrounding area.
- **8a, b, c, d. (slide)** Amenities include an extensive trail network, a tot-lot, a gazebo, community gardens and a park dedicated to the City.

- **TRAFFIC AND ACCESS**

- **(slide)** Access to the site is proposed to be **Terrace Avenue**, an existing paved road connected to our site, and therefore, the most environmentally superior access, to which we have abutter's rights. To meet all LCP requirements, we have proposed widening of Route 1 **(slide)** for additional drive lanes from North Main Street to approximately 400 feet north of the Terrace intersection before a single home is occupied. With these improvements, this segment of Highway 1 would improve from a Level of Service F to C. The Senior Transportation Engineer for CalTrans has met with Staff and agreed that a stoplight at Terrace and Route 1 may be installed by Ailanto when the signal warrant has been met. This light will improve the Level of Service of the Terrace/Route 1 intersection from F to A. Once Bayview Drive is connected to the Pacific Ridge site as suggested by the City, knock-down barriers are proposed to be installed at the Terrace Avenue and Pacific Ridge property line, thereby converting this access to an emergency vehicle access.
- Ailanto Properties does not own or control these off-site streets nor did we create the existing traffic problems. In fact, these state highways were operating below the desired LCP standards when the Commission certified the City's LCP! The Commissioners should also be aware that the Appellants live on Terrace Avenue, so they will criticize this plan. But this plan is consistent with the LCP and Coastal Act and it mitigates the project's impacts on Highway 1. Contrary to what the staff report suggests, there is no legal nexus or proportionality upon which the Commission may require Ailanto to undertake additional traffic improvements beyond those already proposed since Ailanto has already volunteered to alleviate far more than the traffic burden caused by this project.

- **CLOSING**

- The project as now proposed conforms to both the LCP and the Coastal Act and incorporates those features recommended by the USFWS and the Coastal Commission Staff. Pacific Ridge is adjacent to existing development and currently has rights to adequate water, sewer, schools and existing road facilities to serve the project. We have experienced extreme hardship in trying to develop the Pacific Ridge project even though we attained our vested rights 10 years ago. We have spent 15 years and substantial resources to get to this point. We respectfully request your favorable approval.

PACIFIC RIDGE at Half Moon Bay

AILANTO PROPERTIES, INC.

HISTORY:

- **1985: Purchased property (228 units)**
- **1990: EIR, Development Ordinance & Vesting Tentative Map Approved (216 units)**
- **1991-1996: Water Connection Contracts & Waste Water Plant Expansion**
- **1997: Biological Survey & USACOE Application for Section 404 Permit**
- **1998: Fish & Game Permit Received & CDP Application Filed With City (213 units)**
- **1998: USACOE Section 404 Permit Issued**
- **1999: RQCB Waiver of Waste Discharge & Water Quality Certification and CDP Received (197 units)**

the Project site to PUD. See, e.g., Arnel Dev. Co. v. City of Costa Mesa (1980) 28 Cal.3d 511 (rezoning is a legislative act). Such rezoning can only be altered through *another* legislative act. The City Attorney himself acknowledged that legislative acts “can only be abrogated by another legislative act, not by the passage of time.” See City Attorney John Truxaw’s letter to Yuri Won, dated March 28, 2000. Moreover, as noted by the City Attorney, case law is clear that:

Rezoning of use districts or changes of uses and restrictions within a district can be accomplished only through an amendment of a zoning ordinance, and the amendment must be made in the same mode as its original enactment.

Johnston v. City of Claremont (1958) 49 Cal.2d 826, 835 (emphasis added), citation omitted; see, also, City of Sausalito v. County of Marin (1970) 12 Cal.App.3d 550, 563-564; Millbrae for Residential Survival v. City of Millbrae (1968) 262 CA2d 222 (changes to a planned unit development plan require that rezoning procedures be followed). Staff’s proposition that the PUD Ordinance, including all of the restrictions and standards set forth therein, has expired squarely clashes with established case law. City has not taken any action, legislative or otherwise, to rezone the property, or for that matter, to change the restrictions and standards that apply to the Project site. Thus, staff is wrong that the PUD Ordinance has expired.

Third, even if Zoning Ordinance § 18.15.045C applies to the Project (which it does not as explained above), the PUD Ordinance has not expired. Section 18.15.045C contains an important qualification on the expiration of planned unit development plans: “*unless otherwise approved by the City council [sic].*” Here, the City clearly intended for the PUD Ordinance to exist beyond two years from the effective date. The PUD Ordinance was approved along with the VTM, which has a life beyond two years. See Government Code § 66452.6 and City’s Subdivision Ordinance § 17.22.050. Indeed, the VTM is still in effect today -- some 9 years after it was approved. Moreover, the State Planning and Zoning Law expressly states that any permit (such as the PUD Ordinance approval here) that is issued by a local agency in conjunction with a tentative subdivision map (here, the VTM) for a planned unit development expires *no sooner* than the approved tentative map unless an earlier expiration is set forth on the face of the permit (not the case here). Gov. Code § 65863.9. Thus, the two year expiration provision in Zoning Ordinance § 18.15.045C is simply not applicable here, and the PUD Ordinance has not expired.

Fourth, even if Zoning Ordinance § 18.15.045C did apply to the Project, it could *at most* mean that the PUD Plan (attached to and approved as part of the PUD Ordinance) had expired, but the PUD Ordinance and its standards would continue to pertain. Again, staff’s position that the PUD Ordinance has expired is not supportable.

Fifth, again assuming that Zoning Ordinance § 18.15.045C applies to the Project, the PUD Ordinance has not expired due to Ailanto’s vested rights. Section 18.15.045C is nothing more than a codification of the vested rights rule in California, which provides that where a property owner has been issued a building permit, performed substantial work and incurred

substantial liabilities in good faith reliance on the permit or permits granted by the government, the property owner acquires a vested right to complete construction of the project in accordance with the terms of the permit or permits. Avco Community Developers, Inc. v. South Coast Regional Com. (1976) 17 Cal.3d 785. Accordingly, § 18.15.045C is merely providing that a planned unit development plan will expire *unless* the property owner has acquired vested rights (or the City provided otherwise as discussed above).² Here, Ailanto acquired vested rights through the City's approval of the VTM. Thus, the PUD Ordinance did not and could not expire due to Ailanto's vested rights.

For all of the foregoing independent reasons, the PUD Ordinance has not expired. Furthermore, we note that if as staff argues the PUD Ordinance expired two years after the effective date (*i.e.*, September 21, 1992³), then that means the Coastal Commission approved an expired PUD Ordinance as part of the LCP's Implementation Plan and found that an expired PUD Ordinance was consistent with the LCP's Land Use Plan. Clearly, that was not the case.

² We note that Ailanto has invested considerable sums in order to proceed with the Project in accordance with City's prior approvals. Furthermore, the only reason Ailanto has not obtained a building permit or performed substantial work on the Project site is because it was precluded from doing so due to the sewer moratorium in effect through the 1990s.

³ As with all non-urgent ordinances, the PUD Ordinance became effective 30 days after its adoption on August 21, 1990. See, Gov. Code § 36937.



A PROFESSIONAL CORPORATION

CASSIDY
SHIMKO
DAWSON

The Pacific Ridge PUD Ordinance Has Not Expired

The staff report states that the Planned Unit Development Plan (at Zoning Ordinance Chapter 18.16; the "PUD Ordinance") has expired. That is not the case.

By way of background, on August 21, 1990 (not January 4, 1994 as stated in the staff report), the City adopted Ordinance No. 11-90 (attached hereto), which added "Chapter 18.31 - the Dykstra Ranch Planned Unit Development" to City's Zoning Ordinance.¹ Through this enactment, the City rezoned the property to Planned Unit Development ("PUD"). In April 1996, the Commission certified the PUD Ordinance as part of the LCP's Implementation Plan, finding that it was consistent with the LCP's Land Use Plan.

Staff opines that the PUD Ordinance has expired based solely on Zoning Ordinance § 18.15.045C, which states:

Unless otherwise approved by the City council [sic], a Planned Unit Development Plan shall expire two years after its effective date unless a building permit has been issued, construction diligently pursued, and substantial funds invested.

For several independent reasons, the PUD Ordinance has not expired.

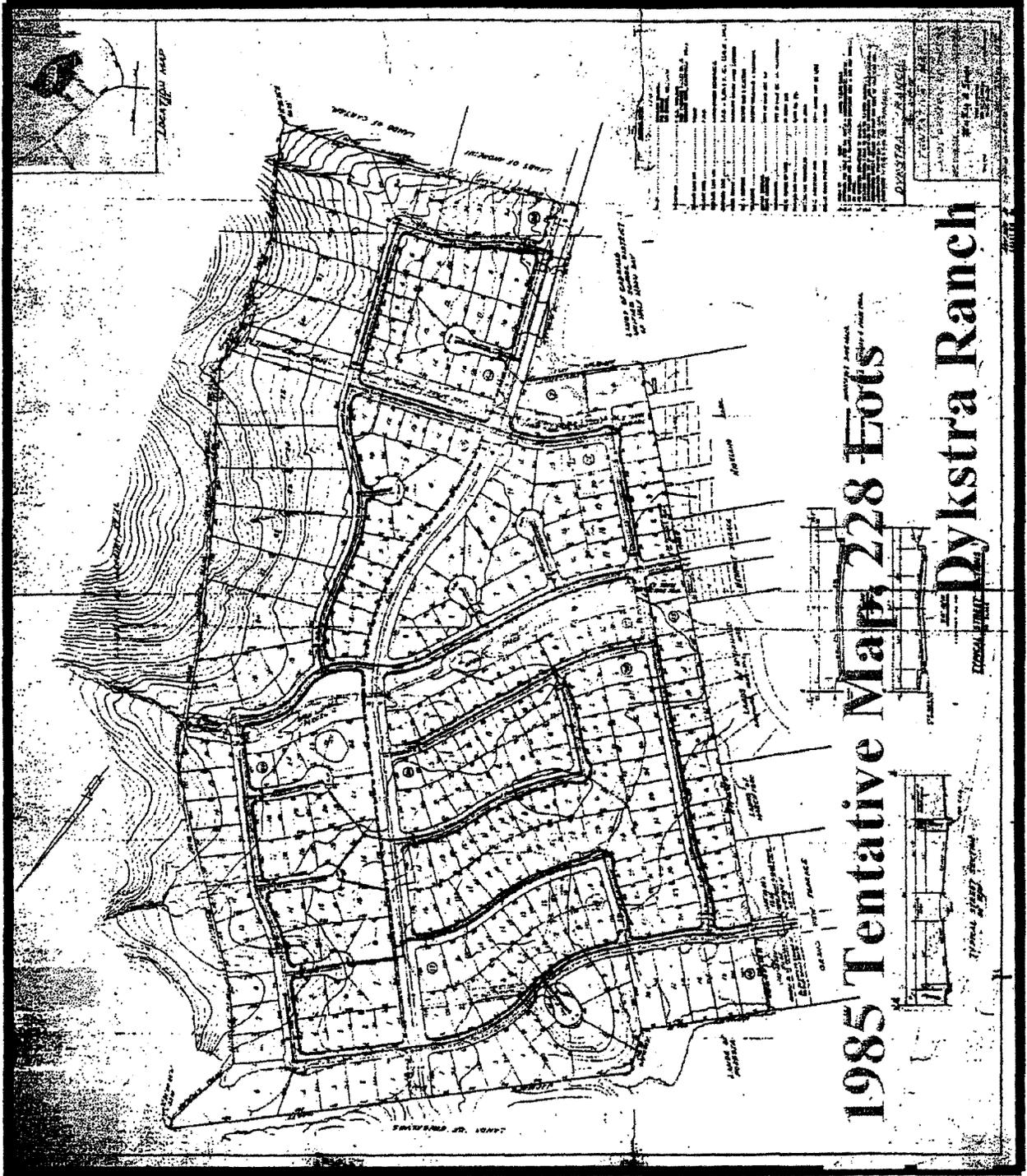
First, Zoning Ordinance § 18.15.045C does not apply to the Project because it (together with the rest of Chapter 18.15) was adopted on August 1, 1995 -- after Ailanto acquired vested rights. In 1990, the City approved the Vesting Tentative Map ("VTM") for the Project along with Ordinance No. 11-90 approving the PUD Ordinance. The VTM approval conferred on Ailanto the "vested right to proceed with development in substantial compliance with the ordinances, policies and standards *in effect* at the time the vesting tentative map is approved or conditionally approved." Gov. Code § 66498.1(b)(emphasis added). Since Chapter 18.15, including § 18.15.045C, was not in effect when the VTM was approved, Ailanto is not subject to Chapter 18.15.

Second, the PUD Ordinance establishes the zoning of the property, and in no event does the zoning of a property simply "expire." In 1990, City undertook the legislative act of rezoning

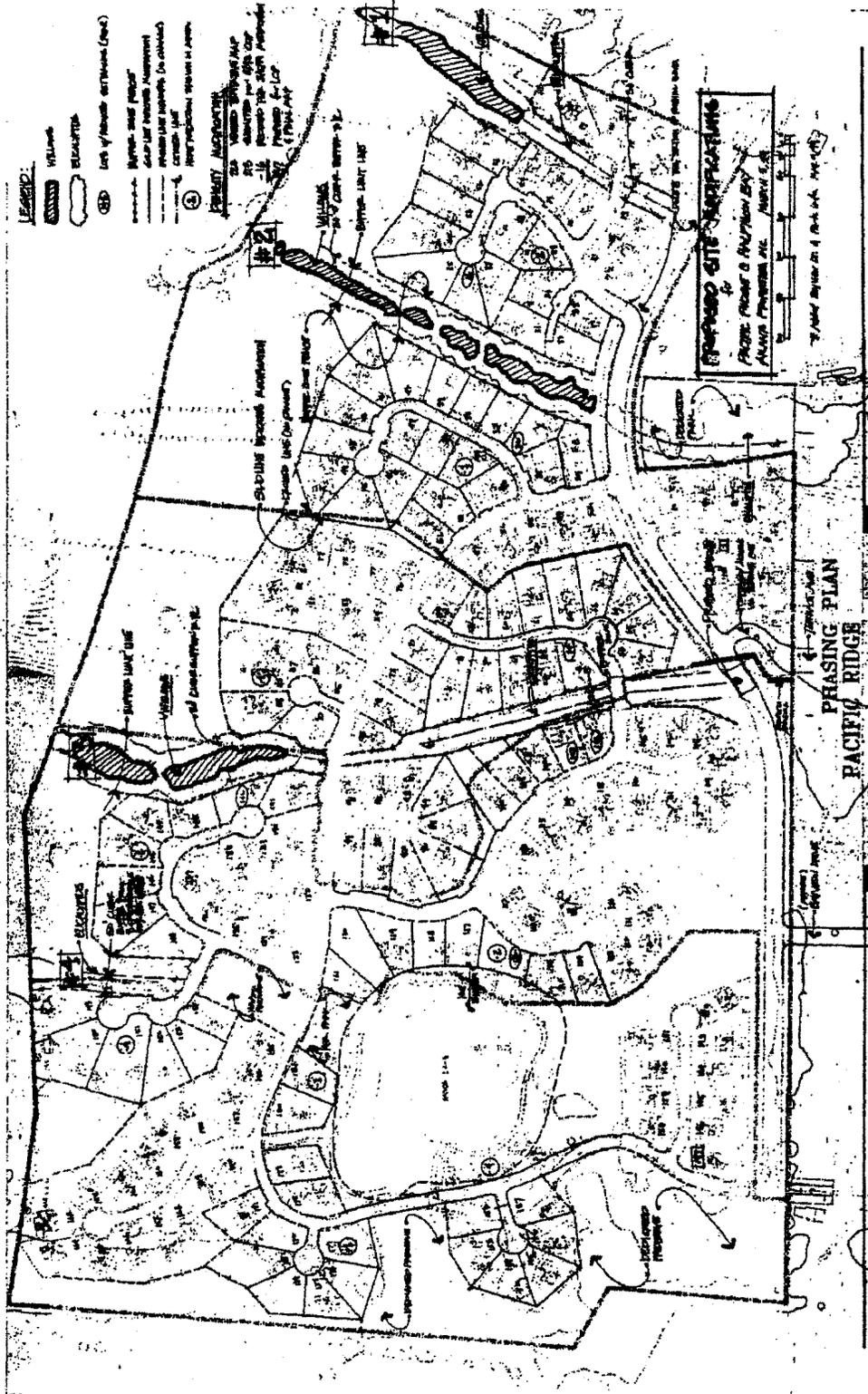
¹ Pacific Ridge was formerly known as Dykstra Ranch. In 1996, as part of the LCP certification process, Chapter 18.31 of the Zoning Ordinance was renumbered as Chapter 18.16.

ATTACHMENT C

PACIFIC RIDGE at Half Moon Bay



Pacific Ridge

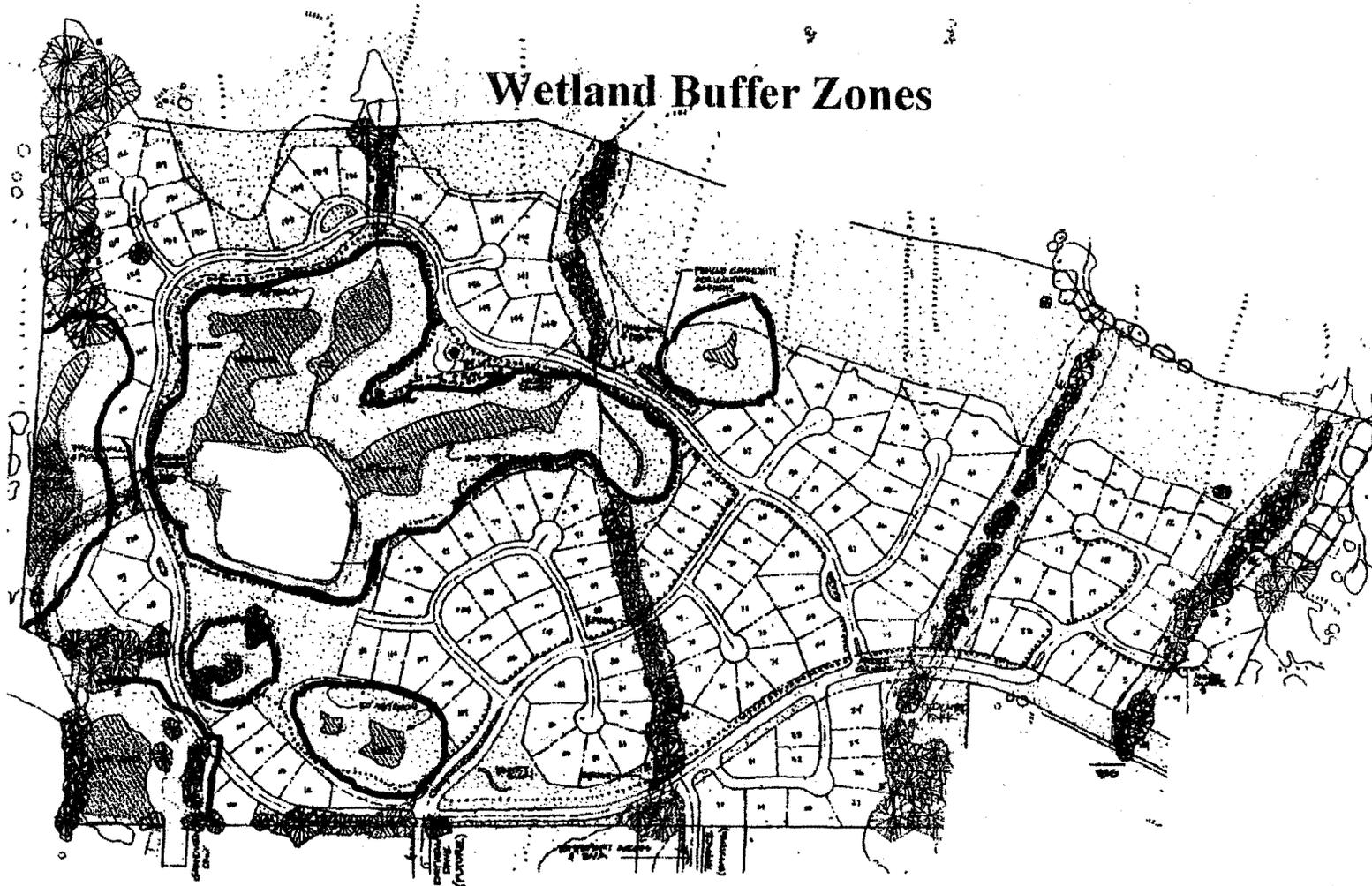


RICHARD C. HANSEN
 224 HIGHLAND
 SAN FRANCISCO, CALIFORNIA 94115
 415-774-1111
 1977

97044
 12 NOV 88
 1" = 100'-0"

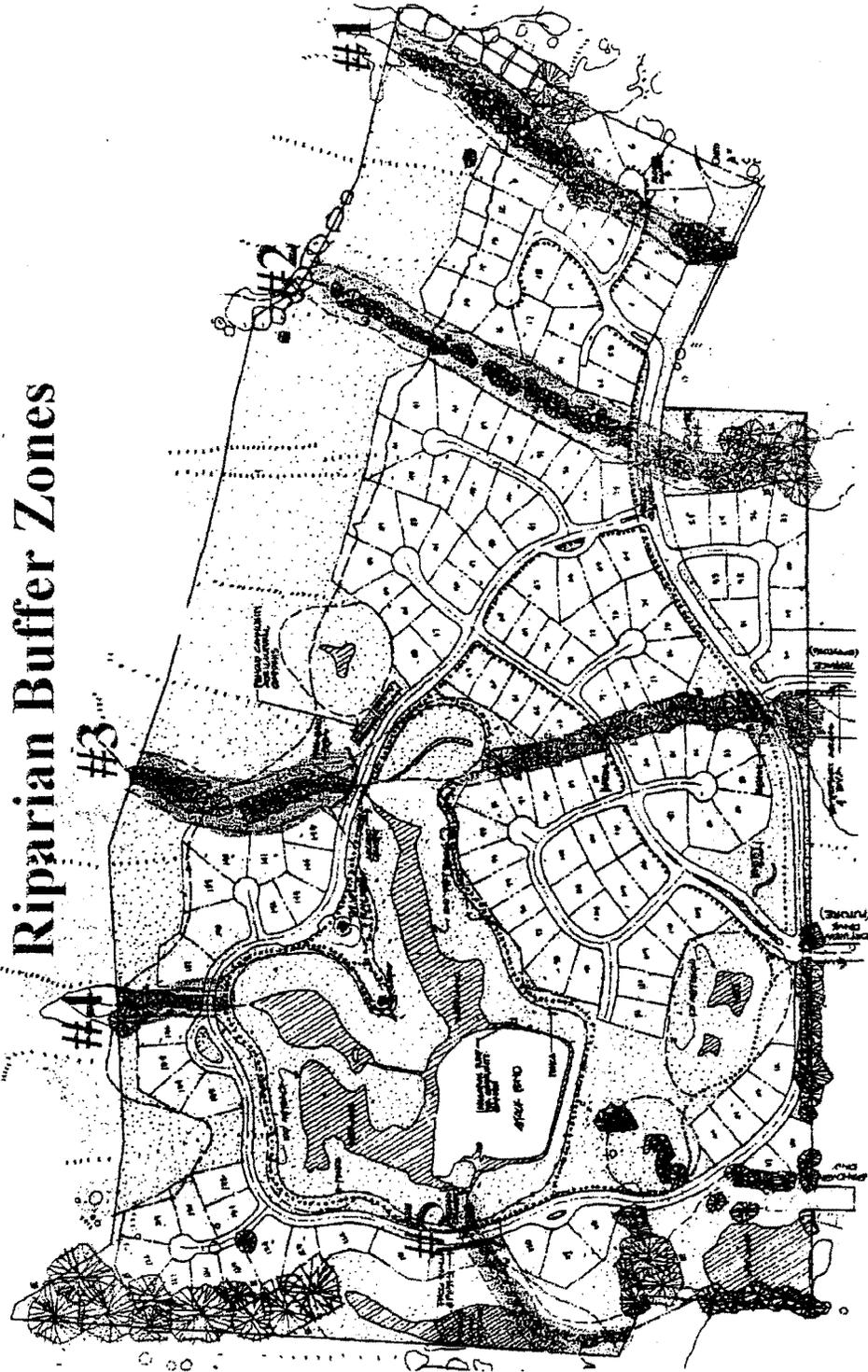
CDP Approved by City of HMB, 197 Lots
 HILL NO. 24
 CALIFORNIA
PHASING PLAN
PACIFIC RIDGE
 2

Pacific Ridge



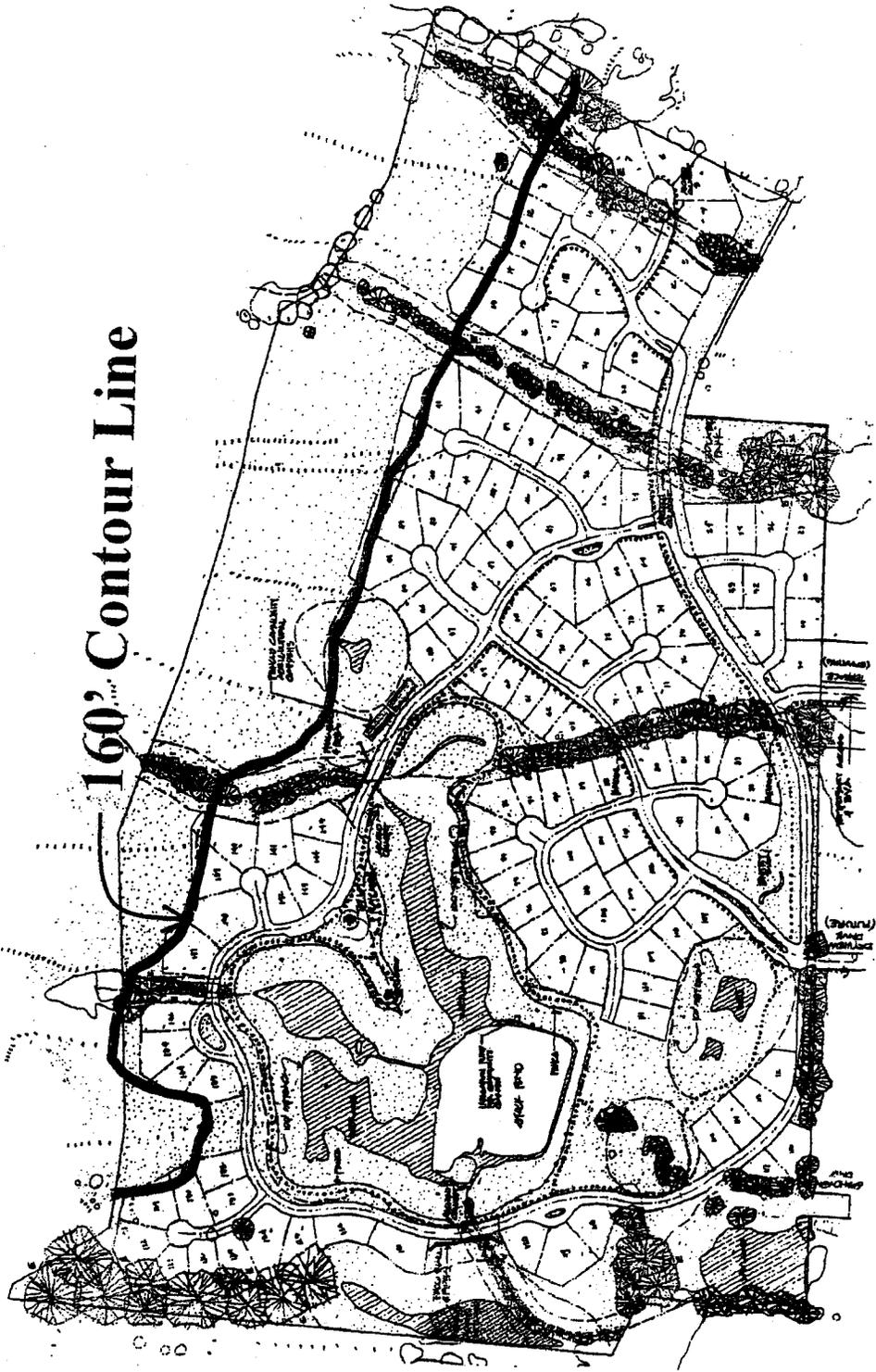
Pacific Ridge

Riparian Buffer Zones



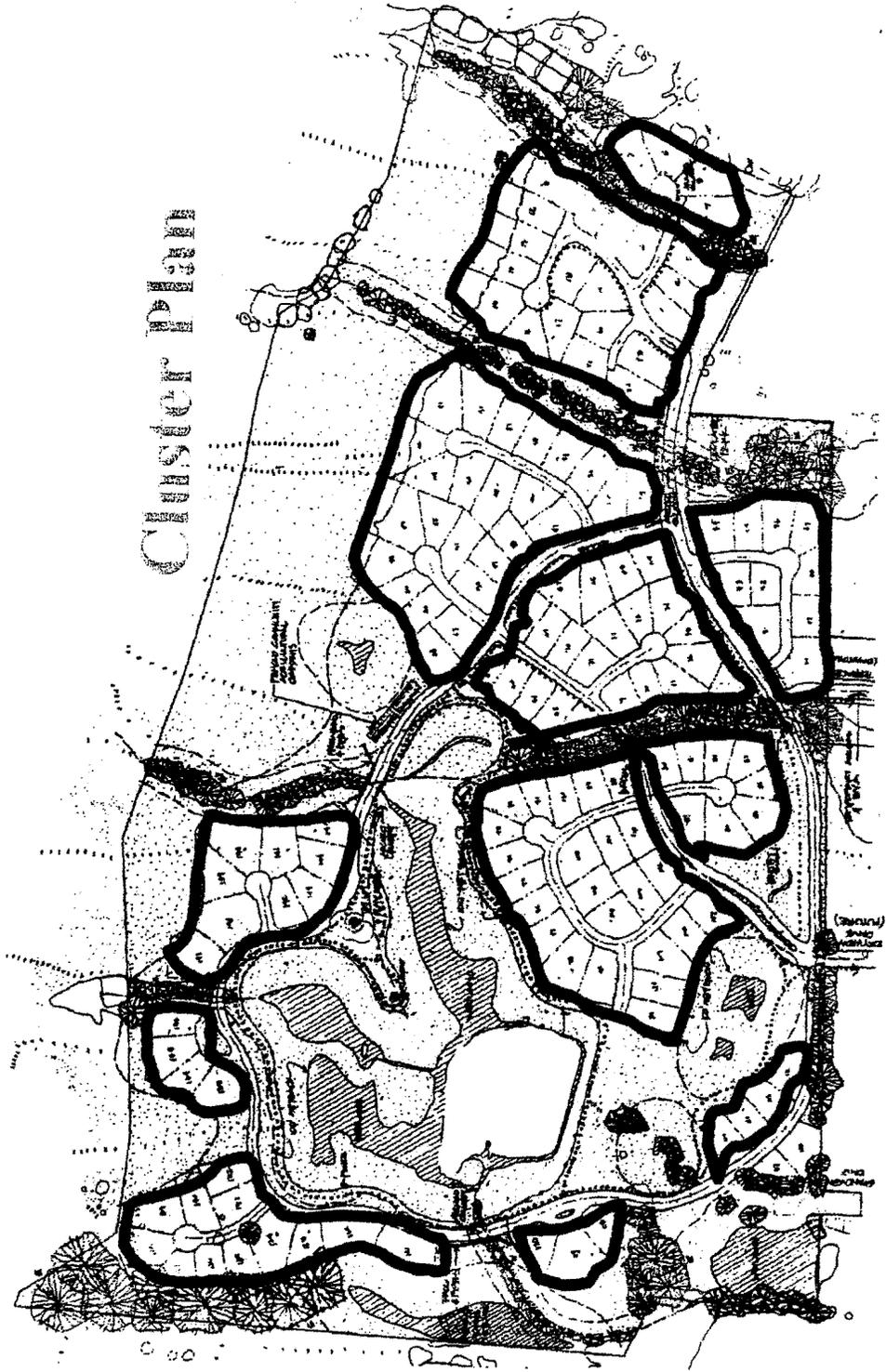
Pacific Ridge

160' Contour Line



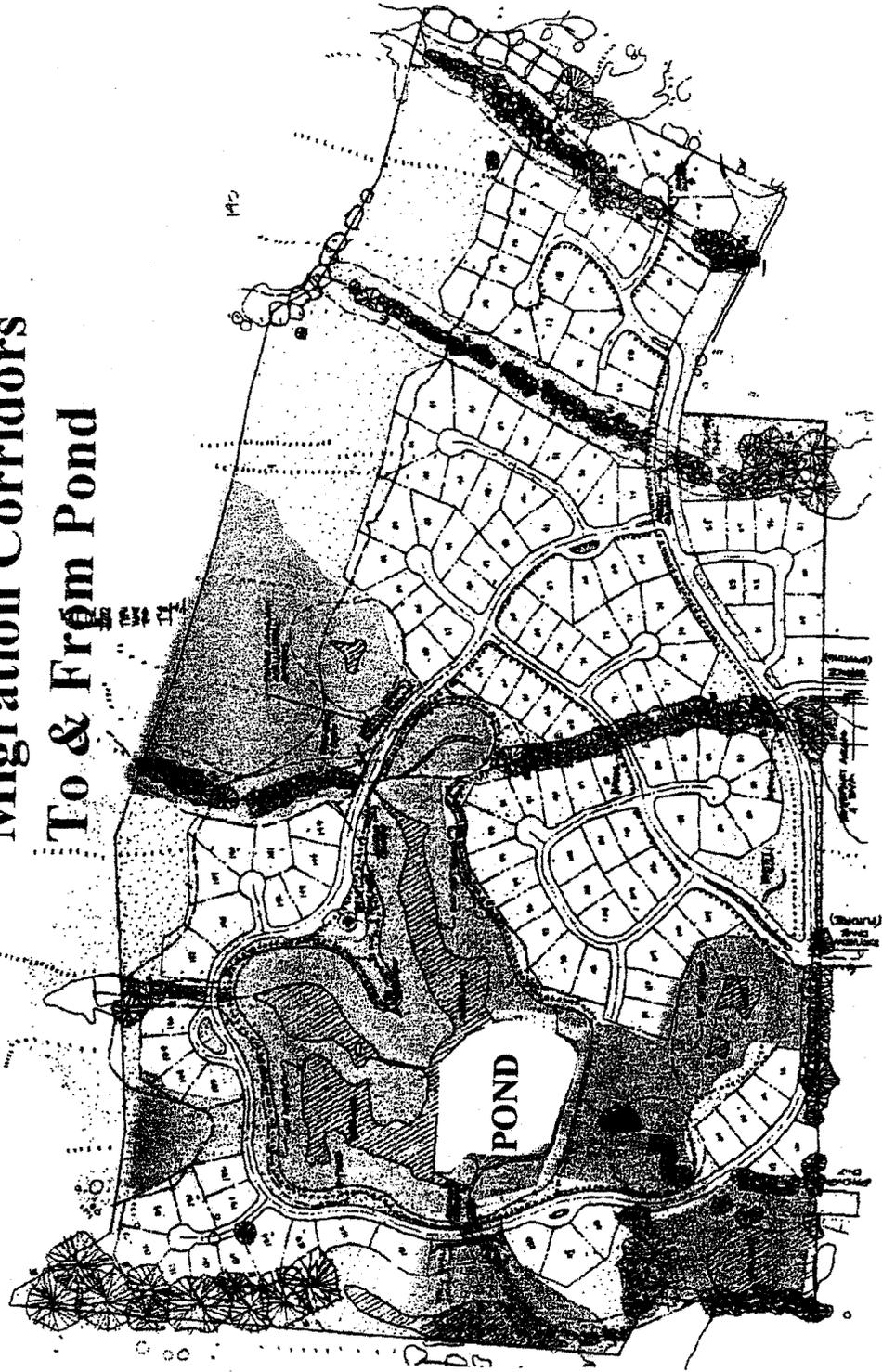
Pacific Ridge

Cluster Plan



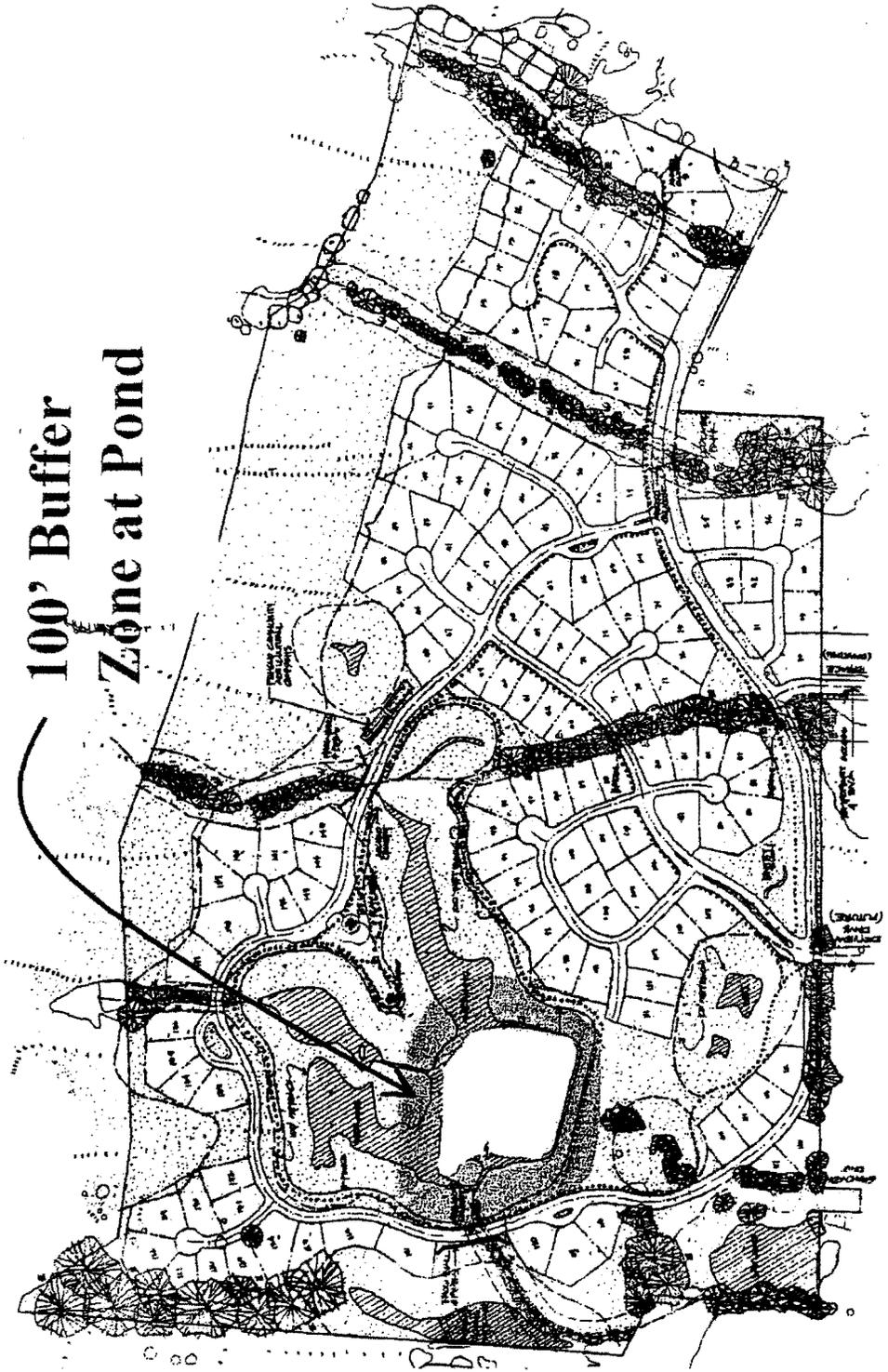
Pacific Ridge

Migration Corridors To & From Pond



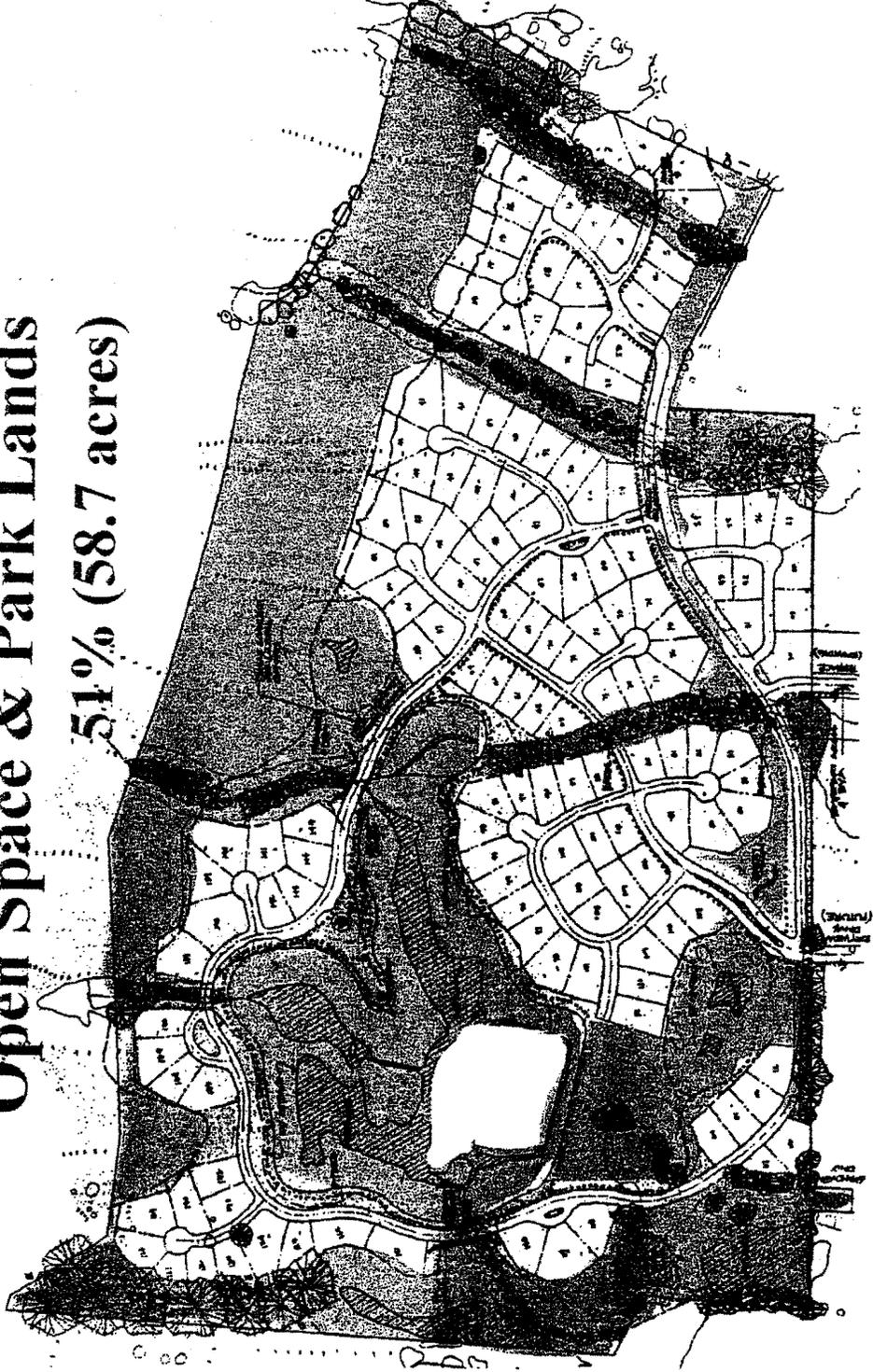
Pacific Ridge

100' Buffer
Zone at Pond



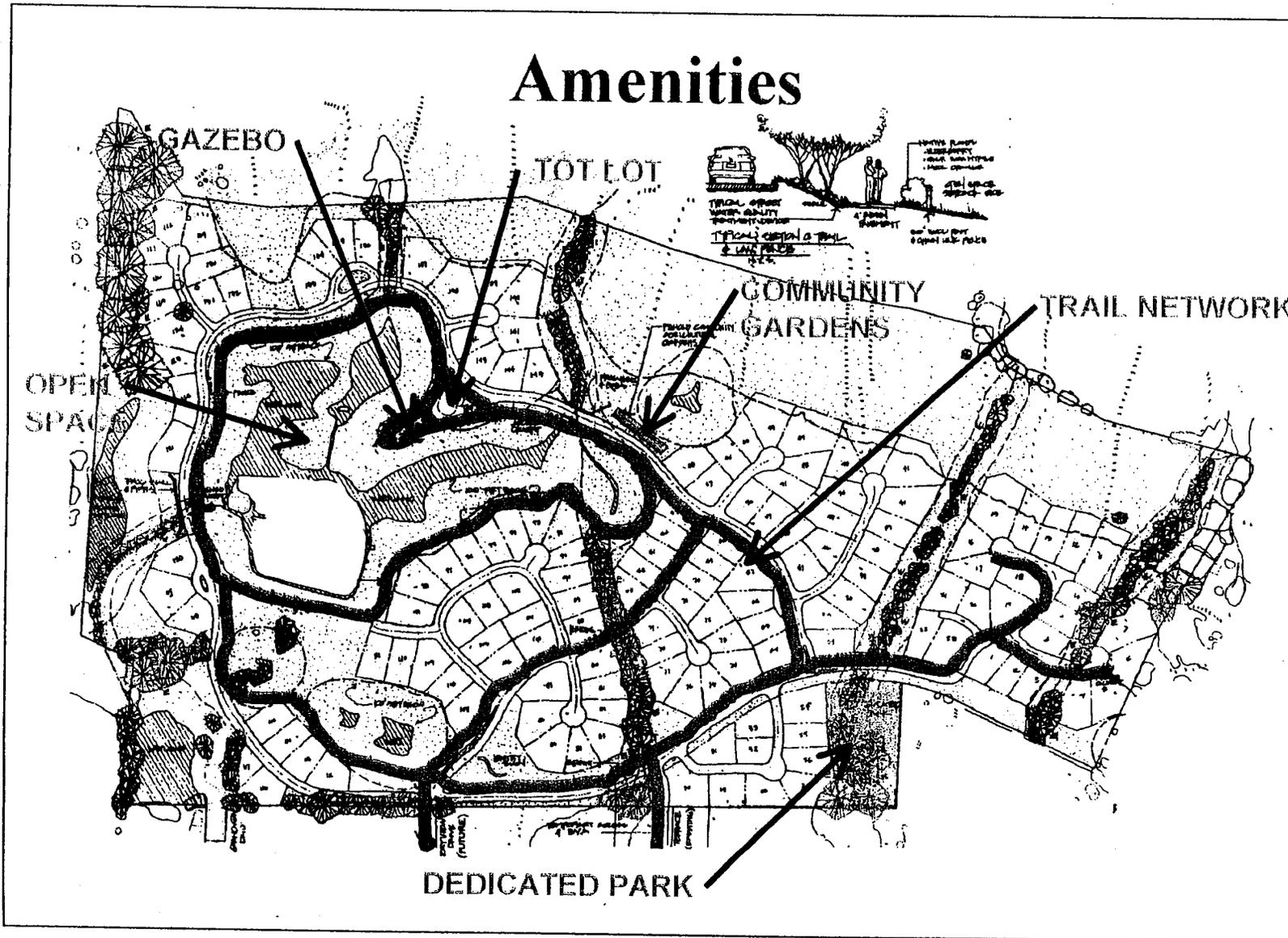
Pacific Ridge

Open Space & Park Lands
51% (58.7 acres)

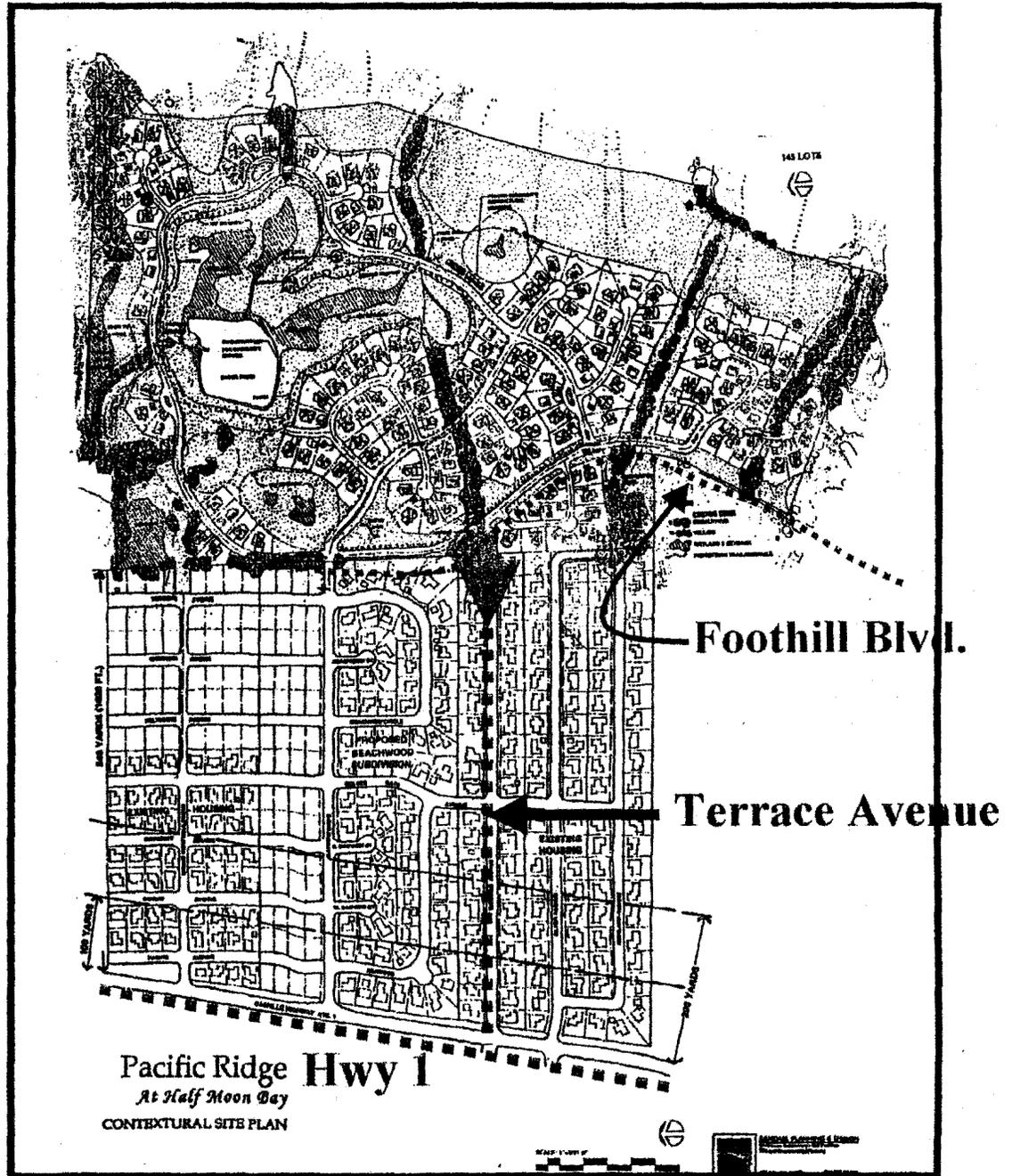


Pacific Ridge

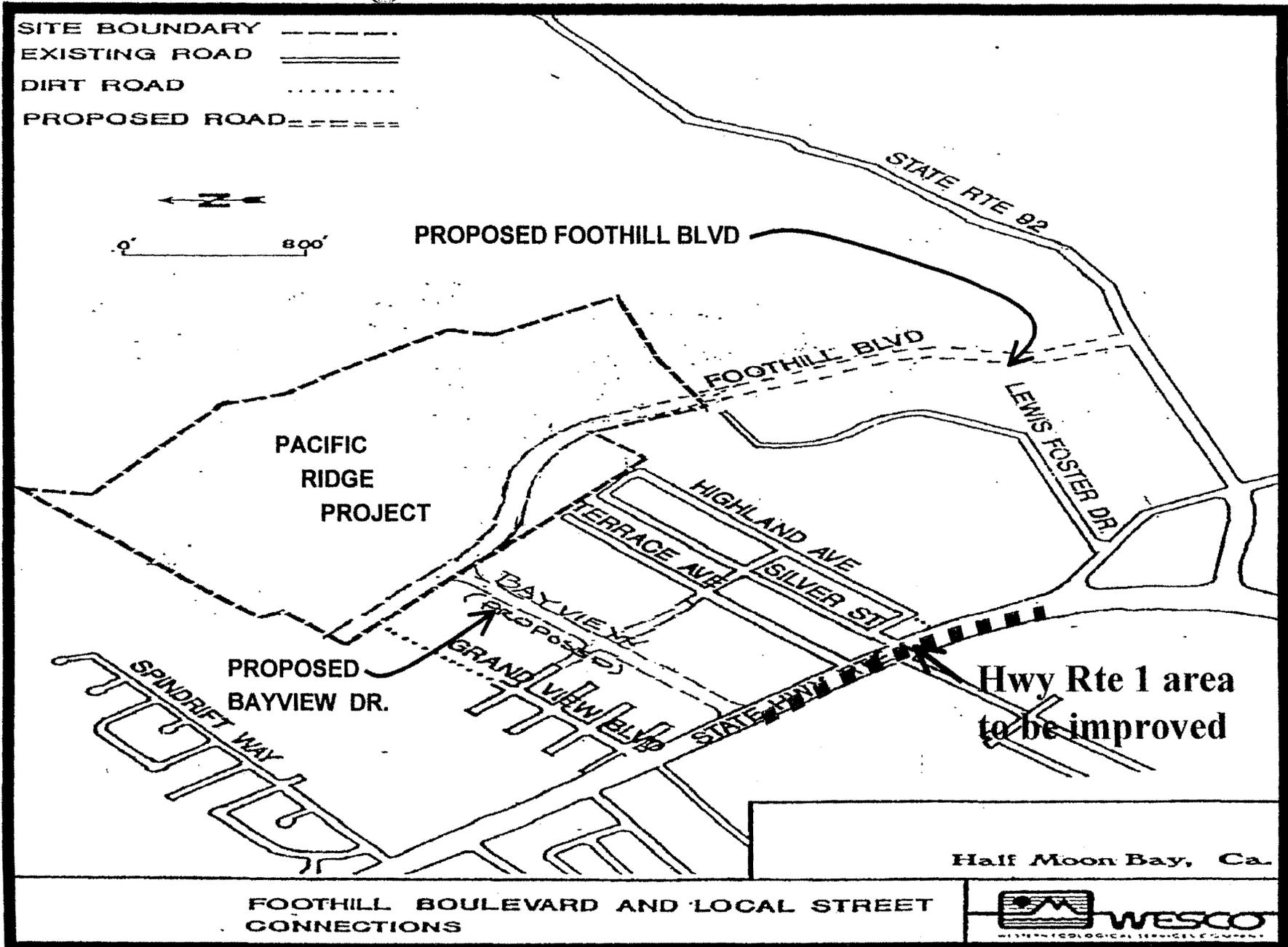
Amenities



Pacific Ridge



Pacific Ridge

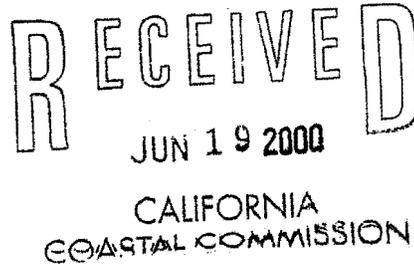


**CITY OF HALF MOON BAY**

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

June 19, 2000

Robert Henry, Project Manager
Ailanto Properties, Inc.
One Kaiser Plaza
Oroway Building, Ste. 1775
Oakland, CA 94019



Dear Mr. Henry:

I am responding to the mistaken impression created by your letter of 5/17/00 to the Half Moon Bay/Coastside Chamber of Commerce. I am not in the habit of allowing development project applicants to interpret my public positions, including any that may have been taken at the 5/12/00 Coastal Commission meeting in Santa Rosa.

Please be advised that

- a) I was not there to speak in favor of the Pacific Ridge project; and
- b) I was there to say that City consideration of Coastal Development Permits is a serious process, and we make every attempt to comply with our Local Coastal Program in light of the facts available at our hearings.

I hope this clears things up.

Sincerely,

Deborah Ruddock, Councilmember

cc: HMB/Coastside Chamber of Commerce, California Coastal Commission,
Chris Kern

AILANTO PROPERTIES, INC.

ONE KAISER PLAZA / ORDWAY BUILDING / SUITE 1775
OAKLAND, CA 94612 • (510) 465-8888 • FAX (510) 465-5704

October 10, 2000

Mr. Chris Kern
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

RECEIVED
OCT 11 2000

CALIFORNIA
COASTAL COMMISSION

Re: Pacific Ridge at Half Moon Bay
Appeal No. A-1-HMB-99-022

Dear Chris:

The purpose of this letter is to address one, albeit not the only, significant aspect of the Coastal Commission Staff Report dated June 22, 2000: Discussion item 2.10.3. We will be submitting a separate response concerning the other issues raised in the Staff Report.

On pages 41 through 43, there are erroneous statements made concerning "missing" information, which Staff asserts has not been received. On page 41, Staff concludes that, "project plans do not include a detailed grading plan or landscape plan, equipment and staging areas and fill stockpiling areas are not identified, and data concerning pre- and post-construction peak and average runoff volumes is not provided."

Last year, I had a discussion with Mr. Deputy Director Steve Scholl, in which I told him that I did not want to do completed grading and landscaping drawings until I knew what the final project description was as required by the Coastal Commission. He empathized with our position and indicated that preliminary information would be adequate. He also advised that if our project were approved, standard Commission conditions of approval would require completed grading and landscape plans. In any event, over the past one and one-half years, we have submitted a substantial amount of material at Staff's request, concerning the items listed in the Staff report. For clarity and in order to finally resolve the missing information issues, allow me to list the following material, which was either previously submitted or is being sent now to respond to your wishes.

General Project/Site Information

1. Our original project description was submitted to Staff via Steve Cassidy's letter to Steve Scholl dated October 28, 1999. This letter also submitted our revised project plan for 150 units as Exhibit A.
2. All aspects of the project description were described in my letter to Coastal Commission Staff Analyst Jack Liebster dated January 13, 2000. Notably, Attachment K, titled "Project Description", provides a description of use by acreage and percentage and describes density, parking counts, trees to be removed and added,

Mr. Chris Kern
California Coastal Commission
October 10, 2000
Page 2 of 4

- etc. For consistency, I enclose an updated "Project Description" list for your use **(Enclosure 1)**.
3. The project description was revised to incorporate the U.S. Fish & Wildlife Service's comments from the meeting held in Coastal Commission's office on January 19, 2000. This revised 145-unit project description was re-submitted to Mr. Liebster via my letter of January 26, 2000.
 4. That project description was then augmented with additional information and submitted to Staff via Anna Shimko's letter dated April 4, 2000.
 5. Finally, a complete description of our project was presented by Ailanto Properties before the Coastal Commissioners on May 12, 2000 in Santa Rosa. This information was then copied and sent to each Commissioner via my letter of June 6, 2000.
 6. The natural, geological and physical features of the property are as described in the soils reports dated February 1997 by Earth Systems Consultants. One report is for the site and the other is for the dam at the pond. I noticed that the list of material on record originally transmitted to you from the City on April 12, 1999 erroneously did not list these two reports that we had submitted to the City. Accordingly, I have enclosed herewith a copy of both **(Enclosures 2 & 3)**.

Grading Plan

1. Enclosed are our original grading plans by MacKay & Soms, drawings 1 through 15 dated August 1998 **(Enclosure 4)**. This set includes grading and tree removal information, an erosion control plan and the pond storm outfall design. Though our project description has deleted some lots since this submittal, the conceptual grading information remains unchanged and the pond storm outfall design remains unchanged. However, I submitted an updated tree removal plan to Mr. Liebster as Attachment J to our January 13, 2000 letter.
2. In the interest of providing current grading information, I enclose a preliminary conceptual grading plan dated January 24, 2000 by MacKay & Soms **(Enclosure 5)**. This drawing shows the project boundaries and clearly approximates the area to be graded, volumes to be graded, amounts of cuts and fills and shows the areas of maximum cuts and fills. As you can see from this plan, the grading is balanced on-site and will not require either import or export of soil across any adjacent streets or roads.
3. The original topographic map of our property that depicts existing conditions was submitted to Mr. Liebster as Attachment H to my letter dated January 13, 2000.
4. I have enclosed MacKay & Soms phase 1 improvement drawings 1 through 20 dated January 1999 **(Enclosure 6)** and phase 2 improvement drawings 1 through 7 dated February 1998 **(Enclosure 7)**. Again, minor changes have occurred in the project description since these drawings were done due to the deletion of some lots. These drawings reflect street design, storm water system design, sanitary water system design and domestic water system design. All this general information remains basically unchanged.

Runoff and Drainage Plan

1. Our original Biological Report dated June 15, 1999, was submitted to Staff via Steve Cassidy's letter dated June 24, 1999. This report was later augmented with additional information to Staff by Steve Cassidy's transmittal letter of October 29, 1999 and Anna Shimko's letter of November 4, 1999. This report studied hydrology as part of its wetlands analysis.
2. An additional addendum to our Biological Report was submitted to you by Steve Foreman of LSA on November 2, 1999, which specifically addressed the runoff and drainage information requested by Commission Staff. That letter also discussed open space management and submitted an analysis of the drainages, the water control structures and the water quality management features for treating runoff, including the use of biofilters such as grassy swales and vegetative filter strips and other passive treatments.
3. Most importantly, I submitted a complete water quality analysis performed by LSA to Mr. Liebster on January 13, 2000 as Attachment D. That attachment addressed sedimentation characteristics and hydrology on the site including pre-development and post-development runoff rates and volumes directed to each drainage.
4. Also, we have provided Staff with a copy of the California Regional Water Quality Control Board Waiver of Waste Discharge and Water Quality Certification letter for Pacific Ridge dated January 11, 1999.
5. Finally, I have enclosed a copy of our preliminary Storm Water Pollution Prevention Plan, which is dated November 1998 (**Enclosure 8**). Please note that this SWPPP cannot be finalized until a CDP is issued. Nonetheless, a complete discussion of erosion and sedimentation control measures, non-storm water management, post-construction water management and Best Management Practices including monitoring and reporting requirements are explained there.

Landscape Plan

1. As explained to you before, our permit request at the City level and at the appeal level is for the entire PUD and each home. Accordingly, we have already had each home design, the exterior colors and the landscaping design reviewed and approved by the HMB Architectural Review Board and the City Council. I have enclosed a copy of this original ARC submittal dated July 1997 (**Enclosure 9**). As you can see, the bound book includes an illustrative landscape site plan, preliminary park landscape plan, typical landscape zones, typical landscape at project entries, site furnishings, prototypical front yard landscaping design, a model home complex design and elevation views of each home. These drawings have extensive detail including plant lists and hydroseed mix designs.
2. Again, the project description has changed somewhat since the ARC submittal through the deletion of some lots. Accordingly, I enclose a new landscape illustrative

Mr. Chris Kern
California Coastal Commission
October 10, 2000
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site plan (**Enclosure 10**) and preliminary park plan (**Enclosure 11**) for your use. The other home and landscape information is unaffected by these minor changes.

As you can see from the above, extensive, detailed and adequate information has been presented to Commission Staff to facilitate any analysis pertaining to these issues. As is customary, final plans requiring further detail can be condition precedent to receiving our CDP. The fact that we were previously told that adequate information was given to Staff was why additional information was not provided earlier. We hope this resolves this matter. As always, we wish to provide any information you need. Please consider all the available information when you conclude your Staff report. If you have any other questions pertaining to this information, do not hesitate to contact me.

Thank you.

Sincerely,



Robert Henry
Project Manager

Cc: Steve Scholl, Deputy Director, (w/o attachments)
Nancy Lucast, w/o attachments
Anna Shimko

Enclosures

AILANTO PROPERTIES, INC.

ONE KAISER PLAZA / ORDWAY BUILDING / SUITE 1775
OAKLAND, CA 94612 • (510) 465-8888 • FAX (510) 465-5704

October 31, 2000

Chairperson Sara Wan and
Honorable Members of the
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: Appeal A-1-HMB-99-022 (Ailanto - Pacific Ridge);
DECEMBER, 2000 HEARING

Dear Chairperson Wan and Commissioners:

We are writing in response to the Staff Report dated June 22, 2000, on the Pacific Ridge Project (the "Project"). A graphic depiction of our Project is attached hereto as Exhibit A¹. Aerial photos of the Project site and surrounding lands (taken on March 18, 1986) are attached as Exhibit B.

Our Project, which conforms in all respects with the certified Local Coastal Program ("LCP") for the City of Half Moon Bay (the "City"), has been a long time in the making. A detailed chronological history of the Project is attached hereto as Exhibit C. We have owned the property for 15 years, and in 1990, secured from the City a Vesting Tentative Map for 216 units (fewer than contemplated by the LCP) and a Planned Unit Development Ordinance specifically applying to our property. Thereafter, we faced extensive delays wholly beyond our control due to water and sewer capacity constraints. At last, these issues were resolved and we were able to apply for a coastal development permit ("CDP") from the City. Our CDP for 197 units was approved by the City in March, 1999. This appeal ensued and, for the past year and a half, we have worked tirelessly and cooperatively with Coastal Commission staff to address their concerns at every turn. See, Exhibit D. We have ensured that all LCP standards are met, with particular attention to wetlands and riparian resources and buffer zones, and protection and enhancement of potential habitat for threatened and endangered species. We have proposed an offsite traffic mitigation plan that will improve circulation for the entire coastside compared to current circumstances, and that will assist in addressing and alleviating regional traffic congestion. Whenever asked for additional information, we have readily supplied it. The Project

¹ This 145 unit site plan is identical to the previous site plan (January 26, 2000), with two minor changes. First, wetland F was staked in the field by LSA and mapped more accurately. It was found that its 100 foot buffer zone clears the onsite entry road near the future Bayview Drive. Secondly, the easterly loop road crossing, which crosses Drainage 3, was moved approximately 50 feet further eastward to assure a 100 foot buffer zone clearance from Wetland E. The new road crossing location does not conflict with any riparian vegetation, as explained in Exhibit Y.

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currently before you includes 145 homes (a 33% decrease from our Vesting Tentative Map) arranged in a manner that further respects the environment and protects coastal resources.

Given Ailanto's unwavering willingness to work with staff and to redesign our Project to ensure complete conformity with the LCP, we were surprised and dismayed to receive a staff report that recommends outright denial of our Project based upon factual inaccuracies and misapplications of law and LCP policies. We are convinced that there exists no legal or policy basis upon which to deny our Project. In the remainder of this letter and the exhibits attached hereto, we respond to the key issues raised in the Staff Report.

Local Traffic - Project Access

- Terrace Avenue; from LOS "F" to LOS "A" at Highway 1: In light of the circumstances acknowledged in the Staff Report (pages 19-20) we have only one roadway access to the Project: the existing Terrace Avenue. This street is directly adjacent to our property and we have abutter's rights to traverse it. See, Exhibit E for a discussion of our efforts to obtain alternate Project access. Contrary to the concerns of some of our neighbors, Terrace Avenue has sufficient design capacity to support the addition of Project traffic. See, Exhibit F, Attachment 2, pages 6-7. We have voluntarily proposed to install extensive traffic improvements as part of the Project, including the widening of Highway 1 from North Main Street to 400 feet north of Terrace Avenue and the signalization of Highway 1 and Terrace Avenue. See, Exhibit G for our proposed construction and Project traffic improvement plan. Our offer to widen Highway 1 represents about a third of the City's \$3,000,000 improvement plan for the Highway 1 corridor north of Main Street. See, Staff Report, page 21. While the residents of Terrace Avenue currently suffer from a Level of Service ("LOS") F at the Terrace Avenue/Highway 1 intersection, our improvements will bring this intersection to LOS A. See, Exhibit F, Attachment 1, Table 1. The Staff Report itself (page 21) acknowledges that "the proposed signalization would improve left turn movements into and out of Terrace Avenue."
- Improvement to Local Circulation: While staff expresses an unsubstantiated opinion that the signalization could increase congestion on Highway 1 between North Main and Terrace (Staff Report, page 21), the opposite is true: with the widening of Highway 1 that we propose to undertake, the segment of Highway 1 between North Main Street and 400 feet north of Terrace Avenue will improve from LOS F to LOS C during peak hours. See, Exhibit F, Attachment 4, page 3. Clearly, our Project represents a traffic solution and not a traffic problem. The Staff Report (page 7) recognizes the local circulation benefits of the Project,

stating that with our proposed improvements “and other highway and intersection improvements contemplated by the City, six intersections in the vicinity of the development site will operate at acceptable levels, representing an improvement over existing conditions. The Commission does not dispute that the proposed signalization and lane widening will improve the function of these intersections.”

- Timing of Traffic Improvements: Indeed, the Staff Report does not question the adequacy of our traffic improvement plans to serve the Project. Rather, the staff raises improvement scheduling issues, finding that there are insufficient assurances that the improvements will be constructed so that the Commission can find that the Project will be served *upon completion* with road facilities (Land Use Plan (“LUP”) Policies 9-2 and 9-4) and will have “adequate services and infrastructure at the time of occupancy” (City Zoning Code § 18.20.070.D). Contrary to staff’s characterization (Staff Report, page 18), we will not merely provide funding for the proposed traffic improvements. We will undertake all necessary efforts and expenses to secure permits for the improvements and will install all of the improvements. We have agreed that, unless and until such improvements are in place, not one home within the Project may be occupied. We expect that the Coastal Commission would make this a condition of our Project’s approval. With the improvements in place, the roadway infrastructure will be far more than adequate to serve the Project, and will benefit the City and the region as a whole. In light of the nature of our commitment and our willingness to have the improvement obligation imposed as a condition of approval, the Commission cannot help but find that roads will be available to serve the Project upon completion and prior to occupancy. See, Exhibit H.

Regional Traffic - Cumulative Impacts

- Fair Share of Improvements (Nexus): The Staff Report (page 18) claims that the Project should be denied because it does not fully mitigate its impacts to regional traffic congestion. This is untrue. Given the limited scope of the Project’s contribution to the cumulative and pre-existing regional congestion, we will contribute far more than our legally required share of traffic improvements. There is simply no legal nexus for the Commission to require us to mitigate more than our fair share of traffic impacts, and thus the Commission cannot use regional traffic congestion that has long predated and is unrelated to our Project to deny the Project. See, Exhibit H. Any such action by the Commission would be an unconstitutional “taking” of our property. See, Exhibit H.

- Equal Protection: If the Project were disapproved because of existing traffic congestion on Highways 1 and 92, our constitutional rights to equal protection under the law would be violated since other projects within the City have been approved despite the current undesirable levels of service on Highways 1 and 92. See, Exhibit H.
- LCP Regarding Levels of Service: The LCP fully recognizes existing road constraints in the coastside area and the inherent tension between commuter and visitor trips, projecting that existing road capacity could support City population growth in a range between 7,960 and 22,270 new persons without significant road improvements. LUP, pages 202-203. The staff places considerable reliance upon LUP Policy 10-25 which establishes level of service goals. LUP Policy 10-25 merely sets forth the "desired" levels of service that the City should support on Highways 1 and 92. It does not contain mandatory requirements. See, Exhibit H. Indeed, when the LCP was certified, these "desired" levels of service were already exceeded. See, Exhibit H. Policy 10-25 mirrors numerous other goal-oriented policies, such as supporting improvements to Highways 1 and 92 outside the City (Policy 10-26) and supporting expansion of highways connecting the City with the remainder of the county (Policy 10-24).
- Sufficiency of the Cumulative Analysis: Despite the staff's concerns over the adequacy of the Project's cumulative traffic impact analysis (Staff Report, pages 11-16), the assumptions, methodology, analysis and conclusions of our cumulative traffic analysis are more than sound. See, Exhibits F and I. The analysis uses a conservative methodology – likely overstating the nature of the cumulative effects – and goes beyond pertinent requirements in terms of growth projections and the contribution of the project to the cumulative impact. See, Exhibit F, Attachment 1, Figure 4 and Attachment 2, pages 1-3 and Exhibit I. The analysis considers a much longer time frame, and takes into account a greater amount of potential future growth than is normally required. See, Exhibit F, Attachment 2, pages 3-4, and Exhibit I. Thus, our study meets or exceeds the standards for a cumulative traffic analysis. See, Exhibit I. Indeed, given other growth constraints (e.g., water and sewer capacity and the City's newly adopted 1% per year growth control measure), it is speculative and unlikely that a fraction of the growth presumed within our analysis will occur. See, Exhibit F, Attachment 2, page 2. Also, contrary to the Staff Report (pages 14-15), the geographic scope of the cumulative analysis does in fact encompass roads outside City limits. See, Exhibit F, Attachment 2, page 5 and Attachment 4, pages 1-3. It is clear that the Project's contribution to cumulative traffic impacts are of a de minimus level and/or will be fully mitigated. See, Exhibit I. As discussed above,

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we will install improvements so as to improve regional traffic circulation, to a degree beyond that which could be legally required. While the Project will not and cannot solve all of the coastside's regional traffic issues, it could not legally be required to do so and will indeed alleviate more than its share of congestion. See, Exhibit H.

- Coastal Recreational Access: The priority of the Coastal Act with respect to traffic issues is to ensure recreational access to the coast. Therefore, weekends and holidays are the key peak periods of concern to the Coastal Commission. Our traffic data indicate that our Project will increase the weekend peak volume to capacity (v/c) ratio on most of Highway 1 by about .01, but will improve by 2.0 the weekend peak v/c ratio on Highway 1 between North Main Street and 400 feet north of Terrace Avenue. See, Exhibit F, Attachment 1, Figure 2. Plainly then, our Project will not adversely affect, but rather will actually enhance, coastal recreational access.
- De Facto Building Moratorium: If, as suggested by staff, undesirable levels of service on Highways 1 and 92 were to preclude approval of the Project, then no development projects of any size could ever be approved within the City or the region so long as the existing levels of service remain. The staff's position would impose a de facto building moratorium for the City and, by extrapolation, for the region as a whole. This would violate the protocols and limitations of Government Code Section 65858 concerning moratoria. Furthermore, the Coastal Commission lacks authority to impose such a moratorium.
- Cumulative Traffic Improvement: As discussed, we have proposed to construct improvements to the regional roadways. Other proposed development projects propose to do the same. In addition, the City is undertaking improvements to Highway 92 and is contemplating additional improvements to Highway 1. There is a very strong likelihood that every development project that manages to get approved within the City and its environs will mitigate its share (or more) of regional traffic impacts. Through such projects, the cumulative regional traffic situation through Half Moon Bay is destined to improve.
- LCP as the Standard: The Coastal Commission's task on appeal is to ensure that our Project is consistent with the LCP. The LCP governs development and infrastructure only within the confines of the City limits. The Coastal Commission thus lacks authority to address county-wide and regional traffic issues in the context of this appeal.

- Housing Needs: The Staff Report states that no further homes need be built within the City because there is a shortage of housing near job centers and an excess of housing in the City of Half Moon Bay. Staff Report, pages 16-17. To the contrary, there is hardly a glut of housing in Half Moon Bay. New housing is in high demand, and employment within the City continues to grow as well. The LUP, certified by the Coastal Commission, recognizes the City's obligation to provide housing for the region (see, LUP, pages 15-17), and thus specifies an allowable level of residential development within the City, including 228 homes on our property. Essentially, by making this and other arguments, the staff is suggesting that the Commission ignore, override and thus revise the LCP certified by it. That is not appropriate in this context, and can only be accomplished within the framework of periodic review of the LCP as a whole.
- Reserving Roadway Capacity for Other Lots: The Staff Report (pages 16-17) essentially suggests that the Coastal Commission save roadway capacity for existing small lots and "paper subdivisions" that may – and very well may not – be developed in the future. The Staff Report itself acknowledges that "[m]any of these existing lots do not conform with current zoning standards and their development potential is unclear." Staff Report, page 17. There is nothing in the LCP or California law as a whole that requires that existing infrastructure be reserved for speculative future development (particularly of substandard lots) that has not been applied for, analyzed or entitled in any fashion. Such a novel theory should be rejected by the Commission.
- Transfer of Development Rights: The Staff Report suggests (perhaps as a way of holding out hope to us that we could develop our Project even with a denial) that a transfer of development rights ("TDR") program could be adopted by the City whereby existing legal lots within the City could transfer their development rights to other areas within the City. (Staff Report, page 17) The staff raises false hopes. This appears to be a red herring since the Half Moon Bay City Council has already considered the possibility of enacting a TDR program and eschewed any interest in such a program. See, Exhibit J attached hereto. Furthermore, the applicant has no authority to enact such a program.

Biological Report

- Consistency With LUP Requirements: Staff concludes that the information provided by the biological reports summarized in Section 2.5.3 of the Staff Report does not satisfy the informational requirements prescribed by LUP Policy 3-5(a). Staff Report, pages 23-26. Staff is not only wrong, but also mis-characterizes the

content of the biological reports and the appropriate conclusions to be drawn from those reports. First, staff characterizes the June, 1999, LSA Associates Biological Report as a wetlands delineation that does not include wildlife surveys. Staff Report, page 25. That Biological Report addresses wetlands extensively but is also, in fact, a biological report containing substantial information on special status species, including the California red-legged frog and San Francisco garter snake, and environmentally sensitive habitat areas (ESHAs) on the property *and* within 200 feet and farther from the Project site, as well as a description of raptor nesting surveys conducted in April and May, 1999. See, Exhibit K, page 1. Second, staff discusses extensively the inadequacies of the methodologies utilized to identify the presence or absence of the California red-legged frog and San Francisco garter snake on the property and concludes that it is "highly likely that the species is present at the project site." Staff Report, page 26, 27. Again, staff ignores the evidence before it and contained in the Biological Reports discussed in Section 2.5 of the Staff Report. To illustrate, in another part of the Staff Report (page 28), staff accurately observes that, "The remaining populations are primarily in central coastal California *and are found in aquatic areas that support substantial riparian and aquatic vegetation and lack non-native predators.*" (emphasis supplied) The Staff Report then accurately states that, "California red-legged frogs are an essential prey species to the San Francisco garter snake, and the snakes have not been found in areas where red-legged frogs are absent." Staff Report, page 29. The biological reports assessed by staff repeatedly point out the presence of bullfrogs on the property. Bullfrogs are predators of the red-legged frog, and it is highly unlikely, as observed in the biological reports, that any red-legged frogs would be on the property with the bullfrogs present. Likewise, as noted in the Staff Report, the San Francisco garter snake cannot be present if red-legged frogs are absent. Staff Report, page 29. Contrary to staff's statement, we have confirmed that neither of these species is present on the Project site. See, Exhibit K.

- Absence of Any Endangered Species: Given the position of staff contained in Section 2.5 of the Staff Report and elsewhere, we directed LSA Associates to perform yet another survey to determine the presence or absence of the California red-legged frog or San Francisco garter snake on the property. Using the United States Fish and Wildlife Service ("USFWS") protocols, the survey once again confirmed that neither the California red-legged frog nor the San Francisco garter snake is present on the property and, because of current environmental conditions, both are highly unlikely to be present on the property. See, Exhibit K, page 2.

- No California Tiger Salamander or Western Pond Turtle: The Staff Report (page 26) asserts that the biological reports contain no description of survey techniques used to support the conclusion that the California tiger salamander and western pond turtle are absent from the site. Neither species is mentioned as a species of concern in the LUP. There exist no known records of California tiger salamanders on the San Mateo coast. This species would not be found on the property because the property is out of the known range of this species, it lacks suitable typical temporarily-ponded breeding habitat, and the only potential breeding habitat is infested with introduced aquatic predators of this species. See, Exhibit K, page 4. There are no specific protocols for determining the presence or absence of the western pond turtle, but the species is easily observable when conducting surveys for threatened and endangered species such as the California red-legged frog. No western pond turtles have been observed on the Project site, and juvenile pond turtles are also vulnerable to predation by bullfrogs and non-native fish, which are present on our property See, Exhibit K, page 4.

Threatened and Endangered Species

- No Habitat for Endangered Species: Staff erroneously applies LUP Policy 3-1. Staff Report, pages 28, 30. The applicable provision of LUP Policy 3-1 is in clause (1) of Policy 3-1(a), which defines "sensitive habitats" (i.e., ESHAs) as "habitats *containing or supporting* 'rare and endangered' species" We have conclusively demonstrated that the property neither contains nor is capable of supporting habitat for rare and endangered species. See, Exhibit K, page 132. The only means by which that habitat will exist is *through development of the Project.*
- Project Enhancement of Habitat for Endangered Species: The Staff Report asserts (page 28) that LUP Policies 3-3, 3-4, 3-24, and 3-25, and Zoning Code Sections 18.38.085 and 18.38.090 require that the habitat of both the California red-legged frog and the San Francisco garter snake be given "the highest level of protection." In fact, those Policies and Zoning Code provisions do not so state, but rather provide mechanisms to preserve and enhance habitat of rare and endangered species through appropriate mitigation measures to eliminate adverse impacts on rare and endangered species. The Project, as redesigned, meets all of these LUP Policies and Zoning Code provisions. And again, only through development of the Project will habitat for these two species exist.
- Requirements and Guidelines of the USFWS: The Staff Report (pages 29-30) misstates the requirements of, and process utilized by, the USFWS in analyzing project impacts, as well as the current views of USFWS staff on the Project. First,

the 300-foot buffer is used as an evaluative standard by USFWS as it reviews a project's specific impacts on a case-by-case basis. See, Exhibit K, page 6. The 1998 Biological Opinion issued by the USFWS for the original 216-unit project specified that, "No development, including grading, shall occur within 150 feet of the existing stock pond." Moreover, the summation in the Staff Report of the views of Mr. Curtis McCasland, Fish and Wildlife Biologist for the USFWS, represent basic general guidelines and concerns (which the USFWS always translates into project related analysis on a case-by-case basis). Such general guidelines are not related to the specifics of the revised Project, and are clearly inconsistent with the Biological Opinion for the original larger Project regarding the effects of development on habitat for endangered species on the Project site. See, Exhibit K, page 7.

- USFWS Finding that 150-Foot Buffer Protected Habitat: The USFWS never applied the 300-foot buffer zone requirement cited by staff, nor was the 150-foot buffer "negotiated" with us, as stated in the Staff Report (pages 29, 30). If areas beyond 150 feet provided habitat where the California red-legged frog or San Francisco garter snake could be "harmed" or "harassed" (the applicable legal standard, a "take"), the USFWS would be legally compelled to add those areas to the Project's "incidental take" or recommend additional reasonable and prudent measures to minimize incidental take. "Take" is not a negotiable issue with the USFWS. See, Exhibit K, page 10. In fact, the USFWS determined that the best available biological information (again, for the larger Project) indicated that a 150-foot buffer adequately protected the habitat on site. See, Exhibit K, page 10.
- Minimized Impacts to Wildlife Movement: Contrary to the implications in the Staff Report (e.g. page 30), the Project before the Coastal Commission incorporates several standard and well-recognized measures to minimize potential impacts to wildlife movement between the on-site pond and the pond to the north. These measures include construction of wing walls along street edges to direct movement of small animals (such as frogs and snakes) into arched culverts and other bridged areas for passage under roadways. These measures were requested by, discussed with, and approved in concept by, Mr. McCasland in a meeting with him and Coastal Commission staff on January 19, 2000, and subsequently again confirmed with him as acceptable after issuance of the Staff Report. See, Exhibit K, page 11.
- Wing Walls and Arched Culverts Will Protect Wildlife Movement: Contrary to staff assertions (Staff Report, page 30), both arched culverts and bridges provide the same ability for passage of wildlife, such as frogs and snakes. Both are

essentially free-span structures with earthen bottoms, which is typically considered an important factor for animal movement under structures. See, Exhibit K, page 12. Arched culverts are the appropriate and accepted means to span the crossings where they are utilized. The proposed wing walls suggested by the USFWS will effectively direct movement to discrete and safe crossing points where the culverts will be established.

- No Loss of Critical Habitat: The Project will not, as the Staff Report (page 30) asserts, result in the direct loss of habitat for, or potentially result in the direct mortality of, the California red-legged frog or San Francisco garter snake. *Indeed, without development of the Project, no habitat will exist at all.* Staff's position is, in fact, contrary to the USFWS Biological Opinion. For example, even with the previous project description, proposing the filling of an acre of wetlands, the USFWS stated that "*anticipated take is not likely to result in jeopardy to either the California red-legged frog or the San Francisco garter snake or destruction or adverse modification of critical habitat.*" See, Exhibit K, page 9 (emphasis supplied). The USFWS Biological Opinion sets very clear standards for mitigating impacts that could result in loss of habitat or mortality. These have been followed to the letter in the revised Project.
- No Development In Significant Habitat Areas: Contrary to staff's assertion (Staff Report, page 30), the Project does not include non-resource dependent uses in sensitive habitat areas and, in fact, limits uses within and adjacent to sensitive habitat areas consistent with all LUP Policies. The Project proposes no residential development within areas identified as significant habitat areas for both the California red-legged frog and San Francisco garter snake, provides broad, open corridors for movement between the on-site pond and off-site habitat areas to the north and east, and incorporates effective measures beyond those required by the USFWS Biological Opinion to facilitate movement of these species. See, Exhibit K, page 12.
- All USFWS Suggestions Incorporated: Mr. McCasland informed the Coastal Commission staff that he would be satisfied with the Project if all of his suggested modifications were incorporated into the Project. All of the suggested modifications were made, and have become part of the revised Project. The Staff Report has not changed his views. We note in this connection that the USFWS Biological Opinion specifically states: "The proposed enhancement and management of the pond, including the planting of scrub species around the pond and eradication of bullfrogs, *should increase foraging opportunities and*

reproductive success of both San Francisco garter snake and California red-legged frog.” See, Exhibit K, page 15 (emphasis supplied).

- Creation of Critical Habitat for the California Red-Legged Frog and the San Francisco Garter Snake: The property currently contains a significant bullfrog population, and the bullfrog is a predator to both the California red-legged frog and the San Francisco garter snake. The Project will implement enhancement measures including eradication of the bullfrog population, planting scrub species around the agricultural pond and establishing movement corridors in and along viable riparian corridors and to the pond to the north to provide viable habitat for each species. See, Exhibit K, page 15.
- Proposed Designation of the Property as Critical Habitat for the California Red-Legged Frog: The USFWS recently included the property in its Proposed Designation of Critical Habitat for the California Red-Legged Frog (Proposed Rules Published at Vol. 65, No. 176, Federal Register, 54892 et seq.). However, the inclusion of the property in the proposed designation was challenged during the comment period. We refer the Commission to the analysis prepared by Cassidy, Shimko & Dawson, dated October 10, 2000, with an enclosed attachment from LSA Associates, demonstrating that designation of the property as critical habitat for the California red-legged frog is unsupportable biologically and, if implemented, would result in an unconstitutional taking and a violation of the constitutional norms of due process and equal protection. See, Exhibit, L. In addition, the USFWS Biological Opinion is a project-specific analysis, which supercedes a statewide critical habitat proposal.

Riparian Corridors

- No Practical Alternatives to Bridges 3, 4 or 5: There is no feasible or practical alternative other than to construct the loop road which requires Bridges 3, 4 and 5. Because of the City's 400-foot limitation on cul-de-sac lengths (as set forth in the Design Standards and Standard Detail attached as Exhibit M), the staff should not be "unclear" as to whether there are feasible or practical alternatives to Bridges 3, 4 or 5. Staff Report, page 32. There are not. As to Bridge 6, it is located in an area which by LUP definition is not a riparian corridor (LUP Policy 3-7) because that area contains only minimal habitat value, and is devoid of any riparian vegetation (as defined in LUP Policy 3-7; See, Exhibit K, page 16). Also, it is not in an area identified by the USFWS as habitat for the California red-legged frog or San Francisco garter snake. Therefore, no significant biological resources will be affected. Finally, the Staff Report (page 32) completely mis-applies LUP Policy

3-9(b) and Zoning Code Section 18-38.075.B.1 as to Bridge 7. "Drainage 1" is neither a perennial nor an intermittent stream; rather, it is a drainage ditch and ephemeral stream to which the LUP Policy and Zoning Code provisions do not apply. See, Exhibit K, page 16. Therefore, the "no feasible or practical alternative" standard also does not apply, and we are not required to eliminate 4 lots, as proposed by the Staff Report (page 32).

- Diversion of Drainage 3: Staff objects to the diversion of Drainage 3. Staff Report, pages 32-33. *The diversion of Drainage 3 was specifically included in the revised Project as a result of a direct suggestion by the Coastal Commission's staff biologist, Mr. John Dixon, made in a September 2, 1999 meeting with Ailanto Properties, a point on which the staff was fully informed and concurred. See, Exhibit K, page 18.* Staff now proposes to recommend denial based on a staff-requested action for habitat enhancement. Formalizing the existing diversion was seen as an important long-term measure to provide an adequate water supply to the pond, to maintain Wetland E, and to improve potential movement corridors between the upper portion of Drainage 3 (which contains riparian habitat) and the pond. In addition, the proposed diversion was evaluated, including impacts of the diversion to the lower portion of Drainage 3 in a December 21, 1999, letter to Coastal Commission staff from LSA Associates, and by letter from Cassidy, Shimko & Dawson to Coastal Commission staff dated January 13, 2000. These concluded that the diversion would have no significant impact on the lower section of Drainage 3.
- Consistency of Riparian Buffers with LUP Policy and Zoning Code: The riparian buffers proposed in the Project meet all applicable LUP Policies, including LUP Policy 3-11 and Zoning Code Section 18.38.075.D. The Staff Report does not provide any detailed analysis of which streams and setbacks run afoul of these Policies and Zoning Code provisions. Drainages 1, 2 and lower 3 have not been identified as habitat for the California red-legged frog or the San Francisco garter snake by the USFWS. See, Exhibit K, page 18, and Exhibit Y concerning the setback from Drainage 3. While the upper segment of Drainage 3 has a riparian setback of 30 feet on the north side, the movement corridor for wildlife (the critical component) has a minimum width of 250 feet and is over 400 feet in most locations between developed areas. The two corridors to the ponds and wetlands to the north are between 200 and 300 feet at their minimum widths, and the open corridor along Drainage 4 is 70 feet. Mr. McCasland, in the January 19, 2000, meeting with Coastal Commission staff, requested three modifications to the Project which would satisfy his concerns. As noted, those modifications were made as part of the revised Project now before the Commission, and Mr.

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McCasland continues to be satisfied with the Project with these changes. See, Exhibit K, page 19.

Wetlands

- Wetland Buffers Protect Vital Habitat: Staff's sole objection to the Project concerning wetlands is that minimum buffer widths for wetlands are not sufficient to protect these areas for use by the California red-legged frog and San Francisco garter snake. Staff Report, page 36. We have addressed this issue in detail above in our discussion of threatened and endangered species and incorporate it by reference here.
- Actual Effect on Habitat: As noted above, all of the assertions regarding the effect of buffer zones around wetlands are contradicted by the Project's actual effect on habitat and endangered species. In addition, claims asserted in the Staff Report are not substantiated or supported by the USFWS Biological Opinion. See, Exhibit K, page 20.

Visual

- Respect for 160-Foot Contour: Staff avers that the Project conflicts with LCP policies concerning protection of the scenic qualities of hillsides inland of Highway 1 because, though no portion of any building footprint would be located above the 160 foot contour line, portions of the homes themselves would project above the 160 foot elevation. Staff Report, pages 36-37. Staff's tortured argument cannot survive scrutiny. The Project's Planned Unit Development Ordinance (Zoning Code Chapter 18.16; the "PUD Ordinance"), adopted specifically for our property, conclusively resolves this issue. Zoning Code § 18.16.060, titled "Development Above The 160 Foot Contour," applies "to all properties that have a portion of the lot above the 160 foot contour," and requires that "no part of any building footprint for any lot shall be permitted above the 160 foot contour, as shown on the Final Map." Zoning Code § 18.16.060.B. The PUD Ordinance further provides that, "in order to ensure that development does not occur above the 160 foot contour, deed restrictions shall be recorded against any lot that abuts or crosses the 160 foot contour." Zoning Code § 18.16.060.C. Plainly, the PUD Ordinance contemplates that structures projecting above the 160 foot contour will be built, and merely requires that no building be situated beyond the 160 foot contour. Further, the staff itself acknowledges that the Project comports with the LUP "policies' limitations on development on slopes above the 160-foot contour." Staff Report, page 37 (emphasis in original). The Planning

Director who authored these zoning provisions explains the intent behind this language in Exhibit N.

- Status of PUD Ordinance: Staff has opined that the PUD Ordinance has expired. Staff Report, pages 4-5. It appears that the motivation for such preposterous position is to try and create a scenic resource/visual issue where none exists. The PUD Ordinance has not expired. See, Exhibit O attached hereto. The Planning Director who authored the PUD Ordinance has opined that the PUD Ordinance has not expired. See, Exhibit N. The City Attorney of Half Moon Bay (at the time the letter was written) has likewise opined that the PUD Ordinance has not expired. See, Exhibit P attached hereto. The former City Attorney of Half Moon Bay, who held the City Attorney position when the relevant LCP provisions were enacted, concurs. See, Exhibit Q attached hereto. The PUD Ordinance, which was certified by the Coastal Commission as part of the LCP's Implementation Plan, applies to and sets forth standards for the Project.
- LUP Visual Policies: Staff states that the Project is inconsistent with LUP Policy 7-10, which requires that new development "shall not involve grading or building siting which results in a significant modification of hillscape." Staff Report, page 37. However, the Project involves no grading or building siting above the 160 foot contour such that the hillscape will not be modified. In addition, LUP Policy 7-10 requires that structures "be sited so as not to intrude into the skyline as seen from public viewing places." As shown in the photo attached as Exhibit R hereto, the maximum vertical projection of the structures within the Project (to the 190 foot contour) is below our property line, which itself is considerably below the ridgeline so that there will be no intrusion into the skyline as a result of the Project. As further unequivocally established by the site section (attached as Exhibit S), the tops of our homes (at a maximum of 190 feet) will be below existing hillside shrubs and trees and will be 385 feet below the top of the first ridgeline. Clearly, the Project is consistent with all relevant LUP policies regarding visual resources. See, Exhibits N, O, R and S.
- Prior Staff Finding: In its April 27, 2000 staff report on the Project, staff discussed visual issues and found that its "preliminary analysis indicates that the proposed residential structures are consistent with the 160 foot contour." There is no basis for the staff now to reach the opposite conclusion.

California Environmental Quality Act ("CEQA")

- Staff's CEQA Argument: As a catchall, the Staff Report (page 45) refers to its earlier discussions of coastal resources, and maintains that CEQA prohibits approval of our Project because feasible alternatives or mitigation measures would lessen significant impacts. As established herein, the Project will not result in any unmitigated significant environmental impacts so that this is a non-issue.
- No Substantial Issue Due to CEQA: By virtue of the February 29, 2000, Staff Report concerning the substantial issue determination on the appeal, the Commission found that alleged inconsistency with CEQA did not constitute a substantial issue or valid basis for appeal of our Project. See, Exhibit T attached hereto. Consistent with this finding, there was no discussion of CEQA issues in the April 27, 2000, Staff Report summarizing the issues before the Commission on our appeal. The Commission should thus now be estopped from asserting any such grounds.
- City's CEQA Documents for Project: The City prepared a complete and detailed environmental impact report ("EIR") for our Project in 1990. The Coastal Commission submitted a comment letter on that EIR. In connection with the approval of our CDP in 1999, the City prepared an initial study under CEQA, and determined that no further environmental review of the Project was required. The Coastal Commission did not, at that time, submit comments to the City on any CEQA issues, and should be precluded from raising such concerns at this late date, long after the limitations period for challenging the City's compliance with CEQA has passed.
- Commission's Comments on Project EIR: Throughout the lengthy project approval and CEQA process for our Project, the Coastal Commission only once – more than twelve years ago – submitted comments on the Project. In its July 8, 1988, letter commenting on the Draft EIR for the Project, the Commission summarized its environmental comments as follows:

In summary, the Coastal Commission staff recommends that the proposed Dykstra Ranch project be altered to conform with the roadway requirements of the Half Moon Bay certified LUP, by providing local street connections. That construction of the project not occur until water and sewer services are available to accommodate the project. That the pond and wetland habitat must be preserved. That

the riparian habitats must be adequately protected (by incorporating measures beyond those set forth in the DEIR).

We have complied with each of these recommendations made by the Coastal Commission twelve years ago. We should not now be precluded from proceeding with the Project when we have taken all such requested measures to protect the environment.

- Project Conditions of Approval: The City's approval of the CDP was accompanied by conditions of approval, many of which ensure that the Project will not generate significant environmental impacts. We have revised these conditions of approval to reflect the changes to our Project and to incorporate the additional traffic, biological and other requirements that have resulted from meetings with staff and Commission proceedings on the appeal. See, Exhibit U attached hereto. This set of conditions could be directly imposed by the Commission in connection with its approval of our Project.

Detailed Plans Request

- The Staff Report (pages 38-43) lists a plethora of extremely detailed, construction-level plans that the staff urges should be prepared before the Coastal Commission can take action on the Project, including drainage and erosion control measures, a Storm Water Pollution Prevention Plan, and grading and landscaping plans. To begin with, these portions of the Staff Report surprised us since we had discussed these issues in great depth with staff in the past, and had been assured that such detailed plans would not be required prior to action by the Coastal Commission. Requiring such details would make no sense because, until the Commission acts on the Project, there is no basis for or point to be served by preparing such construction-level documents. Furthermore, staff's request for such implementation documents goes far beyond the level of information that is customarily required at the project approval stage. Also, we have submitted a considerable amount of details concerning these issues to the staff over the last year or more. On October 10, 2000, we supplied to Chris Kern of the Coastal Commission staff a separate letter on these topics. See, Exhibit V.

Coastal Commission Appeal Jurisdiction

- As discussed in detail in the June 24, 1999, letter to Coastal Commission staff from Cassidy, Shimko & Dawson (then known as Cassidy, Cheatham, Shimko &

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Dawson), attached as Exhibit W, pages 5-16, the Coastal Commission does not have jurisdiction over the entire Project. Rather, its appeal jurisdiction is limited to discrete areas on the property within 100 feet of streams and wetlands. The standards for determining the precise boundaries of the Coastal Commission's jurisdiction are contained in California Code Regulations § 13577. In light of the importance of this key issue, we submitted a separate letter dated October 31, 2000, addressing in detail the jurisdictional limitations upon the Coastal Commission's review of our Project, and we invite you to review that letter carefully.

Standard of Review

- Commission Must Apply LCP Policies Upon Appeal: As staff is well aware, the Commission's jurisdiction is limited to determining whether the Project conforms with relevant LCP provisions. (Public Resources Code Section 30604(b)). We have demonstrated in this submittal and prior submittals by us to the Commission and Commission staff (all of which are incorporated herein by reference) that the Project fully complies with all relevant LCP Policies.
- Coastal Act Policies Are a Framework, Not Governing Provisions Under the LUP: Staff continues to assert that all of the Coastal Act policies referenced in the LUP have been incorporated into the LUP and govern the Commission's review of our Project. We refer the Commission to the analysis prepared by Cassidy, Shimko & Dawson embodied in its letter, dated June 24, 1999, refuting this position. See, Exhibit W, pages 16-20.

Violation of Nexus Requirements Under Dolan/Nollan

- Staff recommends denial of our application for the Project. In doing so, staff recommends a number of "mitigations" that range from deletion of proposed lots to development of a project with two residences on the existing two lots. Staff's recommendation violates the nexus requirements enunciated by the U.S. Supreme Court in the Dolan/Nollan cases.

Reliance by Ailanto

- Ailanto has relied in good faith upon all of the administrative decisions made at each step of the approval process. Ailanto has continuously revised the Project to reasonably mitigate any adverse environmental impacts based upon factors

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involving traffic, threatened and endangered species, riparian corridors or wetlands. Denial of the Project would prevent Ailanto from realizing its reasonable reliance expectations. Moreover, it would be unfair for the Commission to deny Ailanto's application based upon any environmental impact factors, because the status of those factors as they relate to the Project has remained unchanged since Ailanto began the approval process, and began relying on the approvals to date (including LUP and LCP certification, the PUD Ordinance and Vesting Tentative Map, and the City's CDP approval).

Taking of Ailanto's Property

- If the Commission rejects our application for the Project as revised, that rejection will effect a taking without just compensation by the State of California acting by and through the Coastal Commission.

Assessments Paid by Ailanto

- We have paid substantial assessments for infrastructure necessary to serve the Project. If the Coastal Commission denies our application for the revised Project, we will not receive the benefits of the infrastructure for which we have paid to serve the Project for which the infrastructure was designed. We will be entitled to repayment of all assessments paid, plus interest, from the City as a result of denial of our application for a Coastal Development Permit from the City, as appealed to the Coastal Commission. See, Exhibit X.

Hearing Procedures

- We note that we must be allowed a sufficient amount of time at the hearing on this appeal to present our Project, the evidence that refutes the Staff Report recommendation of denial, and the evidence that unequivocally demonstrates compliance with all applicable LCP Policies. We must also be allowed a sufficient amount of time to rebut and refute opposition to our Project adduced at the hearing. Fundamental norms of due process and fairness require no less.

* * *

For all of the reasons of fact and law stated herein, Ailanto Properties, Inc. respectfully requests the Coastal Commission staff to revise its staff report and recommendation, dated June 22, 2000, to (a) correctly describe the facts relating to the Project, the project site and local and regional environmental settings; (b) specifically state cogent analyses of the applicable LCP

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standards to such facts, including a definition of impact thresholds on coastal resources or public access thereto, and quantification thereof, if any are identified with regard to this Project; (c) identify any remaining feasible mitigation measures not already required by the City or proposed by us that would, in Commission staff's opinion, sufficiently reduce any identified impacts; and (d) provide Ailanto and all other known interested parties with the staff's report and recommendation no later than thirty (30) days before the scheduled Coastal Commission hearing date on this matter in December, 2000.

Ailanto Properties, Inc. appreciates this opportunity to address these important matters relating to the Project. Please feel free to contact our project manager, Robert Henry, at 510-465-8888 if you have any questions about this submittal. Representatives of Ailanto are available to meet with Commission staff to discuss any of the scientific, technical, or legal matters addressed herein and invite staff's response to convening that meeting at the earliest opportunity.

Very truly yours,



Albert Fong
President
Ailanto Properties, Inc.

cc: Chairperson Sara Wan, Members, Alternates, and Ex Officio Members, California
Coastal Commission
Peter M. Douglas, Executive Director, California Coastal Commission
Ralph Faust, Esq., Chief Counsel, California Coastal Commission
Steve Scholl, Deputy Director, California Coastal Commission
Chris Kern, Assistant District Director, California Coastal Commission
Blair King, City Manager, City of Half Moon Bay
Steven Mattas, Esq., City Attorney, City of Half Moon Bay
Robert Henry, Project Manager, Ailanto Properties, Inc.
Stephen K. Cassidy, Cassidy, Shimko & Dawson
Anna C. Shimko, Cassidy, Shimko & Dawson
Nancy Lucast
William Rutland

ORDINANCE 11-90

ORDINANCE OF THE CITY OF HALF MOON BAY
AMENDING THE HALF MOON BAY MUNICIPAL
CODE ADDING CH. 18.31 - DYKSTRA RANCH
PLANNED UNIT DEVELOPMENT

It is ordained by the Half Moon Bay City Council to amend
the Half Moon Bay Municipal Code as follows:

SECTION 1: Add Ch. 18.31 - Dykstra Ranch Planned Unit
Development, per Exhibit A attached hereto and incorporated
herein.

SECTION 2: That the City Council hereby declares that
it would have passed this ordinance sentence by sentence,
paragraph by paragraph, and section by section, and does hereby
declare that any provisions in this Ordinance are severable
and, if for any reason any sentence, paragraph, or section of
this Ordinance shall be held invalid, such decision shall not
affect the validity of the remaining parts of this Ordinance.

SECTION 3: This Ordinance shall be published and
posted according to law and shall take effect and be in force
from and after thirty (30) days after its passage and
adoption.

Introduced this 7th day of August, 1990.

PASSED AND ADOPTED as an Ordinance of the City of Half
Moon Bay at a regular meeting thereof held on the 21st day of
August, 1990.

AYES, COUNCILMEMBERS: Patterson, Eriksen, Patridge, Bedesem

NOES, COUNCILMEMBERS: Iverson

ABSENT, COUNCILMEMBERS: None

ABSTAIN, COUNCILMEMBERS: None

Helen R. Bedesem
Helen R. Bedesem, Mayor
City of HALF MOON BAY

ATTEST:

Mark Weiss
Mark Weiss
Acting City Clerk

AARONSON, DICKERSON, COIT & COMPANY
A PROFESSIONAL CORPORATION
938 L STREET, SUITE D
SAN CARLOS, CALIFORNIA
TELEPHONE 593-3117

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**EXHIBIT A
FINDINGS AND CONDITIONS OF APPROVAL
DYKSTRA RANCH PLANNED UNIT DEVELOPMENT PLAN
AND
SUB-12-87**

FINDINGS:

1. That the application for this Vesting Tentative Map was submitted and processed in accordance with the requirements of the Subdivision Ordinance of the City of Half Moon Bay.
2. That the proposed subdivision is consistent with the City of Half Moon Bay Local Coastal Program Land Use Plan and all applicable codes and policies of the City.
3. That the site is physically suited for the type and density of the proposed subdivision.
4. That the proposed Vesting Tentative Map provides for development in areas with slopes in excess of 25%. It has been determined that these areas are minor in nature, represent areas not associated with significant landforms, will not impact the visual resource of the foothills, will be incorporated into the design and development of the site plan on the basis of recommendations from engineering geologists that the areas are stable and are not susceptible to landslide or subsidence, and as proposed fully meet the intent of the policies of the Local Coastal Program pertaining to development in these areas.
5. That the design of the proposed subdivision and the improvements will not be detrimental to the health, safety, or welfare of the citizens of the City of Half Moon Bay.
6. That the Vesting Tentative Map will incorporate all of the standards set forth in the Dykstra Ranch Planned Unit Development Plan (Chapter 18.31).
7. That an Environmental Impact Report has been prepared for this development in accordance with the California Environmental Quality Act. Based upon the information contained therein, it has been determined that this project will not have a significant impact on the environment. The Environmental Impact Report and Addendum have been accepted by the Planning Commission and found to be complete. The Mitigation Measures

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Dykstra Ranch PUD and SUB-12-87

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- contained therein have been incorporated into the final project plans or are incorporated as conditions of project approval.
8. That the planning Commission recommends that the City Council adopt the Dykstra Ranch Planned Unit Development Plan as the Zoning Ordinance for this development, and directs Staff to add Chapter 18.31 to the Municipal Code.
 9. That the developer has indicated that the proposed project will not use either groundwater wells or form a mutual water company using groundwater to provide domestic water for the development.

CONDITIONS:

Conformance with the Dykstra Ranch Planned Unit Development Plan:

1. That all activities and development on the site shall be designed, constructed, and utilized in accordance with the provisions and standards of the Dykstra Ranch Planned Unit Development Plan.

Utilities:

2. That prior to recordation of the Final Map, the applicant shall submit plans for the water connections to the Coastside County Water District Engineer which shall be approved by all required parties. Furthermore, such security as deemed necessary by the Water District shall be required to insure installation of the proposed facilities.
3. That the subdivider shall submit three prints of the approved Tentative Map to each of the following utility companies: Pacific Gas & Electric Company, Pacific Telephone, Weststar Cable TV Company, and the Coastside County Water District. The subdivider shall subsequently provide the City Engineer with each utility's easement needs as part of the initial Final Map submittal.
4. That a sanitary sewer report shall be submitted, as part of the initial Final Map submission, for approval by the City Engineer. The report is to include all information pertinent to the capability of the proposed sewer facilities to handle the expected wastewater from the site. The system shall be connected to existing public lines. Submit engineering calculations confirming that existing sewer capacity downstream of the proposed development is adequate for the additional

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- flow. If capacity is inadequate, submit engineering calculations and plans for improvements to provide adequate capacity. Sanitary sewers must have a manhole at each change in direction of pipe. Curved sewers are not allowed. Manholes should be within paved streets whenever possible. Changes in flow direction greater than 90 degrees should be avoided.
5. That the exact location, number, size and other pertinent information of all utilities including fire hydrants, street lights, sanitary sewers and storm drains will be checked and approved at the time the final improvement plans are submitted to the City Engineer for review.
 6. That all utilities shall be installed underground.
 7. That the subdivider shall pay for all maintenance and operation of all utilities and improvements from the time of installation until acceptance of the subdivision improvements by the City Council.
 8. That any existing well must be abandoned or brought up to standard in accordance with San Mateo County Department of Environmental Health requirements and Chapter 13.84, Half Moon Bay Municipal Code. City of Half Moon Bay domestic well permit and Health Department witnessing of work are required.
 9. If public sewer is available, new construction must be connected to sewer. Any existing septic tank on the site must be located. Any septic tank which will not be used must be properly abandoned in conformance with Section 13.24.50 of the Half Moon Bay Municipal Code.
 10. That adequate street access and water system for fire protection shall be installed and in working order prior to the beginning of any vertical construction to the satisfaction of the Fire Protection District and the City Engineer.
 11. That fire flow and all other applicable Fire Code Regulations shall be to the satisfaction of the Fire District. That the applicant shall agree to participate in the formation of a special service zone to assist in funding the additional manpower required to service the project. As additional fire service zones are developed, the assessment may be adjusted as necessary to reflect the proportionate contribution of each area for fire protection services. Prior to the issuance of building permits, the applicant shall execute an agreement with the Fire District which shall provide for fully funding the first year's assessment at a date set forth in the agreement.

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Final Map Submittal:

12. That the initial submission of the Final Map shall be in complete form and accompanied by the traverse sheets, map checking fee and all other items required by the City Engineer. The Final Map shall include a name to be approved by the City Council for any streets and irrevocably offer all necessary rights-of-way and easements for dedication. The submittal shall include the latest title report guarantee of the property.
13. That the subdivider shall submit improvement plans for the public improvements, including a grading plan and an erosion/dust control plan, as part of the initial Final Map submission. The plans shall be in complete form and in accordance with the standards established by the California Subdivision Map Act, the City's Municipal Code including the Dykstra Ranch Planned Unit Development Plan, and the City Engineer regarding format and design information required.
14. That all material necessary to present the subdivision Final Map to the City Council shall be submitted to the City Engineer at least four (4) weeks prior to the presentation. The material shall be submitted in a form satisfactory to the City Engineer.
15. That any permits required by the Coastal Commission, CalTrans, the California Fish and Game Department, the U.S. Army Corps of Engineers, or other agency with permitting jurisdiction over the subject property shall be obtained by the applicant or the applicant's representative prior to approval of a Final Map.
16. That the subdivider pay all outstanding fees and charges due, and make any necessary escrow deposits prior to the recordation of a Final Map.
17. That the subdivider shall cause to be prepared and shall enter into a Subdivision Agreement satisfactory to the City Council covering all of the conditional items specified herein as required by law.
18. That the subdivider shall irrevocably offer for dedication to the public for their use, all streets, easements for public utilities, for sanitary sewers, for storm drainage, for water lines, and for public access as may be required.
19. That the public improvements shall be in accordance with the City of Half Moon Bay Design Standards and Standard Specifications.

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20. That adequate fire hydrants shall be installed within the subdivision to the satisfaction of the Half Moon Bay Fire Protection District. A preliminary map shall be provided to the Fire Protection District for review and approval, which shows all fire hydrant and water main locations prior to the recordation of the Final Map. A copy of the response from the Fire District shall be transmitted to the City Engineer.
21. That subdivider shall dedicate land for park and recreation purposes pursuant to Chapter 17.16 of the Half Moon Bay Municipal Code. Any land to be dedicated for this purpose shall be shown and dedicated on the Final Map.
22. Unless previously addressed as a part of the Terrace Avenue Assessment District, the subdivider shall be subject to standard storm drainage improvement fees, which shall be collected prior to approval of the Final Map, in accordance with Chapter 17.08 of the Half Moon Bay Municipal Code.
23. That the subdivider shall prepare, or cause to be prepared, any assessment reapportionments necessary for the parcel. The reapportionments shall conform to the lots created by the subdivision such that each lot shall be a separate reapportionment. The subdivider shall submit any and all completed reapportionment diagrams and legal documents to the City Engineer for review, distribution, and recording.
24. That an Encroachment Permit shall be required for all work within the public right-of-way.
25. A public utilities easement, having a minimum width of 4 feet, shall be provided on each side of all streets except Foothill Blvd. The public utilities easements shall be outside the street right-of-way but shall be adjacent to and contiguous with the street right-of-way. The public utility easements on Foothill Blvd., one on either side of the roadway, shall be within the right-of-way.
26. That the subdivider provide City standard survey monumentation in the street. Three-fourths inch diameter I.P. monuments (24 inch minimum length) shall be set at all lot corners, except where sidewalks are to be constructed or are existing. The surveyor shall set lead and tack in the sidewalk at these locations.

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27. That a homeowners association be formed for mandatory participation by all property owners within the subdivision. The association shall provide a mechanism for operation and maintenance of all common facilities that may not be serviced by a public agency. These facilities include but may not be limited to: drainage, the pond, street lighting, water supply system, and roadway landscaping.
28. That the developer shall pay School Impact fees as required prior to the issuance of any building permits.

Grading and Drainage:

29. That a drainage report shall be submitted, as part of the initial Final Map submission, for approval by the City Engineer. The report is to include and show all areas tributary to the site and all information pertinent to the capability of the proposed drainage facilities to handle the expected runoff from the site. Additionally, the report shall include or incorporate the grading plan and the erosion/dust control plan for the project to the satisfaction of the City Engineer. Unless otherwise approved by the City Engineer as a part of the overall drainage plan, all roof drainage shall be collected and conveyed directly to the gutter or street. If the storm drain system is to be connected to existing public lines, submit engineering calculations confirming that existing storm drain capacity downstream of the proposed development is adequate for the additional flow. If capacity is inadequate, submit engineering calculations and plans for improvements to provide adequate capacity or on-site detention or both. Storm drains must have a manhole at each change in direction of pipe. Curved storm drains are not allowed. Manholes should be within paved streets whenever possible. Changes in flow direction greater than 90 degrees should be avoided.
30. That the drainage plan shall include any applicable provisions of the Dykstra Ranch Planned Unit Development Plan, including but not limited to those standards pertaining to design criteria and on-going monitoring and maintenance.
31. That a preliminary geotechnical report shall be required for this project. The geotechnical report shall be prepared, wet-stamped and signed by a geotechnical engineer licensed by the State of California.
32. That the Developer shall comply with all U.B.C. Regulations for grading to reduce temporary erosion

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impacts associated with development. The future potential for erosion will be eliminated when the sites are landscaped.

33. That a Grading Permit obtained through the City Engineer's office shall be required for all grading outside the street right-of-way. A Grading Permit cannot be issued without an approved grading plan and an approved erosion/dust control plan that provides for winterization of the project site. Comply with all applicable provisions of Chapter 14.24 of the Half Moon Bay Municipal Code, and with Standard Specifications for Public Works Construction, 1982 Edition.
34. That if historic or archaeological artifacts are uncovered during grading activities, all work shall stop and a qualified archaeologist shall be retained by the applicant, at the applicant's expense, to perform an archaeological reconnaissance and develop mitigation measures to protect archaeological resources.

Traffic and Circulation:

35. That no more than 50 dwelling units may be constructed prior to the connection of Foothill Boulevard to Highway 1. The Half Moon Bay Fire Protection District shall approve an all-weather emergency access road to the development prior to the issuance of any permits for the first 50 dwellings in the event that building permits are requested prior to any connection to Highway 1 being completed.
36. That the subdivider will be subject to standard traffic mitigation fees, which shall be collected prior to approval of the Final Map, which can be used in the future for any signals or intersection improvements that need to be installed in the vicinity if cumulative impacts warrant these signals or improvements to the satisfaction of the Director of Public Works. Any previous financial commitment from the developer to the City pertaining to roadway improvements shall be credited toward the required fees.
37. That unless the subdivider can provide the City with proof of title or interest in that portion of the adjacent parcel (056-310-150 - Cabrillo Unified School District) within 40.00 feet of the centerline of Foothill Blvd. prior to submitting a Final Map, then the subdivider shall submit an Amended Vesting Tentative Map with the Foothill Blvd. right-of-way wholly within the Dykstra Ranch Subdivision.
38. That the subdivider shall construct curb, gutter, sidewalk, and pavement construction along the street

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frontages indicated below in accordance with City Standards or as approved by the City Engineer.

<u>Street</u>	<u>Curb Type</u>	<u>Sidewalk Width Ft.</u>
Foothill Blvd.	Rolled	4 (both sides)
"A" Court	Rolled	4 (one side)
"B" Court	Rolled	4 (one side)
"C" Court	Rolled	4 (one side)
"D" Court	Rolled	4 (one side)
"E" Court	Rolled	4 (one side)
"F" Court	Rolled	4 (one side)
"G" Court	Rolled	4 (one side)
"H" Court	Rolled	4 (one side)
"I" Court	Rolled	4 (one side)
"J" Street	Rolled	4 (one side)
"K" Court	Rolled	4 (one side)
"L" Court	Rolled	4 (one side)
"M" Court	Rolled	4 (one side)
"N" Court	Rolled	4 (one side)
"O" Court	Rolled	4 (one side)
"P" Court	Rolled	4 (one side)
"T" Street	Rolled	4 (one side)
Unnamed Court	Rolled	4 (one side)

All curbs shall be rolled unless the City Engineer determines that vertical curbs are necessary to contain water flows.

Construct the proposed streets to applicable City Standards as follows:

<u>Street Name</u>	<u>Classification</u>	<u>Minimum Width Ft.</u>	
		<u>Right-of-way</u>	<u>Curb to curb</u>
Foothill Blvd.	Secondary Arterial	80	44
"A" Court	Minor	36.5	28
"B" Court	Minor	36.5	28
"C" Court	Minor	36.5	28
"D" Court	Minor	36.5	28
"E" Court	Minor	36.5	28
"F" Court	Minor	36.5	28
"G" Court	Minor	36.5	28
"H" Court	Minor	36.5	28
"I" Court	Minor	36.5	28
"J" Street	Minor	36.5	28
"K" Court	Minor	36.5	28

Findings and Conditions of Approval
Dykstra Ranch PUD and SUB-12-87

9

"L" Court	Minor	36.5	28
"M" Court	Minor	36.5	28
"N" Court	Minor	36.5	28
"O" Court	Minor	36.5	28
"P" Court	Minor	36.5	28
"T" Street	Minor	36.5	28
Unnamed Street	Minor	36.5	28

Streets within the subdivision with a width less than 36 feet (curb face to curb face) shall be private and shall not be accepted by the City for maintenance by the City.

Internal private streets less than 36 feet wide (curb face to curb face) shall be posted for "No Parking - Fire Lane" in both directions.

The minimum radius of any cul-de-sac shall be 30 feet to the face of curb. The turnaround area of any cul-de-sac shall be posted for "No Parking - Fire Lane".

39. That prior to the recordation of any Final Map for this development, the Planning Director shall review said map or maps to ensure that guest parking bays are provided in the right-of-way at a ratio of not less than one space for each unit. Said guest parking bays shall be located to provide close and convenient parking areas to support the adjacent residences.

Residential Construction:

40. That all building on the site must be consistent with the Zoning Regulations in Title 18 of the Half Moon Bay Municipal Code and the Dykstra Ranch Planned Unit Development Plan to the satisfaction of the Planning Director. In the event a conflict arises as to which standard would apply, either Title 18 of the Half Moon Bay Municipal Code or the Dykstra Ranch Planned Unit Development Plan, the Planning Director shall make a determination. The developer may appeal the Planning Director's determination to the Planning Commission, and to the City Council if necessary.
41. That any single family homes constructed on the lots must be designed in such a manner that the ambient noise level within the structure shall meet a Sound Transmission Class (STC) of 50 (45 if field tested and verified by a Registered Noise Engineer to the satisfaction of the Planning Director).

Findings and Conditions of Approval
Dykstra Ranch PUD and SUB-12-87

10

42. That all housing units shall be designed and constructed in accordance with all U.B.C. Regulations (1982 Code unless a subsequent edition is adopted by the City), with all building plans to be reviewed and approved by the Building Department prior to the issuance of any Building Permits, to the satisfaction of the Director of Public Works. Computations and back-up data will be considered a part of the required plans. Structural calculations, engineering calculations, or both shall be prepared, wet-stamped and signed by an engineer or architect licensed by the State of California.
43. That all residential dwellings shall display lighted street address numbers in a prominent location of the street side of the residence in such a position that the number is easily visible to approaching emergency vehicles. The numerals shall be no less than four inches in height and shall be of a contrasting color to the background.
44. That there shall be adequate street lighting throughout the project to IES standards for urban residential streets to the satisfaction of the Director of Public Works. The street lighting shall be owned and maintained by Pacific Gas & Electric Company.
45. That the Developer shall construct all structures in compliance with the strictest standards listed in the U.B.C. Regulations for single family residence earthquake safety as required by Title 24 of the California Administrative Code.
46. That a landscape architect shall be retained to determine the most appropriate species to enhance views, provide erosion control and further protect the slope reconstruction. A landscaping plan shall be submitted to and be reviewed and approved by the Planning Director. A bond to guarantee installation and maintenance for two growing seasons shall be posted to the satisfaction of the Planning Director.

March 28, 2000

Yuri Won
Cassidy, Cheatham, Shimko & Dawson
20 California Street, suite 500
San Francisco, CA 94111

RE: Pacific Ridge Permit Expiration

Dear Yuri:

Apparently, as part of its consideration of the Pacific Ridge appeal, Coastal Commission staff has questioned the continued validity of Ailanto's Planned Unit Development Plan due to Half Moon Bay Municipal Code section 18.15.045.C. It is questionable that this section, which was enacted subsequent to the City's approval of the project, even applies given development rights which Ailanto secured with the approval of a vesting tentative map. Assuming for sake of discussion that it applies, it would provide that any planned unit development plan approved for the project would have expired two years after the effective date of the plan. However, for reasons explained below, even if this section does apply to this project, it is unlikely that a reviewing court would apply it so as to vitiate any City approval of the PUD plan absent the appropriate proceeding held by a City body.

The City's zoning ordinance is a bit vague as to what a planned unit development plan is, however, at section 18.02.040, the definition of "planned unit development plan" notes that "for purposes of conformance with this title, planned unit development plans and specific plans are synonymous."

Regardless of the specific nature of a planned unit development plan, it is a discretionary land use approval required before proceeding with development in areas zoned PUD. It is not the only approval required before development may proceed in these areas, but it is one that is required. Discretionary approvals fall into two categories: legislative acts, and quasi-adjudicative acts. Legislative acts are policy decisions of the City, adopted by the City Council in compliance with the provisions of state law. Quasi-adjudicative acts are in the nature of a permit, and such decisions must be based on the facts of the case and the law in effect.

If a planned unit development plan is the equivalent of a specific plan, clearly, the expiration provision is ineffective because general and specific plan designations do not expire. Instead, they continue until changed by act of the appropriate decision making bodies. The adoption of a specific plan is a legislative

North Bay Office
Santa Rosa, California

Central Valley Office
Stockton, California

act. It can be abrogated only by another legislative act, not by the passage of time: "The amendment of a legislative act is itself a legislative act. 'Rezoning of use districts or changes of uses and restrictions within a district can be accomplished only through an amendment of a zoning ordinance, and the amendment must be made in the same mode as its original enactment.'" *Johnston v. City of Claremont* (1958) 49 Cal.2d 826 at p. 835.

If the approval of a planned unit development plan is more in the nature of a development permit, by virtue of a long line of cases, up through the recent case of *Bauer v. City of San Diego* (2000) 75 Cal. App. 4th 1281, a land use permit once approved and reasonably relied upon by a developer cannot be terminated without prior notice and hearing (see also *Community Development Commission of Mendocino County v. City of Fort Bragg* (1988) 204 Cal. App. 3d 1124.

"Once a use permit has been properly issued the power of a municipality to revoke it is limited. [Citation.] Of course, if the permittee does nothing beyond obtaining the permit it may be revoked. [Citation.] Where a permit has been properly obtained and in reliance thereon the permittee has incurred material expense, he acquires a vested property right to the protection of which he is entitled. [Citations.] When a permittee has acquired such a vested right it may be revoked if the permittee fails to comply with reasonable terms or conditions expressed in the permit granted [citations] or if there is a compelling public necessity. [Citations.] [P] A compelling public necessity warranting the revocation of a use permit for a lawful business may exist where the conduct of that business constitutes a nuisance." *O'Hagen v. Board of Zoning Adjustment* (1971) 19 Cal.App.3d 151, 158

Clearly, from and after the date Ailanto Properties obtained the required approval for this project, it has not "done nothing beyond obtaining the permit." Rather, it has invested considerable sums in attempting to secure the remaining permit required in order to make use of its earlier acquired approvals. As such, it is clear that before any of those previously acquired approvals are lost, at the very least, a noticed hearing must be held where the developer can be heard on the issue. To date, the City of Half Moon Bay has not conducted a noticed hearing in order to terminate any vested right which might exist in the planned unit development plan.

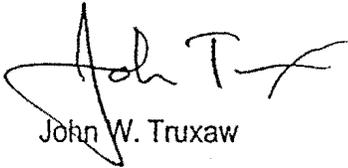
In summary, if the plan was approved as a legislative or policy act of the City, it can be changed only by subsequent legislative act, not the passage of time. If it is more in the nature of a land use permit, it is

Yuri Won
March 28, 2000
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unlikely that any reviewing court would conclude that Ailanto Properties can lose any rights it secured in any prior approvals from the City without prior notice and hearing.

Very truly yours,

MEYERS, NAVE, RIBACK, SILVER & WILSON

A handwritten signature in black ink, appearing to read "John W. Truxaw". The signature is stylized with a large, sweeping initial "J" and a long horizontal stroke extending to the right.

John W. Truxaw

JWT:jm

c. Mayor and City Council
City Manager
Planning Director

J:\WPD\MNRSW\4651001\LTR\2000\March\pud plan.wpd

LAW OFFICES

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OF COUNSEL

MELVIN E. COHN
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KENNETH M. DICKERSON

ROBERT J. LANZONE
JEAN B. SAVAREE
MARC L. ZAFFERANO
GREGORY J. RUBENS
LINDA J. NOESKE

October 12, 2000

Mr. Robert Henry, Construction Manager
Ailanto Properties, Inc.
One Kaiser Plaza
Ordway Building, Suite 1775
Oakland, CA 94612

Re: Pacific Ridge PUD Ordinance (Previously Dykstra Ranch)

Dear Mr. Henry:

This is to follow up on your request for my opinion as to whether the Planned Unit Development zoning for Pacific Ridge in the City of Half Moon Bay has expired, and also as to development above the 160 ft. contour.

I was the City Attorney for the City of Half Moon Bay from 1983 to 1996. During that period of time I was actively involved in the development and approval process for the City's Coastal Land Use Plan (LUP), starting in 1983 through to its ultimate certification as the City's local Coastal Plan (LCP) in April 1996. During my tenure the Dykstra Ranch PUD zoning occurred by Ordinance 11-90 and, of course, the City approved a Vesting Tentative Map (VTM) for the project in 1990. Also in 1995, as part of LCP certification, the City's PUD ordinance provisions were revised.

It was the City's practice to use PUD zoning to spell out the proposed development criteria for larger tracts of property such as Dykstra Ranch. As far back as 1983, and continuing to this day, the City's LUP and now the approved LCP has included language in Section 9.3.7 (originally Section 9.3.8 in 1983) that refers to PUD zoning for development of this property. Section 9.3.7 refers to 228 units being the approved zoning density for the project, which is consistent with adoption of Ordinance 11-90.

It is my understanding that Coastal Commission Staff has opined that Ordinance 11-90 expired due to language in the current PUD section of the City Code, Section 18.15.045(C). That Section indicates, when otherwise approved, a PUD Development Plan expires two years after its effective date. I further understand that this section was

10/13/2000

ATTACHMENT Q

Mr. Robert Henry, Construction Manager
October 12, 2000.
Page 2.

adopted in 1995, more than five (5) years after the Dykstra Ranch PUD zoning and VTM were adopted. A similar provision was not contained in the City's prior PUD ordinance.

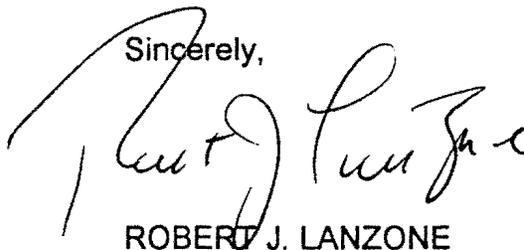
I cannot understand, given the timing of the enactment of Section 18.15.045 (c), how it has been deemed to apply to the Pacific Ridge project. Under Government Code Section 66498.1(b) a vesting tentative map is entitled to proceed with development in substantial compliance with the ordinances, policies, etc., in effect at the time of its approval. The VTM in this case was approved in 1990, so that a subsequent change in PUD zoning regulations would be irrelevant.

As a matter of practice, the City of Half Moon Bay never, during my thirteen years as City Attorney, took the position that any PUD zoning for a property "expired" by operation of law. We had many projects, due to planning moratoria, lack of water connection, and/or lack of sewer connection, that were, and probably still are, on the books of the City with PUD zoning. None have ever been deemed to have their PUD zoning approval "expire", either by the City or previously by the Coastal Commission.

In summary, the adoption of the PUD Ordinance 11-90 was a legislative act. Such an enactment can only be changed or eliminated by another legislative act. There are legal restrictions on making any changes to the zoning due to the earlier approval of the VTM. If there was a time clock running on the Dykstra PUD, that language should have been contained directly in the PUD ordinance. I can see nothing in Ordinance 11-90 that calls for an expiration of the zoning approval.

The second issue raised has to do with the 160 ft. contour provision in Ordinance 11-90, limiting development above that contour. As the City's Zoning Code provides in Section 18.16.060, no part of a building's "footprint" shall be permitted above the 160 ft. contour. That section was approved by the Coastal Commission as part of LCP certification, as being consistent with statements in the LUP limiting development above the 160 ft. contour. The original purpose of the contour restriction, and continuing purpose, is to prevent development that would show above the ridge line. The City did not want a "Daly City" effect on ridge tops. In the case of Pacific Ridge, there is no part of the development that would be visible above the ridge line. Development of the footprint of buildings below the 160 ft. contour is therefore consistent with the General Plan/LUP policy and with the current zoning.

Sincerely,



ROBERT J. LANZONE

RJL:jm

→ North Central

AILANTO PROPERTIES, INC.

ONE KAISER PLAZA / ORDWAY BUILDING / SUITE 1775
OAKLAND, CA 94612 • (510) 465-8888 • FAX (510) 465-5704

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CALIFORNIA
COASTAL COMMISSION

By Hand Delivery (Staff) and U.S. Mail (Commissioners)

October 31, 2000

ITEM NUMBER: NOT ASSIGNED

Ms. Sara Wan, Chairperson
and Members
California Coastal Commission
45 Fremont Street, 20th Floor
San Francisco, California 94105-2219

**SUBJECT: COMMISSION APPELLATE JURISDICTIONAL REVIEW
AUTHORITY OVER THE PACIFIC RIDGE SUBDIVISION,
HALF MOON BAY (A-1-HMB-99-022)**

Dear Madam Chair and Commissioners:

During the 18 months that my company's "Pacific Ridge" single-family home subdivision project has been pending on appeal before the Coastal Commission, I have been prompted by the Commission Staff Reports' changing grounds for asserting appellate regulatory jurisdiction over the project to first reflect about, and then to analyze, the nature and extent of that jurisdiction in light of the laws that govern the coastal program and the facts of the project site.

The purpose of this letter, which supplements previous correspondence to the Commission by counsel for my company,¹ is to share that analysis with you and to respectfully invite your full consideration of it. Please allow me to indicate, by way of preface that may assist you in understanding my perspective on this matter, that I am an international businessman educated at the University of California, Berkeley in

¹ In this letter, I do not otherwise address the factual or legal issues raised by the Commission's February 29, 2000 Staff Report or decision on March 17, 2000 to find that the appeals by Commissioners Wan and Reilly, as well as two proximate residential subdivision neighbors to the project site, raised one or more 'substantial issues' about the City of Half Moon Bay's approval of the coastal permit pursuant to its Commission-certified Local Coastal Program ("LCP"). I do ask you to administratively take note of the fact that, whereas the "Post-LCP Permit and Appeal Jurisdiction" map furnished by the Commission to the City in conjunction with effective certification of the LCP depicts no Commission appellate regulatory jurisdiction whatsoever (**Attachment 1**), and the City in its "Notice of Final Local Action" in reliance on that map stated that the City Council's approval of the coastal permit therefore was not appealable (**Attachment 2**), the Commission by its action of March 17, 2000 determined to place the project site in its appellate regulatory jurisdiction, but without first following the clear public notice and hearing procedure for revising (or updating) that jurisdiction pursuant to the Commission's plain administrative regulation in Title 14, Cal. Code of Regs. Sections 13569, 13576, and as informed by key operational definitions in 13577.

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physics and mechanical engineering, that my family includes a very prominent Hong Kong environmentalist, and that I strongly support scientifically rigorous and law-abiding coastal management as a form of public governance for all of the world's coastlines.

1. Commission Staff Report Jurisdictional Claim

The Commission "Appeal Staff Report De Novo Review" (June 22, 2000, "the Staff Report", pages 3-4) asserts three grounds for Commission staff's recommendation that the entire 114-acre Pacific Ridge subdivision project site is located within, and subject to, Commission's appellate regulatory jurisdiction:

- (a) The project (site) contains areas of wetlands and streams subject to appeal jurisdiction of the Commission under Public Resources Code (PRC) Section 30603.
- (b) The entire subdivision project is before the Commission because pursuant to PRC Sections 30603, 30621, and 30625, and Commission regulation section 14 CCR §13115 the Commission must consider the application for the project de novo.
- (c) Because the project includes a subdivision (of land into 145-residential and other open space lots), its impact is inseparable and cannot be geographically severed.

1.1. Streams²

Although the Staff Report in Section 2.1, "Standard of Review", presents no factual evidence or citation to support grounds (a) and (c), Section 2.7 (page 30) states that

"(t)he (project) property contains five streams, two are ephemeral or seasonal and three are intermittent or storm water drainages. These streams are indicated on Exhibit 9 as Streams 1-5."

/

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² The Staff Report (page 33) indicates that staff concurs in the delineation of wetlands on the project site. Although a very technical discussion might be conducted as to whether some or all of these delineated existing wetlands constitute wetlands associated with agricultural practices and are therefore exempt from the jurisdictional definition pursuant to Commission regulation 14 CCR 13577(b)(2)(A) and (B), Ailanto Properties, Inc. has elected to treat all delineated wetlands on the project site as jurisdictional wetlands for purposes of Coastal act Section 30603(a)(2). For this reason, wetlands and their Commission appellate regulatory jurisdictional role are not further addressed in this letter.

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Attachment 3 to this letter contains Staff Report Exhibit 9, "Staff modified site plan".³ On it, staff "for purposes of this report", has identified six - rather than five - "streams", which makes it impossible to tell which five streams staff has in mind in its appellate regulatory jurisdictional recommendation to the Commission.

However, none of the six streams shown in Exhibit 9 is classified by staff as to whether, and on what factual basis, it is "ephemeral", "seasonal", "intermittent", or a "storm water drainage", and staff's meaning of each of these terms is left undefined, including without reference to the Commission's adopted definitional regulation for "stream" in 14 CCR 13577(a), which staff itself wrote and recommended to the Commission for adoption.

Specifically, the Commission through adoption of regulation, which has the force of law, has "(f)or purposes of [determining the precise boundaries of the jurisdictional areas described in] Public Resources Code Sections 30519, 30600.5, 30601, 30603, and all other applicable provisions of the Coastal Act of 1976" defined the criteria for the term "streams" to be a landward 100-foot measurement from the top of bank, or where there is no bank, the line closest to the stream where riparian vegetation is permanently established, of any stream mapped by USGS on the 7.5-minute quadrangle series, or identified in a local coastal program. The regulation also provides that channelized streams, without significant habitat value, are not to be considered as a jurisdictional stream. (**Attachment 4** contains a complete copy of Commission regulation 14 CCR §13577(a), which the staff inexplicably omits in its presentation of Section 13577 in Staff Report Appendix C, page 5.)

Although Staff Report Section 2.1 does not reference it, the Staff Report contains Exhibit 11, a graphic prepared by a company that is no longer in existence for the 1988 EIR on a previous project at the Dykstra Ranch, which depicts the "Kehoe-Chesterfield Watersheds" and five "streams" on the present subdivision project site. (Staff Report Exhibit 11 is attached to this letter as **Attachment 5**.)

The Commission should note, however, that whereas the "streams" depicted on the graphic presented by Commission staff in Exhibit 11 are undated and undefined, the United States Geologic Survey ("USGS") Half Moon Bay Quadrangle 7.5 minute series topographical maps of 1952, 1961, 1968/1973, 1991/1994, and 1997/1999, which comply with national map accuracy standards, depict only one unnamed

³ The markers placed by Commission staff to denote the streams it has identified are highlighted in yellow. The delineation of wetlands and the Commission's 100-foot wide adjacent appellate regulatory jurisdictional areas pursuant to Coastal Act Section 30603(a)(2) are highlighted in green. Subsequent to this map, Ailanto Properties, Inc. has prepared, and submitted to Commission staff, a refined iteration in the "November, 2000 Site Plan" to even more precisely depict the location of delineated wetlands relative to the setback (buffer) areas and nearby structures (streets, houses, etc.).

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intermittent stream (in Drainage 3) and no other streams of any kind on the project site.⁴ (**Attachment 6** contains color excerpts of these maps, with the project site boundaries superimposed on them. The unnamed intermittent stream and the pond are identified with arrows.)

Commencing with the 1968/1973 USGS map, the intermittent stream is shown as having been diverted between contour lines 120 feet and 160 feet into the man-made agricultural stock pond on the project site; a now unconnected lower reach (segment) of the intermittent stream is shown to start approximately 100 feet to the west of the diversion point and to run to a point east of Highway 1, where it ends. The 1991/1994 and 1997/1999 USGS maps depict the intermittent stream only to run westerly to the diversion point and then northwesterly into the (substantially reduced in size, as compared to the 1973 map) agricultural pond; the lower reach (segment) of the intermittent stream, still shown in the 1973 map, has been deleted on the two maps prepared in the 1990's by USGS.

As shown in **Attachment 7**, a reduced copy of the very large and relatively poor LCP Land Use Plan "Habitat Areas and Water Resources Overlay" map, which the Commission certified in 1985, depicts neither a perennial nor intermittent stream habitat, nor or any intermittent marshes on the project site. However, the map in the original indicates the two unnamed discontinuous reaches (segments) of the unnamed intermittent stream (Drainage 3), as well as the agricultural stock pond, in locations similar to the 1968/1973 USGS map.⁵

1.2. Commission Do Novo Hearing and Review

The Staff Report (page 4) asserts that because the Commission has found that the appeals from the decision of the City to approve the coastal permit pursuant to the certified LCP raise one or more substantial issues regarding project-LCP consistency,⁶ therefore the legislature's carefully delimited regulatory jurisdictional framework Ms.

⁴ The USGS maps also consistently show this intermittent stream to terminate approximately 250 feet east of Highway 1, 2,700 feet east of the Pacific Ocean shoreline and 2,100 feet from the nearest reach of Pilarcitos Creek, a mapped perennial stream.

⁵ The lines of the intermittent stream segments and of the pond have been darkened to make them clearly visible in the copy contained in **Attachment 7**.

⁶ The Commission's administrative regulation at 14 CCR 13115(b), which the Staff Report also cites, is on its face inconsistent with Coastal Act Section 30621(a) and therefore contrary to Section 30333, to the extent that the Commission staff implies, without clearly stating, that the regulatory phrase "the Commission shall consider the application de novo in accordance with the procedures set forth in Sections 13057-13096" authorizes the Commission on appeal to require or process an application for development that is outside its 30603(a) geographical appeal zone or appealable development categories, which development pursuant to Section 30519(a) is solely within the delegated jurisdiction of local government.

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between local government and the Commission, which stands at the heart of the state-local government partnership established by the Coastal Act, should be tossed overboard to allow the Commission on the strength of the de novo hearing procedure to jurisdictionally reach into into area that may interest it, but is geographically outside its appellate regulatory authority.⁷

First, the Staff Report's citation of Coastal Act Section 30603 to support its "de novo" jurisdictional claim is inappropriate, since Section 30603 plainly does not address the Commission's de novo permit review procedure.

Second, a plain reading of Coastal Act Section 30621, which is located in the Sub-Chapter of the Coastal Act that deals with the Commission's "Development Control Procedures", shows that in subdivision (a) the legislature required the Commission to "provide for a de novo hearing" on an appeal of a local governments coastal permit decision pursuant to a certified LCP, but in neither subdivision did the legislature authorize or allow the Commission to utilize that evidentiary requirement, through which new evidence not already contained in the administrative record before the local government may be adduced at hearing before the Commission, to supersede the clear and certain jurisdictional delegation established in Coastal Act Section 30519(a) and specifically delimited in Section 30625(a).⁸

As the Commission knows, Section 30519(a) contains the basic jurisdictional allocation between the Commission and local government following effective certification of an LCP. It is noteworthy that this section occurs in Article 2 of Chapter 6 of the Coastal Act, which provides the structure for preparation and effective certification of LCP's, without the support of the California League of Cities the 1976 coastal legislation could not have passed the legislature. The substantive provision of Section 30519(a), which the Staff Report simply ignores, is that once an LCP is effectively certified, all coastal permit authority within that local government is delegated to that city or county, except in two provinces:

⁷ Although the Staff Report is silent on the point, only the "wetland and stream" geographical area stated in Coastal Act Section 30603(a)(2) applies to the subdivision project site, whereas neither the development categories specified in Section 30603(a)(4) and (a)(5), nor the geographical areas referenced in Section 30603(a)(1), other parts of (a)(2), and (a)(3) apply. The latter "sensitive coastal resource area" standard is inapplicable because the Commission chose in 1977-78 not to designate and perfect any such areas pursuant to Section 30502 and 30502.5, which alone authorized their establishment.

⁸ At a critical point in its history, when the very federal approval and funding of the California Coastal Management Program for the coastal zone were at stake, the Commission itself stated only that "(a)ll Coastal Commission hearings are de novo", but made no claim that therefore the Commission's post-LCP certification appellate regulatory jurisdiction was expandable at will. "United States Department of Commerce Combined State of California Coastal management Program ([Coastal Zone] Segment and Final Environmental Impact Statement, August, 1977", page 54.

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- (a) the geographical areas and types of development subject to appeal, as provided in Section 30603, and,
- (b) tidelands, submerged lands, or public trust lands, ports and the state universities and colleges, which remain (generally) under the Commission's original jurisdiction.

It may be highly informative for current Coastal Commissioners to contrast the legislature's very restricted allocation of Commission appellate jurisdiction over development in post-LCP certification local governments pursuant to Section 30519(a) with the unlimited appellate jurisdiction the legislature granted the State Commission over (1) any permit action of the former regional coastal commissions (pursuant to former Section 30602(b), which was repealed with the regional commissions in the early 1980's) or (2) any coastal permit action by a local government that assumes that regulatory function prior to effective LCP certification pursuant to Section 30600(b). Clearly, if the legislature had intended the Commission during any time in the past 24 years, since enactment of the Coastal Act, to have the expansive and unrestricted authority to exercise post-LCP certification appellate regulatory jurisdiction outside the delimited geographical areas and the enumerated types of development stated in Section 30603(a), the legislature would have affirmatively codified that intent. Obviously, the legislature took no such action to grant the Commission carte blanche to deviate from that basic institutional framework.

Although the Staff Report cites, without elucidation, Section 30625(a) to support Commission staff's expansive jurisdictional claim, a close reading of Section 30265(a) shows it to stand in perfect harmony with Sections 30519(a) and 30603(a) in that it specifically limits the Commission's authority to approve, modify, or deny "any appealable action on a coastal development permit or claim of exemption for any development by a local government" to "such proposed development". Thus, the legislature could not have been more clear, once again and consistently, that the Commission's action, following the inclusive evidentiary de novo hearing pursuant to Section 30621(a), to approve, condition, or deny that appealed development was limited to the development that was appealable in the first place.

That this analysis is not some belated reinterpretation of the fundamental Coastal Act jurisdictional framework established by the Legislature in 1976, but constitutes the statutorily consistent meaning of the applicable Coastal Act Sections is also found in the "United States Department of Commerce Combined State of California Coastal management Program ([Coastal Zone] Segment and Final Environmental Impact Statement, August, 1977", of which the Coastal Commission and the Office of Coastal Zone Management in the National Oceanic and Atmospheric Administration were co-authors:

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and Members, California Coastal Commission
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- (a) the geographical areas and types of development subject to appeal, as provided in Section 30603, and,
- (b) tidelands, submerged lands, or public trust lands, ports and the state universities and colleges, which remain (generally) under the Commission's original jurisdiction.

It may be highly informative for current Coastal Commissioners to contrast the legislature's very restricted allocation of Commission appellate jurisdiction over development in post-LCP certification local governments pursuant to Section 30519(a) with the unlimited appellate jurisdiction the legislature granted the State Commission over (1) any permit action of the former regional coastal commissions (pursuant to former Section 30602(b), which was repealed with the regional commissions in the early 1980's) or (2) any coastal permit action by a local government that assumes that regulatory function prior to effective LCP certification pursuant to Section 30600(b). Clearly, if the legislature had intended the Commission during any time in the past 24 years, since enactment of the Coastal Act, to have the expansive and unrestricted authority to exercise post-LCP certification appellate regulatory jurisdiction outside the delimited geographical areas and the enumerated types of development stated in Section 30603(a), the legislature would have affirmatively codified that intent. Obviously, the legislature took no such action to grant the Commission carte blanche to deviate from that basic institutional framework.

Although the Staff Report cites, without elucidation, Section 30625(a) to support Commission staff's expansive jurisdictional claim, a close reading of Section 30265(a) shows it to stand in perfect harmony with Sections 30519(a) and 30603(a) in that it specifically limits the Commission's authority to approve, modify, or deny "any appealable action on a coastal development permit or claim of exemption for any development by a local government" to "such proposed development". Thus, the legislature could not have been more clear, once again and consistently, that the Commission's action, following the inclusive evidentiary de novo hearing pursuant to Section 30621(a), to approve, condition, or deny that appealed development was limited to the development that was appealable in the first place.

That this analysis is not some belated reinterpretation of the fundamental Coastal Act jurisdictional framework established by the Legislature in 1976, but constitutes the statutorily consistent meaning of the applicable Coastal Act Sections is also found in the "United States Department of Commerce Combined State of California Coastal management Program ([Coastal Zone] Segment and Final Environmental Impact Statement, August, 1977", of which the Coastal Commission and the Office of Coastal Zone Management in the National Oceanic and Atmospheric Administration were co-authors:

Ms. Sara Wan, Chairperson
and Members, California Coastal Commission
October 31, 2000
Re: Pacific Ridge Subdivision (A-1-HMB-99-022)

"The Coastal Commission, in brief, is vested with continued regulatory control over coastal development until the local coastal programs are written and certified. (See Figure 2.) As the local coastal programs are certified, over the next few years, until January 1, 1981, this interim permit authority ends in each jurisdiction, and will be replaced by an appeal jurisdiction over certain resource areas and over certain kinds of development." (Page 52, emphasis added.)

Thus, whereas the legislature and Commission consistently defined and described a harmonized, limited, and certain post-LCP appellate regulatory jurisdiction for the Commission in the Coastal Act (which remains unamended in the provisions cited since 1976) and the federally approved California Coastal Management Program, Commission staff without benefit of statutory amendment, change in regulation, or amendment to the federally approved program and supplemental NEPA review proposes an unlimited expansion of the Commission's jurisdiction that would replace regulatory certainty with chaos and destroy the legislature's finely crafted state-local partnership in Coastal Act implementation.

1.3. Inseparable and Inseverable Subdivision Impact

The Staff Report (page 4) asserts as a ground for the property-wide Commission exercise of appellate regulatory jurisdiction, but does not show on what functional or legal basis, that the unspecified "impact" of the Pacific Ridge Subdivision "is inseparable and cannot be geographically severed."

Foremost, neither Coastal Act Section 30603(a) nor any other provision of the Coastal Act provides as a basis for the Commission's jurisdiction the "impact" of a subdivision, or any other development. Thus, on this point alone the Staff Report's asserted basis for establishing Commission appellate regulatory jurisdiction over the entire subdivision simply fails.

Even if Commission staff were to identify an "impact" of the subdivision that is inseparable or geographically inseverable from the remainder of the project or site - which it has not done - such identification would still not surmount the fundamental fact that the Coastal Act simply does not authorize this technique for establishing Commission appellate regulatory jurisdiction.

The Staff Report's asserted third jurisdictional ground is therefore inapplicable.

2. Findings from the Analysis

Careful analysis of the Pacific Ridge Subdivision project site, the most accurate and current available mapped information that depicts actually existing conditions, and

Ms. Sara Wan, Chairperson
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applicable Coastal Act policies and Commission regulations finds the following:

- (a)(1) The project site contains ten delineated wetlands (as shown in **Attachment 8**, the November, 2000 Site Plan), which based on the wetlands' uncertain provenance relating to agricultural operations as defined in the Commission's regulation 14 CCR § 13577(b)(2)(A) and (B), Ailanto Properties, Inc. elects to consider jurisdictional wetlands to which the 100-foot wide jurisdictional band provided in Coastal Act Section 30603(a)(2) applies. No residential lots, houses, or subdivision streets are proposed to be located within the Commission's Section 30603(a)(2) wetlands jurisdiction, which will be permanently conserved, enhanced, and dedicated to open space.
- (a)(2) The project site also contains the unnamed intermittent stream mapped by the USGS on the Half Moon Bay Quadrangle 7.5 minute series topographical map (1997/1999), as shown in Attachment 6, which constitutes a jurisdictional stream as defined in the Commission's regulation 14 CCR 13577(a), and therefore the 100- foot wide jurisdictional band provided in Coastal Act Section 30603(a)(2) applies. Three residential lots (2% of the 145-unit subdivision), portions of two homes, and less than 300 feet of the easterly subdivision street (which will be located on an arched culvert or bridge structure for more than half its length) are proposed to be located within the Commission's Section 30603(a)(2) streams jurisdiction. The 70-90 feet wide riparian corridor within the stream jurisdictional area will be permanently conserved, enhanced, and dedicated to open space.
- (a)(3) No other jurisdictional wetlands or streams, as defined in the Coastal Act or the Commission's regulations, exist on the subdivision project site. The mapped location of the lower segment (reach) of the unnamed intermittent stream in the subdivision project site in the City's 1985 Land Use Plan "Habitat Areas and Water Resources Overlay" map, contained in Attachment 7, specifically has been superseded in fact (on the ground) and by the accurate more recent mapping contained in the 1997/1999 USGS map (Attachment 6).
- (b) The evidentiary de novo public hearing requirement applicable to Commission review of an appeal and approval, modification, or denial action regarding a coastal development permit pursuant to Coastal Act Sections 30603, 30621, and 30625, considered individually and in harmony with Sections 30519(a), 30600(b), current Section 30602(a), and former Section 30602(b), and supported by the Commission's own statement regarding post-LCP appellate jurisdiction in the federally

Ms. Sara Wan, Chairperson
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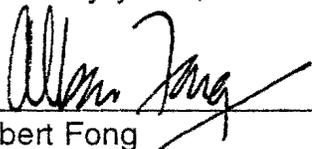
approved California Coastal Management Program, do not authorize the Commission to have post-LCP appellate regulatory jurisdiction over the entire subdivision project site.

- (c) No provision of the Coastal Act grants the Commission post-LCP appellate regulatory jurisdiction over the subdivision project on the ground that an impact from it is inseparable and cannot be geographically severed.

3. Conclusion

For these reasons, Ailanto Properties, Inc. respectfully recommends and requests that the Commission conduct and limit its appellate regulatory review of the Pacific Ridge Subdivision based on the jurisdiction described in Parts 2(a)(1) and 2(a)(2), above. My company and its representatives look forward to working with the Commission to complete the appellate jurisdictional review in a Coastal Act-consistent and timely manner.

Sincerely yours,



Albert Fong
President

Attachments ()

Copy, with Attachments:

All Alternate Coastal Commissioners
All Ex Officio Coastal Commissioners
Mr. Robert Henry, Ailanto Properties, Inc. Project Manager
Mr. Blair King, City Manager, Half Moon Bay
Mr. Peter M. Douglas, Executive Director, CCC-SF
Ralph Faust, Esq., Chief Counsel, CCC-SF
Mr. Steve Scholl, Deputy Director, CCC-SF
Mr. Chris Kern, Assistant District Director, CCC-SF
Steven Cassidy, Esq.
Mr. Norbert H. Dall
Ms. Stephanie D. Dall
Ms. Nancy Lucast
Mr. William Rutland
Anna Shimko, Esq.

DRAFT

CITY OF
HALF MOON
BAY
ZONING MAP

SYMBOL	DISTRICT	USE & MIN. LOT SIZE
[Symbol]	R-1	SINGLE FAMILY RES. (5000 SQ.FT.)
[Symbol]	R-1B-1	(6000 SQ.FT.)
[Symbol]	R-1B-2	(7500 SQ.FT.)
[Symbol]	R-1B-3	(10,000 SQ.FT.)
[Symbol]	R-1B-4	(22,000 SQ.FT.)
[Symbol]	R-1B-5	(43,560 SQ.FT.)
[Symbol]	R-2	TWO FAMILY RESIDENTIAL
[Symbol]	R-3	MULTI-FAMILY RESIDENTIAL
[Symbol]	P-A	PROFESSIONAL ADMINISTRATIVE
[Symbol]	C-1	NEIGHBORHOOD COMMERCIAL
[Symbol]	C-2	GENERAL COMMERCIAL
[Symbol]	C-3	RECREATIONAL COMMERCIAL
[Symbol]	M-1	LIGHT INDUSTRIAL
[Symbol]	M-2	HEAVY INDUSTRIAL
[Symbol]	P-S	PUBLIC SERVICE
[Symbol]	A-1	AGRICULTURE-FLORICULTURE
[Symbol]	A-2	AGRICULTURE-GENERAL
[Symbol]	GB-1	GREEN BELT-CREEKS
[Symbol]	GB-2	GREEN BELT-BEACHES & PARKS
[Symbol]	GB-3	GREEN BELT-SPECIAL
[Symbol]	PUD	PLANNED UNIT DEVELOPMENT
[Symbol]	P	PARKING

California Coastal Commission
Post-LCP Certification
Permit and Appeal Jurisdiction
City of Half Moon Bay

Legend

- Permit Jurisdiction
This area includes only lands below the mean high tide line and lands where the Public Trust may exist.
- Appeal Jurisdiction
This area includes lands between the sea and the designated first public road paralleling the sea or 300' from the inland extent of any beach or of the mean high tide line if there is no beach, whichever is the greater distance. Also included are lands within 100' of streams and wetlands and lands within 300' of the top of the seaward face of any coastal bluff.

In addition to these geographic areas of appeal jurisdiction the following items of development are restricted, limited or controlled by the Coastal Act pursuant to P.U.C. Section 20060 (a)(3) and (a)(19):

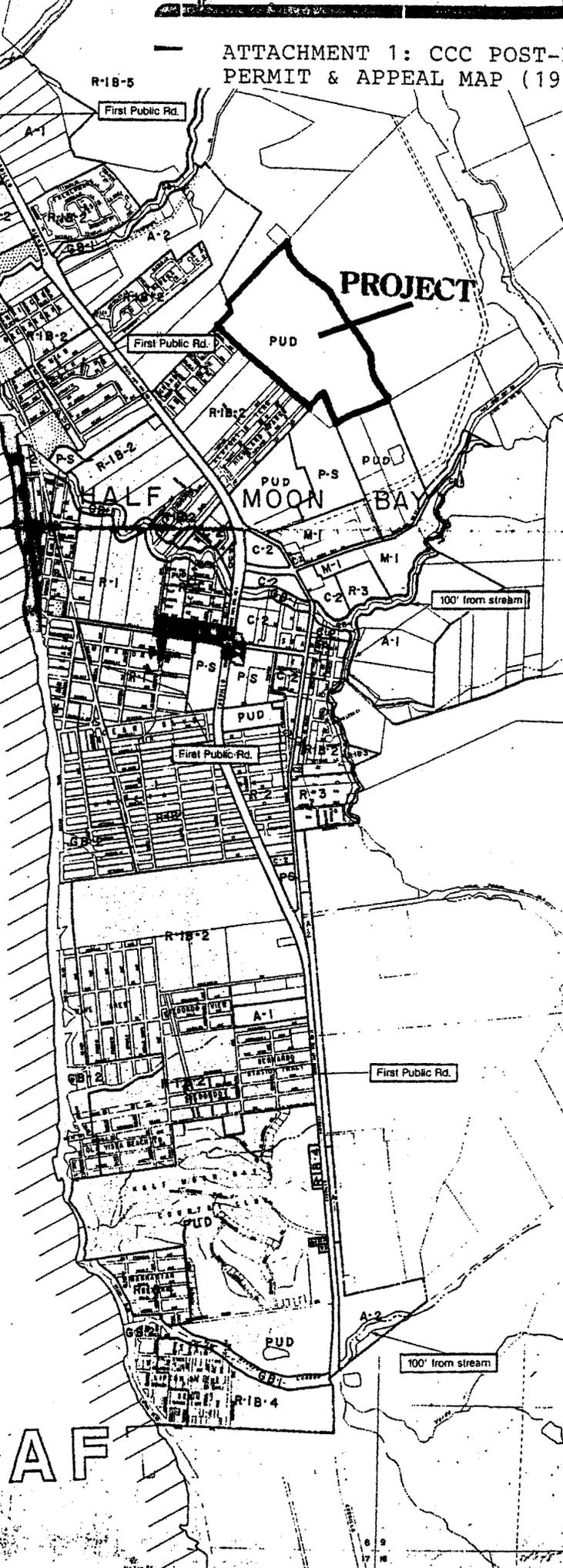
- 1. Any new or expanded marina or boat launch facility.
- 2. Any new or expanded marina or boat launch facility.
- 3. Any new or expanded marina or boat launch facility.

In areas where a permit is required by the Coastal Act, the applicant may not be permitted to develop the area unless the area is included in the Commission's appeal jurisdiction.

NOTE
This map has been prepared to show where the California Coastal Commission retains post-LCP permit jurisdiction and where the Commission retains post-LCP appeal jurisdiction. It is not intended to show the boundaries of the Commission's permit and appeal jurisdiction. The boundaries of the Commission's permit and appeal jurisdiction are shown on the Commission's permit and appeal jurisdiction maps. The boundaries of the Commission's permit and appeal jurisdiction are shown on the Commission's permit and appeal jurisdiction maps.

DALL & ASSOCIATES

DRAFT



NOTICE OF FINAL ACTION

Coastal Permit

City of Half Moon Bay Planning Department
501 Main Street, Half Moon Bay CA 94019
(650) 726-8250 Fax (650) 726-9389

Date: March 23, 1999 File: PDP-11-98

Applicant: Ailanto Properties, Inc.
One Kaiser Plaza
Ordway Building
Suite 1775
Oakland, CA 94612

Planner: Anthony J. "Bud" Carney

This notice is being distributed to the Coastal Commission and those who requested notice. The following project is not located within the appealable area of the Coastal Zone. The public hearing on the Coastal Development Permit was conducted by the Planning Commission at its regularly scheduled meeting of December 15, 1998, at which time the application was denied without prejudice. On December 15, 1998 the decision was appealed to the City Council. On March 15, 1999, the City Council adopted a resolution of approval for the project..

Project Description: To subdivide 114 acres into 197 lots for detached, single-family homes and provide streets, open space parcels and neighborhood park areas

Project Location: Adjacent to the east end of Grand View Boulevard.

Assessors Parcel Number: 056-350-010, 048-269-060 & 048-269-070

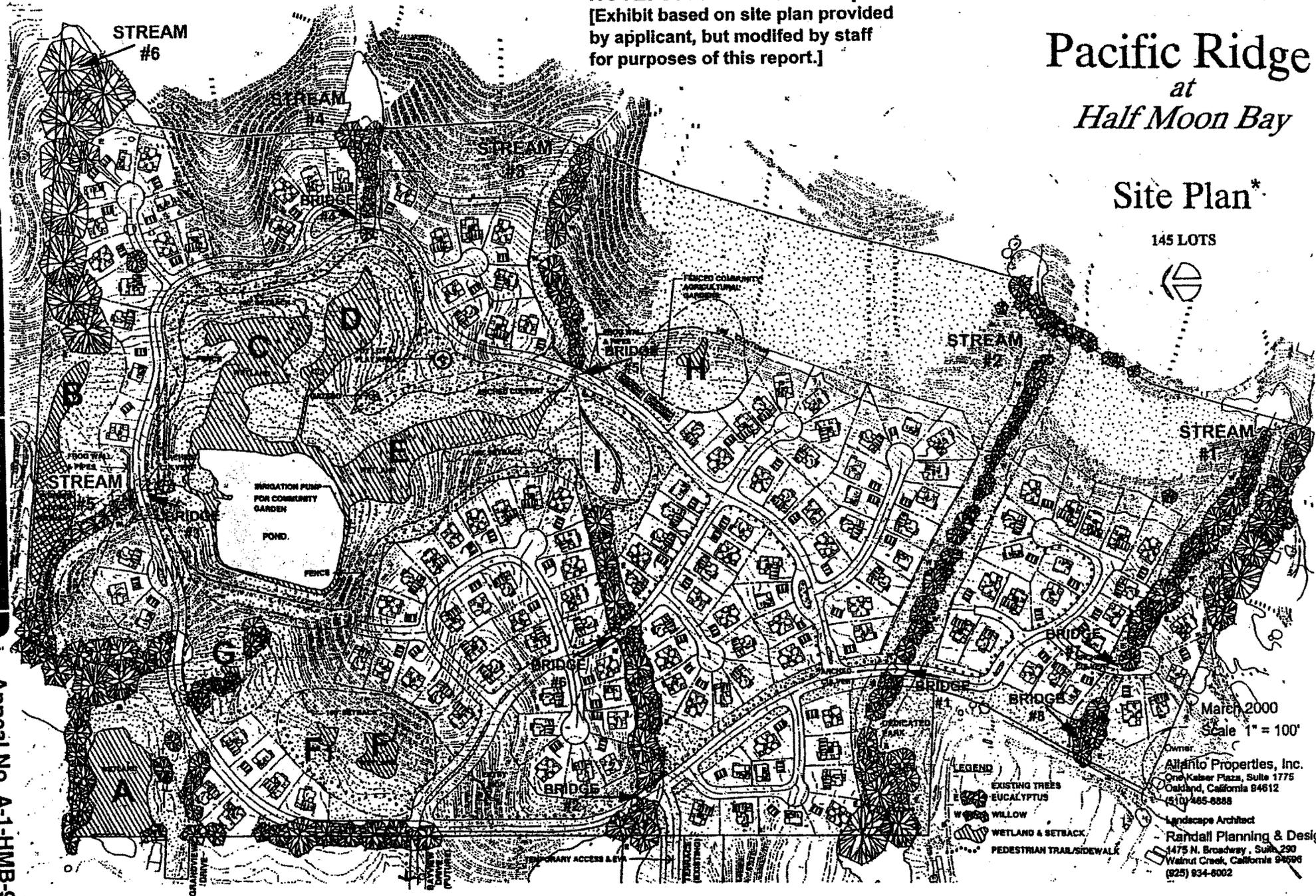
COASTAL PERMIT APPROVED, BASED UPON Findings for Approval contained in the attached Resolution C-17-99 and Conditions of Approval contained in Exhibit A, as modified by the City Council during the meeting.

* NOTE: Staff modified site plan [Exhibit based on site plan provided by applicant, but modified by staff for purposes of this report.]

Pacific Ridge at Half Moon Bay

Site Plan*

145 LOTS



March 2000
Scale 1" = 100'

Owner:
Allanto Properties, Inc.
One Kaiser Plaza, Suite 1775
Oakland, California 94612
(510) 465-8888

Landscape Architect
Randall Planning & Design
1475 N. Broadway, Suite 290
Walnut Creek, California 94596
(925) 834-6002

- LEGEND
- EXISTING TREES
 - EUCALYPTUS
 - WILLOW
 - WETLAND & SETBACK
 - PEDESTRIAN TRAIL/SIDEWALK

ATTACHMENT 3

Appeal No. A-1-HMB-99-022
EXHIBIT 9

(1) Upon completion of permit review by the local government and prior to the issuance of the permit, the local government shall forward a copy of the permit conditions and findings of approval and copies of the legal documents to the executive director of the Commission for review and approval of the legal adequacy and consistency with the requirements of potential accepting agencies;

(2) The executive director of the Commission shall have fifteen (15) working days from receipt of the documents in which to complete the review and notify the applicant of recommended revisions if any;

(3) The local government may issue the permit upon expiration of the fifteen (15) working day period if notification of inadequacy has not been received by the local government within that time period;

(4) If the executive director has recommended revisions to the applicant, the permit shall not be issued until the deficiencies have been resolved to the satisfaction of the executive director; or

(b) If a local government requests, the Commission shall delegate the authority to process the recordation of the necessary legal documents to the local government if the local government identifies the department of the local government or public agency or private association that has the resources and authorization to accept, open and operate and maintain the accessways and open space/conservation areas required as a condition of approval of coastal development permits subject to the following: Upon completion of the recordation of the documents the local government shall forward a copy of the permit conditions and findings of approval and copies of the legal documents pertaining to the public access and open space conditions to the executive director of the Commission.

NOTE: Authority cited: Sections 30333 and 30620, Public Resources Code. Reference: Section 30530, Public Resources Code.

Article 18. Map Requirement and Boundary Determination Criteria

§ 13576. Map(s) of Areas of Commission Permit and Appeal Jurisdiction.

(a) In conjunction with final Local Coastal Program certification or the delegation of coastal development permit authority pursuant to Public Resources Code Section 30600.5, whichever occurs first, the Commission shall, after public hearing, adopt a map or maps of the coastal zone of the affected jurisdiction that portrays the areas where the Commission retains permit authority pursuant to Public Resources Code Sections 30603 (a) (1) and (a)(2), or 30600.5 (d). These maps shall be drawn based on the criteria for permit and appeal boundary determinations, set forth in Section 13577 below, and will serve as the official maps of the Commission's permit and appeal jurisdiction. The Commission, in consultation with the local government, shall update these maps from time to time, where changes occur in the conditions on which the adopted maps were based, or where it can be shown that the location of the mapped boundary does not adequately reflect the intended boundary criteria. Revisions of the adopted maps shall be based on precise boundary determinations made using the criteria set forth in Section 13577. The revised maps shall be filed with the affected jurisdiction within 30 days of adoption by the Commission. In addition, each adopted map depicting the permit and appeal jurisdiction shall include the following statement:

"This map has been prepared to show where the California Coastal Commission retains permit and appeal jurisdiction pursuant to Public Resources Code Sections 30519(b), 30603(a)(1) and (a)(2) and 30600.5(d). In addition, development may also be appealable pursuant to Public Resources Code Sections 30603(a)(3), (a)(4), and (a)(5). If questions arise concerning the precise location of the boundary of any area defined in the above sections, the matter should be referred to the local government and/or the Executive Director of the Commission for clarification and information. This plat may be updated as appropriate and may not include all lands where permit and appeal jurisdiction is retained by the Commission"

(b) In the case of local governments which have received Commission approval of their Phase III (implementation) Work Program and Budget prior to January 1, 1980, the permit and appeal area maps shall be adopted by the Commission prior to the certification becoming effective pursuant to Section 13547 of the Commission's regulations.

NOTE: Authority cited: Sections 30501 and 30620.6, Public Resources Code. Reference: Sections 30519 and 30603, Public Resources Code.

§ 13577. Criteria for Permit and Appeal Jurisdiction Boundary Determinations.

For purposes of Public Resources Code Sections 30519, 30600.5, 30601, 30603, and all other applicable provisions of the Coastal Act of 1976, the precise boundaries of the jurisdictional areas described therein shall be determined using the following criteria:

(a) Streams. Measure 100 feet landward from the top of the bank of any stream mapped by USGS on the 7.5 minute quadrangle series, or identified in a local coastal program. The bank of a stream shall be defined as the watershed and relatively permanent elevation or acclivity at the outer line of the stream channel which separates the bed from the adjacent upland, whether valley or hill, and serves to confine the water within the bed and to preserve the course of the stream. In areas where a stream has no discernable bank, the boundary shall be measured from the line closest to the stream where riparian vegetation is permanently established. For purposes of this section, channelized streams not having significant habitat value should not be considered.

(b) Wetlands.

(1) Measure 100 feet landward from the upland limit of the wetland. Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats. For purposes of this section, the upland limit of a wetland shall be defined as:

(A) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;

(B) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or

(C) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.

(2) For the purposes of this section, the term "wetland" shall not include wetland habitat created by the presence of and associated with agricultural ponds and reservoirs where:

(A) the pond or reservoir was in fact constructed by a farmer or rancher for agricultural purposes; and

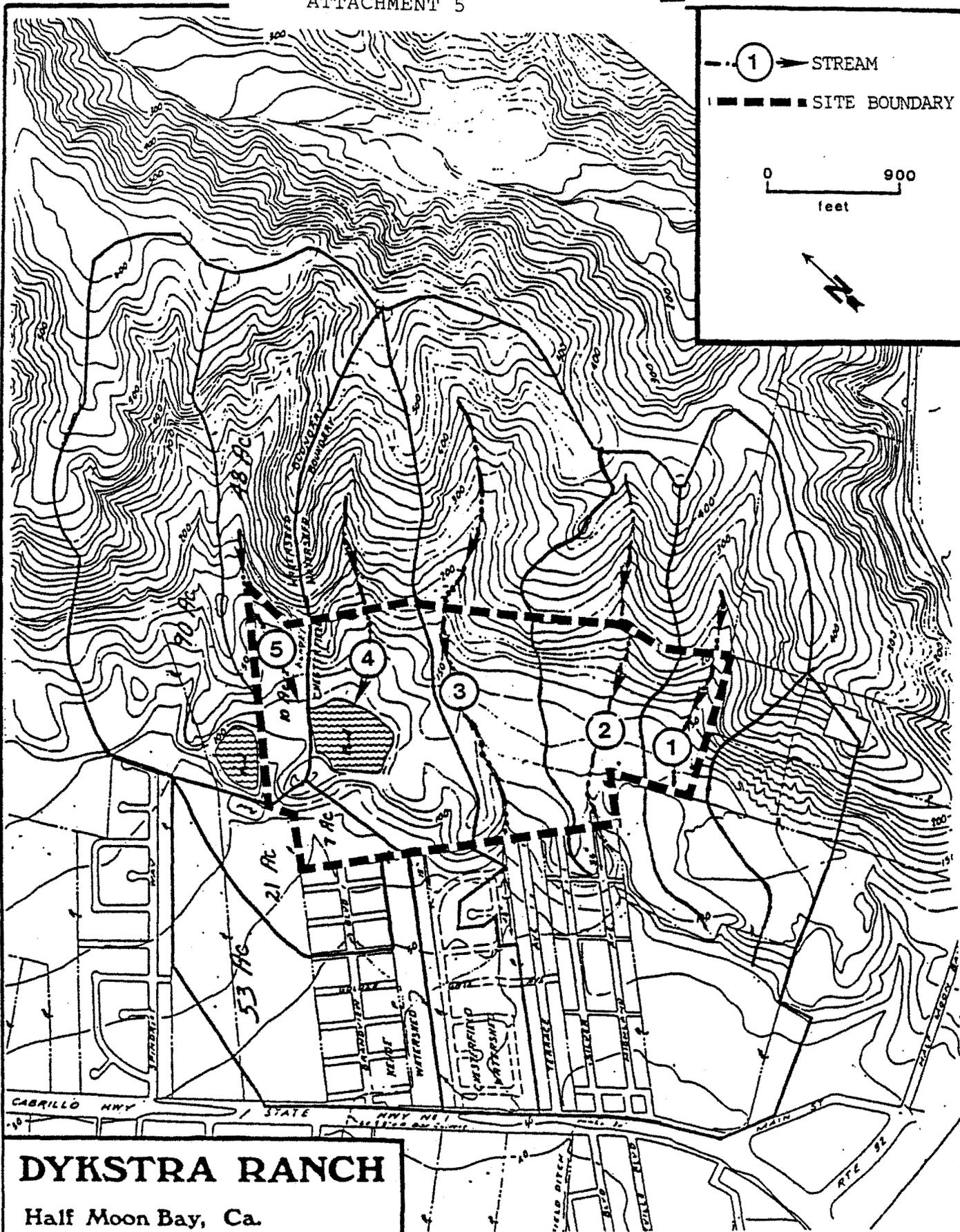
(B) there is no evidence (e.g., aerial photographs, historical survey, etc.) showing that wetland habitat pre-dated the existence of the pond or reservoir. Areas with drained hydric soils that are no longer capable of supporting hydrophytes shall not be considered wetlands.

(c) Estuaries. Measure 300 feet landward from the mean high tide line of the estuary. For purposes of this section, an estuary shall be defined as a coastal water body, usually semi-enclosed by land, having open, partially obstructed, or intermittent exchange with the open ocean, and in which ocean water is at least occasionally diluted by freshwater from the land. The salinity level may be periodically increased to above that of the open ocean due to evaporation. The mean high tide line shall be defined as the statistical mean of all the high tides over the cyclical period of 18.6 years, and shall be determined by reference to the records and elevations of tidal benchmarks established by the National Ocean Survey. In areas where observations covering a period of 18.6 years are not available, a determination may be made based on observations covering a shorter pe-

① ———> STREAM

— — — — — SITE BOUNDARY

0 900
feet



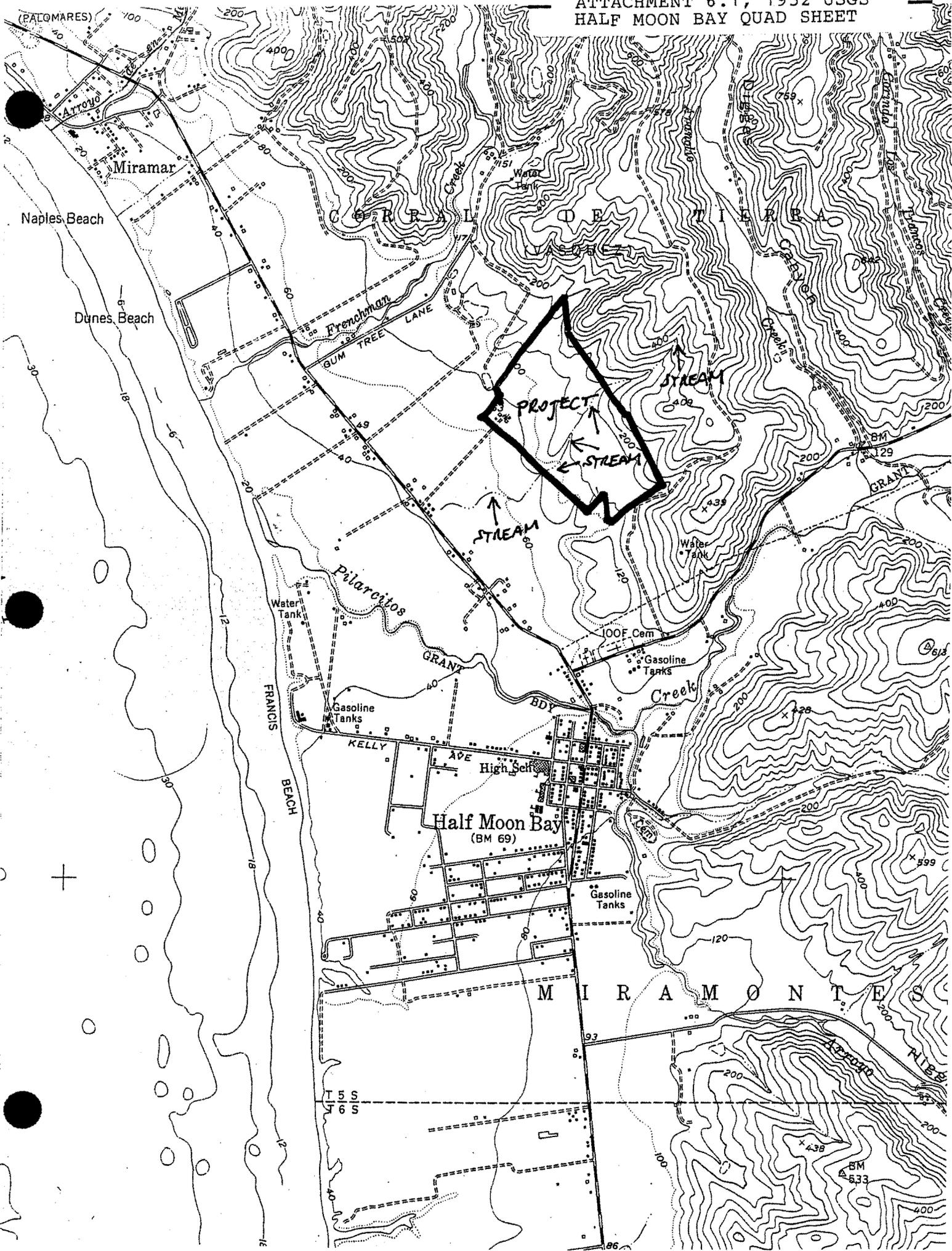
DYKSTRA RANCH

Half Moon Bay, Ca.

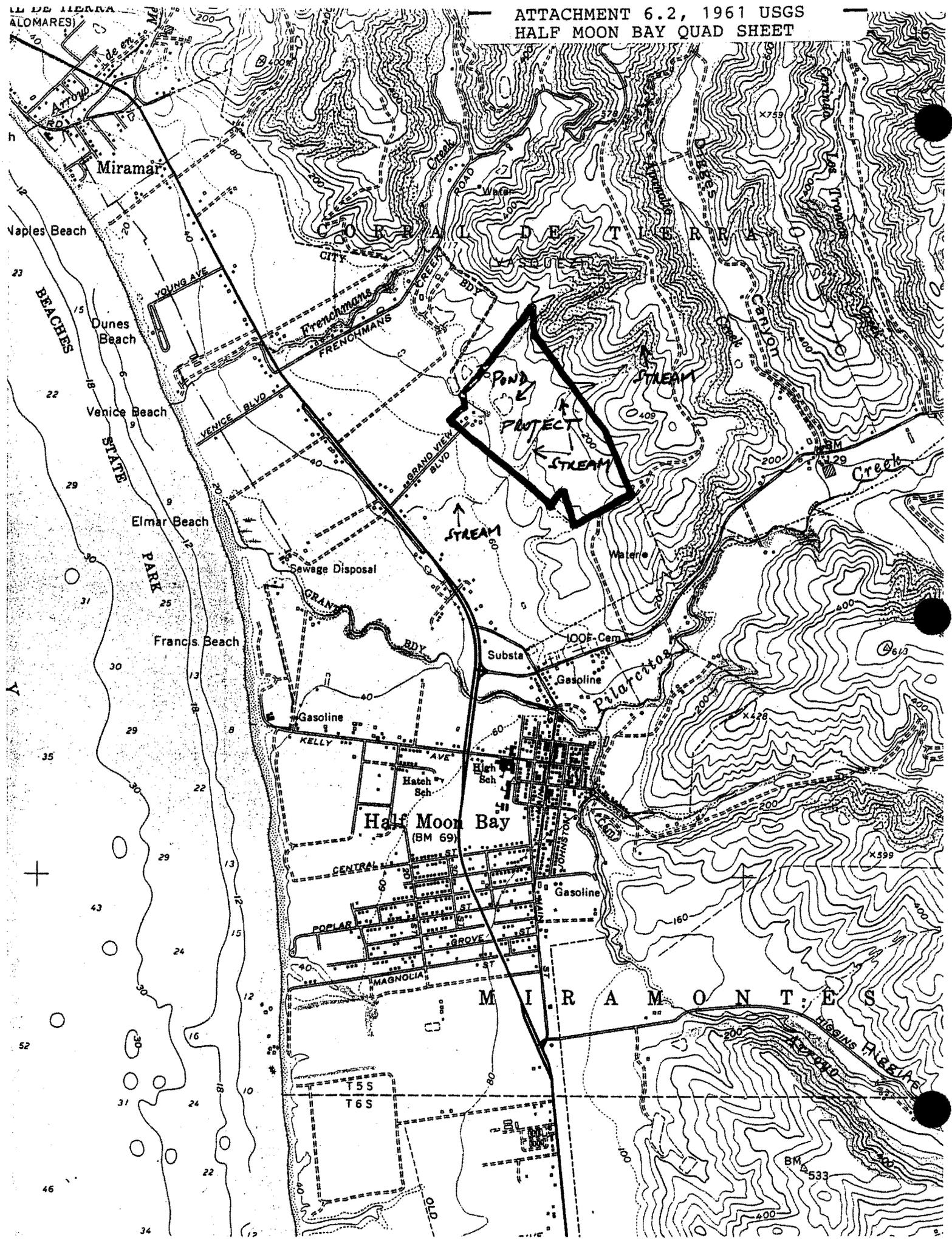
Figure 4.3-2 KEHOE-CHESTERFIELD WATERSHEDS

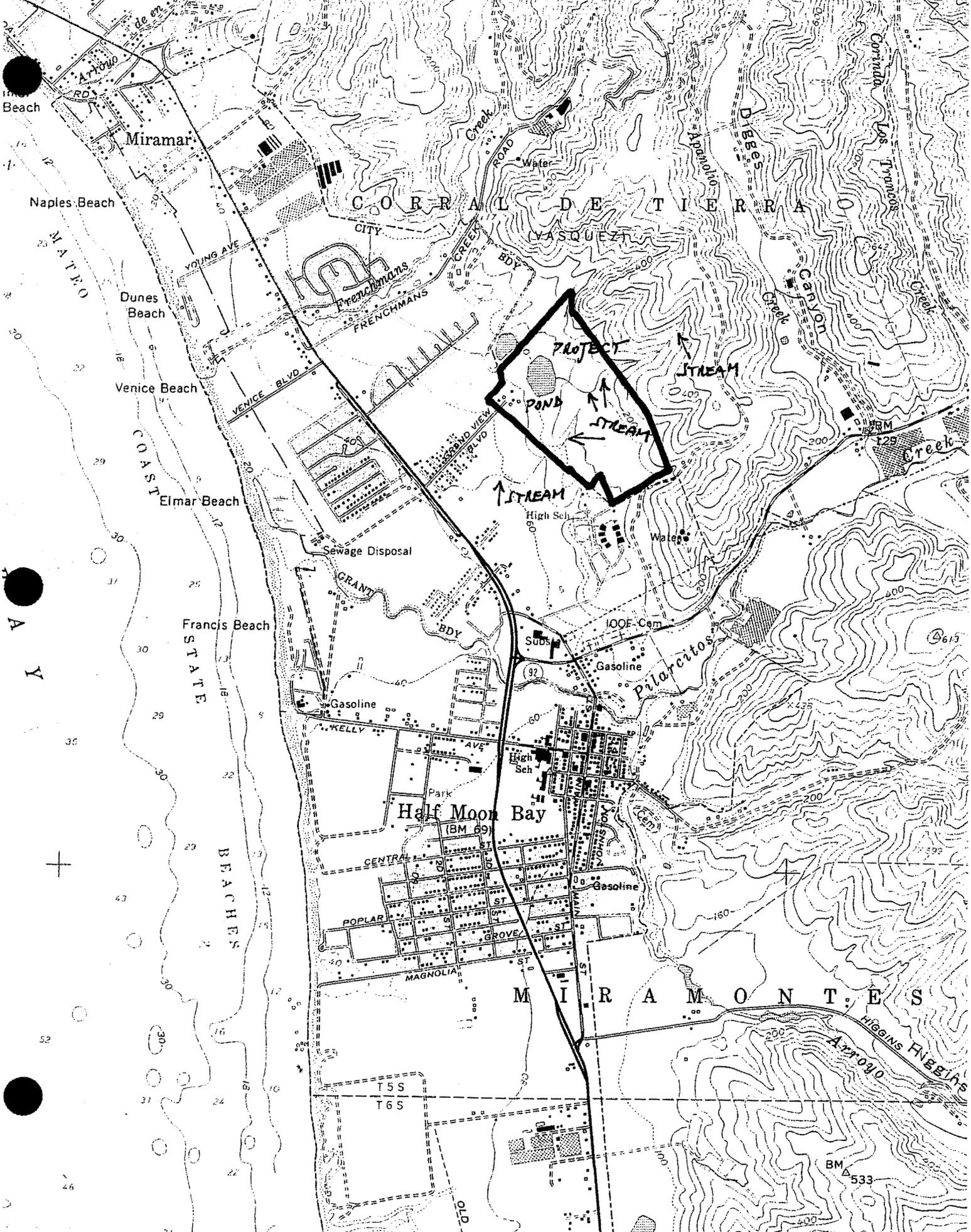


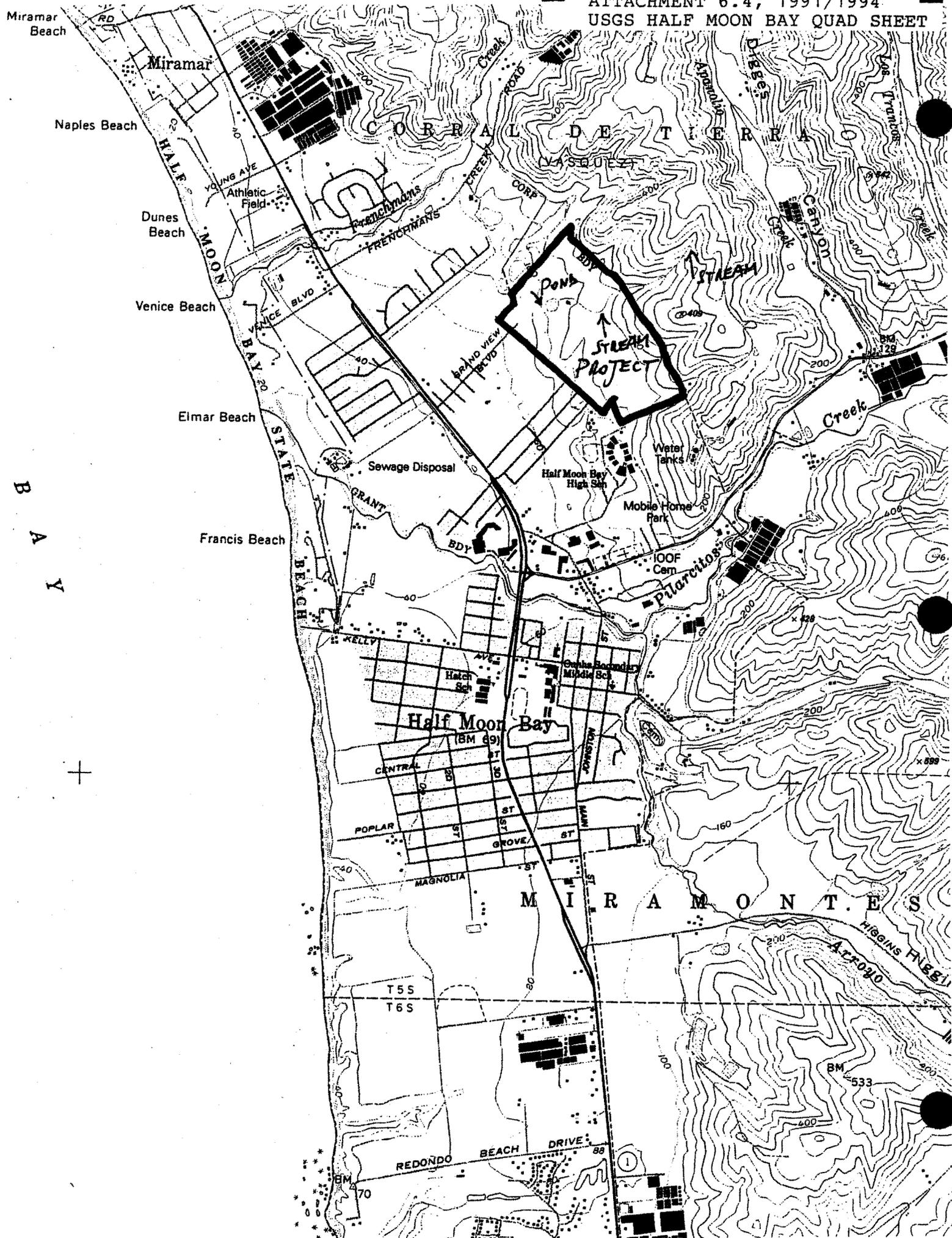
ATTACHMENT 6.1, 1952 USGS
HALF MOON BAY QUAD SHEET



ATTACHMENT 6.2, 1961 USGS
HALF MOON BAY QUAD SHEET





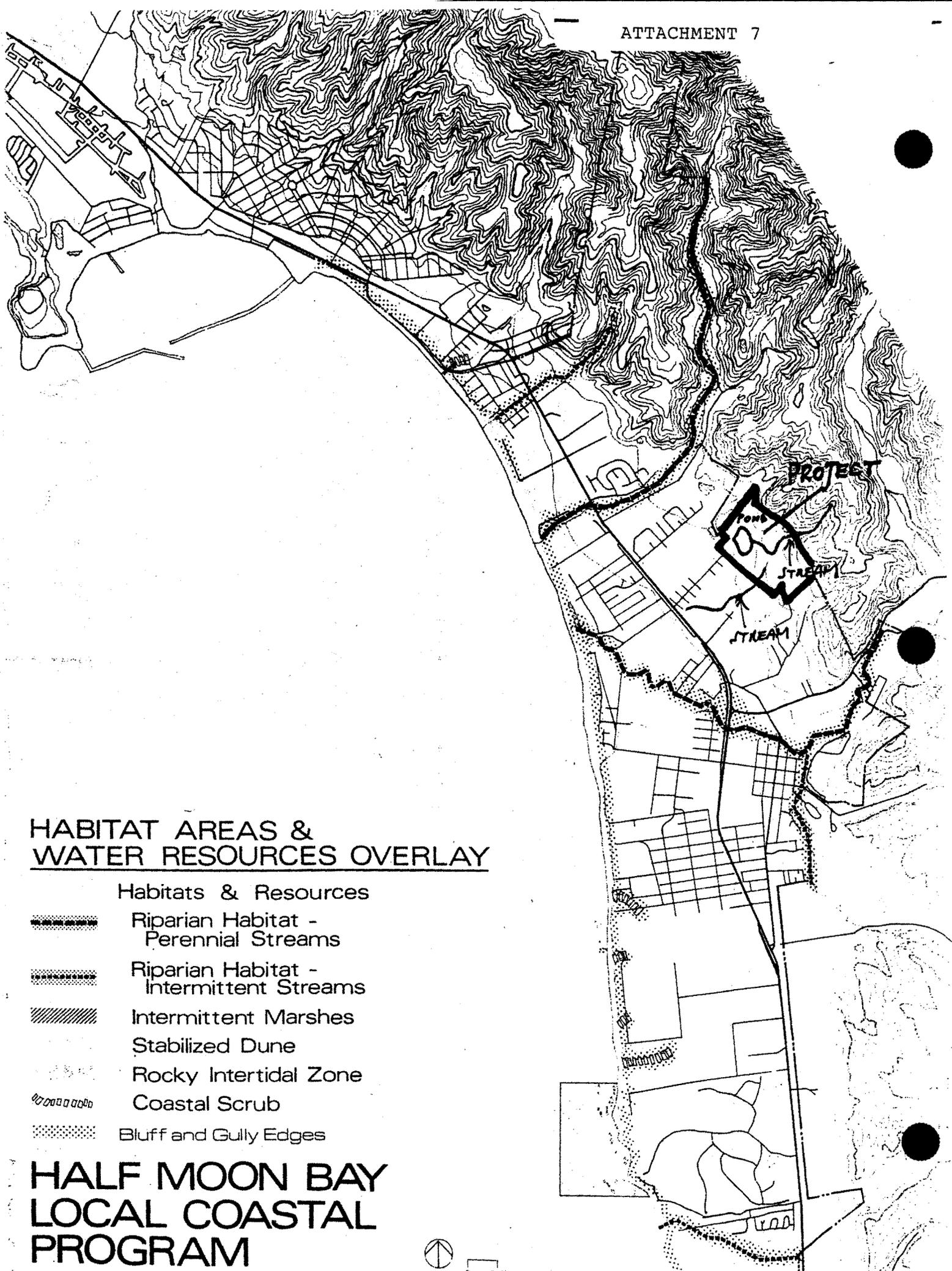


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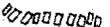
ATTACHMENT 6.5, 1997/1999
HALF MOON BAY USGS QUAD SHEET



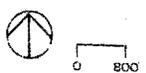


HABITAT AREAS & WATER RESOURCES OVERLAY

Habitats & Resources

-  Riparian Habitat - Perennial Streams
-  Riparian Habitat - Intermittent Streams
-  Intermittent Marshes
-  Stabilized Dune
-  Rocky Intertidal Zone
-  Coastal Scrub
-  Bluff and Gully Edges

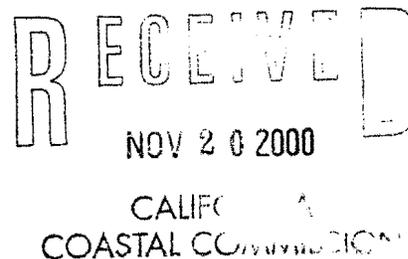
**HALF MOON BAY
LOCAL COASTAL
PROGRAM**



W14a

Eric and Kristen Fuchs
699 Terrace Avenue
Half Moon Bay, CA 94019

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



November 17, 2000

Re: Appeal No. A-1-99-22 (Ailanto Properties, Half Moon Bay)

Dear Chairperson Wan and Honorable Coastal Commissioners:

We are writing to inform you of recent decisions by the City of Half Moon Bay to develop a park at the eastern terminus of Terrace Avenue.

Our City's Park and Recreation Master Plan is part of our Local Coastal Program. It requires 2.8 acres of park based on 1995 population of our neighborhood. But at present, we have none. The developer of the Highland Park neighborhood promised to build a park, but build another house on the park site when the map was recorded. Most of the little remaining land has since been bought and developed.

This left us with no place safe place for our children to play, and no common area for neighbors to meet. The nearest public recreational area is over a mile away and cannot be reached safely on foot because one must cross four lanes of Highway 1 to get there. We have had several deaths when people have tried to cross Highway 1.

Now, thanks to the outstanding efforts of the Coastside Community Association, we have new hope that a park will be built. The City Parks and Recreation Commission voted unanimously to recommend the acquisition of land and development of a park for our neighborhood. This was followed by the City Council's approval of funding for a park.

A schematic of a proposed park layout is attached. This location at the east end of Terrace Avenue consists of the very last available parcels in our neighborhood. We wish to call to your attention that the design would include a turnout which would effectively convert Terrace into a cul-de-sac as defined by local ordinance.

This location is immediately adjacent to the proposed access to Dykstra Ranch, which is the site of the proposed Pacific Ridge development. As parents, we are very concerned that the additional construction traffic and residential traffic from the development would create a hazard to the health and safety of our children.

California Coastal Commission

Page 2

We are therefore very strongly opposed to allowing any construction traffic or residential traffic to use Terrace Avenue on even a temporary basis.

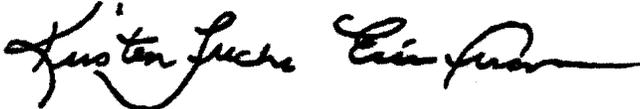
We know that due to environmental conditions that there is no other access to the project site which would be permitted by our Local Coastal Program.

Any plan which permits the use of Terrace Avenue as the so-called "temporary" access would make our street the *de facto* driveway to the development.

We therefore strongly support the Staff Recommendation to deny the proposed project. We ask you to please deny the Coastal Development Permit.

Thank you for your consideration of the health and safety of our child and all the children of our neighborhood.

Sincerely,



Kristen Fuchs

Eric Fuchs

Attachments: Schematic of Park

Coastside Community Association
P.O. Box 111
Half Moon Bay, CA 94019

Mr. Chris Kern
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA

November 25, 2000

Re: Appeal A-1-HMB-99-022

Dear Mr. Kern:

We are writing in response to the October 31, 2000 correspondence from Ailanto Properties concerning the proposed Pacific Ridge development. Given that we have had only a few days to review and comment upon the correspondence, our response at this time will necessarily be brief and limited to general issues. We ask that you please allow us and our attorneys to submit more detailed comments at a later date for consideration during the hearing.

The letter, plus the several hundred pages of attachments, do not present any substantive new information. The bulk of the materials merely reiterate the previous self-serving claims and interpretations of Ailanto and their legal representatives, Cassidy, Shimko, and Dawson.

Ailanto has No Entitlement

Ailanto's claims of entitlement are made at every opportunity, as if repeating them will make them true. But they fail to recognize that in the Coastal Zone they have no entitlement in the absence of a Coastal Development Permit. No CDP was ever issued for any development on the site. In particular, no final map was ever recorded for the proposed subdivision. A tentative map confers no rights in the absence of a Coastal Development Permit (1).

The "tentative" nature of Ailanto's claims were known by the City Attorney (2), but this information was not provided to the Planning Commission, the City Council, or the citizens of Half Moon Bay during public hearings in 1998 and 1999. Even if the applicant had a valid vesting map for this project, it would have by now expired based on the City Attorney's own review of the matter (3).

Furthermore, we concur with the Staff that the Planned Unit Development Plan for this project has expired. The applicant has argued that only a legislative act can cause such expiration. The City's adoption of ordinance 18.15.045C was in fact such a legislative act, specifically added to cause the expiration of PUDs. Furthermore, this ordinance was adopted on August 1, 1995, after

the adoption of the PUD ordinance 11-90. In other words, the conditions necessary and sufficient to cause the expiration of the PUD have been met.

Finally, Ailanto is mistaken in stating that the City has eschewed a Transfer of Development Rights (TDR) program. While the City has taken no official action, this program is very much alive and well in Half Moon Bay. The TDR program is being considered as a component of our revised LCP and as a part of a proposed Redevelopment project. Under the TDR program, Pacific Ridge could conceivably be developed in the future through the purchase and transfer of development rights from other subdivisions to the project site.

Pacific Ridge is Subject to Growth Control Limitations

In November, 1999 the citizens of Half Moon Bay passed Measure D, an initiative which limits new development to 1% growth per year. The initiative as approved by the voters contains no exemptions for any projects. All CDPs granted after that date are subject to this initiative.

Despite the fact that this initiative was approved over one year ago, an implementation ordinance has not yet been approved by the City, or forwarded to the Coastal Commission as an LCP amendment. Some have opined that this is no accident, but the deliberate delay of legislation in order to allow certain projects to be approved under existing ordinance, from which they are exempt.

Furthermore, the City Attorney has attempted to exempt large development projects, including this one, from the ordinance implementing Measure D. The claim is that these projects have entitlements by virtue of prior vesting maps or development agreements. In reality, this is nothing more than a circular attempting to create an entitlement based solely on the claim that it exists.

The attempt to engage such circular logic is remarkable given the clear legal opinion from Chief Counsel Faust that no such entitlement exists (1). The City Attorney has attempted to undermine this opinion by adding language that seeks to exempt all projects which have a vesting tentative map "in progress" as of November, 1999.

Under the terms of Measure D, Ailanto would have to compete with all others seeking to develop in the City for a limited number of Measure D certificates. At current rates of growth, the project would require eight years or longer to complete, depending on the number of Measure D certificates available per year.

This would allow adequate time for the performance of any improvements or mitigations necessary to support any proposed project. We note that the project as originally envisioned was to have been completed in a series of four phases, which would have likely spanned a comparable time period.

Lack of Adequate Traffic Infrastructure

The proposed "temporary" signalization of Terrace Avenue at Highway 1 serves no other purpose than to provide a driveway to the proposed development. Until this development was proposed, the City and Caltrans had repeatedly told residents that signalization of Terrace Avenue was not warranted. The traffic data cited by Fehr and Peers in connection with the warrant is taken from the entire length of Highway 1 between North Main and Kehoe Avenues. Most of the accidents did not even occur at Terrace Avenue, and would not be correctable by installation of a signal at Terrace Avenue. Our attorney has previously provided his legal opinion on this issue (4).

There are no suitable options for access to the proposed development (5). It is extremely unlikely that the proposed "permanent" access via Bayview Avenue would ever be built. Last spring, the City denied a CDP to the Beachwood project due to wetlands on that project site. Those wetlands are the degraded remnants of a much larger wetland and riparian corridor which was supplied by three streams (the continuation of streams 1, 2, and 3 in the proposed project prior to their diversion by the Terrace Avenue Assessment District project). In addition, there are wetlands which have yet to be mapped north of the Beachwood site whose buffers would be impacted by the proposed Bayview alignment. All these wetlands make it impossible for the proposed Bayview Avenue to be built.

Furthermore, we note that Ailanto and Fehr and Peers have focused on the residential traffic, but ignored the impact of construction traffic. By not addressing the construction traffic, they fail to demonstrate adequate access during the construction phase of the project. Their proposed access plan completely ignores the huge impacts that construction traffic alone would have during the development of the project, before even a single house would be occupied.

A comparable situation existed between 1983 and 1990 when Terrace Avenue provided the only access to the Highland Park subdivision. (Highland Park is located between Dykstra Ranch to the east and Highway 1 to the west, and includes Highland, Silver, and Terrace Avenues.) In order to minimize residents' concerns about construction traffic, the developers William Lyons & Co. and John Pepper Properties promised to close both Highland and Terrace Avenue and provide access and signalization via Silver Avenue. However, the proposed street vacations and signalization never occurred (6). As a result, the residents of Terrace Avenue bore the brunt of several years of heavy construction traffic during the installation of streets, drainage, and utility improvements (for which they paid via the Terrace Avenue Assessment District), followed by many more years of heavy construction traffic during the development of Highland Park. If we do not learn from our mistakes, we are destined to repeat them.

In summary, the project should not be permitted because of the impossibility of providing adequate access for both construction and residential traffic. Were the project to be permitted, the proposed "temporary" access via Terrace Avenue would become the *de facto* permanent access. Terrace Avenue is designated as a local neighborhood street in the LCP's Circulation Element, and is therefore unsuitable for use as a permanent arterial connecting a new development to Highway 1.

Coastal Resource Issues Remain

Furthermore, both wetland buffers and riparian buffers would be impacted by the proposed construction of roadways, including Foothill Blvd. and its connection to Terrace Avenue.

One wetland in question is located in the southeast corner of the Beachwood property. The location of the wetland shown on the maps is incorrect (e.g. LSA Associates 10/30/00, Attachment 6, Map of Offsite Wetlands ...). The actual location of the wetland is approximately 75 feet closer to the proposed connection, resulting in the extension of the buffers onto the proposed Foothill Blvd. and Terrace intersection.

Likewise, the buffers for the various streams are narrowed to only thirty feet from stream center in the areas where vegetation is predominantly eucalyptus. We note that despite the predominance of eucalyptus due to their large size, these areas include large numbers of willow and other riparian species.

The applicant has entirely overlooked the fact that the taller eucalyptus provides habitat for numerous raptors, including red tail hawk, barn owl, and great horned owl. As these are the only significant tree stands for nearly a quarter mile to the west, they provide particularly important roosting and nesting habitat.

This significant riparian habitat requires a minimum 30 foot buffer from the dripline of the trees, not 30 feet from the stream center as is currently proposed. In addition, the use of a single buffer width along the length of any given stream would ensure that a uniform migration corridor is maintained, and that migration is not pinched off in the midst of the development due to an inadequate buffer size.

Finally, the applicant has still not complied with the requirement to prepare a complete biological report for the project, and has instead submitted a handful of delineations and surveys. We find the methods used flawed as follows.

Conducting surveys for certain species during the summer months will reduce the likelihood that any individuals will be found. Many streams and wetlands are seasonally dry during these times. Red-legged frog will have retreated to remaining wet areas, and San Francisco garter snake will be dormant in underground burrows.

In addition, overt presence of consultants and their vehicles on or near the project site have discouraged the larger vertebrates from appearing. We frequently witness raptors, migratory fowl, skunk, coyote, deer, and occasionally witness mountain lion on or about the property. We doubt that the consultants, who made no attempt to camouflage their presence, would have witnessed many of these animals while conducting their surveys.

Protection of Visual Resources

The applicant continues to insist that no development above the 160 foot contour somehow permits houses to be built between 160 and 190 foot elevations. The applicant's claims rely on language in the Planned Unit Development Plan, which has by now expired.

To support their claims, they call upon Chris Gustin, former Planning Director, to give his interpretation of the Visual Resource Protections. Mr. Gustin receives compensation for speaking on behalf of Ailanto to the Coastal Commission and Staff.

We do not doubt that Mr. Gustin may be able to speak to his intentions in drafting the Planned Unit Development ordinance. However, we have no idea whether his intentions were shared by the Planning Commission or the City Council who approved the Visual Resource element. Indeed, careful reading shows that Mr. Gustin does not attempt to claim that his intentions were shared by the Commission or Council. Any claim otherwise would amount to hearsay.

In the absence of a valid Planned Unit Development Plan, and in the absence of direct evidence of intent, the Commission must determine how to apply the Visual Resource element of our LCP. We have previously argued that "no development above the 160 foot contour" means no structure or part of any structure may be constructed above 160 feet. On this interpretation, it is the rooftops and not the pads, which could be no higher than 160 feet.

Finally we note that many of the houses that would not be permitted under this restriction are located on extreme slopes that would require extensive grading and the construction of retention walls. Neither practice is desirable. Unfortunately, the applicant's unwillingness to comply with the Commission's request for grading plans makes it difficult for us to determine the extent and location of such impacts.

Requirement for CEQA Compliance

We have previously challenged the Coastal Development Permit issued by the City of Half Moon Bay on the inadequacy of the review required by CEQA (7). The original 1988 EIR found significant and unmitigatable impacts. This was subsequently replaced ten years later by an Initial Study based entirely on the original EIR. Remarkably, the Initial Study found no such impacts, leading to a Negative Declaration in March 1998.

Given the tremendous impacts to both environment and infrastructure, we find it difficult to believe that the project as proposed could be found to comply with CEQA. San Mateo County Courts have affirmed our interests by denying the applicant's motion to dismiss our lawsuit (8). We ask that the Coastal Commission recognize the requirement for CEQA review, that such review has not previously been adequately performed, and that such review should be required before any CDP could be issued on *de novo* review.

Testimony from Compensated Individuals

We note that as usual various compensated parties are writing in support of the proposed project. Ailanto's standard modus operandi has been to sprinkle a little money here and there, and then call in the favors. Examples of Ailanto's purchase of endorsements are easy to find.

Chris Gustin, former City Planning Director, supervised the vesting map for the project, then accepted compensation from Ailanto while supporting the project (9). Similarly, Ailanto has paid dues to the Half Moon Bay Chamber of Commerce, and then demanded the Chamber endorse their project (10). Most disturbing is that the private consultants, including LSA Associates and Fehr and Peers, are paid directly by Ailanto, and so not surprisingly produce results favorable to the applicant.

We ask you to consider that, by virtue of their compensation, these parties cannot be considered impartial or objective. At a minimum, such testimony should be verified by those who have no economic interest in the project.

We note that although some attachments discuss legal issues, these are not signed by either the applicant or their attorneys. This is merely a vehicle for the applicant and their attorneys to make claims and interpretations while escaping any responsibility for the accuracy of their content.

Summary

We have previously endorsed the June 22, 2000 Staff Report which recommended denial of the proposed project on the grounds that it failed to comply with our Local Coastal Program and the California Coastal Act. Nothing in the October 31, 2000 correspondence from Ailanto motivates us to change our support for the Staff recommendation. We urge you to maintain your recommendation that the Commission deny the project.

Clearly, the applicant is not pleased with the recommendation of denial. They claim to stand to lose 43.5 million dollars in the event of a denial. We are confident that the cumulative losses to the citizens of Half Moon Bay would be much larger were the project to be approved.

What is the value of the time wasted as we are stranded in traffic instead of being with our family? How much would we have to pay to restore the creeks and ponds, the frogs and snakes, the hawks, the deer, the mountain lions? Would there ever be any dollar amount which could compensate for our loss of open space and visual resources once the land is subdivided and developed? Such things are considered "priceless" for a good reason.

Each citizen of Half Moon Bay would have to suffer a loss of less than \$4000 for the cumulative cost of approving the project to equal the loss that the Ailanto Corporation claims it would suffer on denial. That amounts to less than one year's median property taxes. We are confident that the actual costs to the citizens of Half Moon Bay would over the lifetime of the proposed project be many, many times this amount. We urge the Staff and the Commission to consider the rights of the citizens to the peaceful enjoyment of their own property and to equal protection under the

law.

Sincerely,

George Carman
For the Coastside Community Association

Attachments

1. Letter of 11.24.97 from Ralph Faust, Chief Counsel, to Larissa Seto, City Attorney, re: City of Half Moon Bay processing of Coastal Development Permits for previously approved vesting tentative maps.
2. Letter of 09.04.97 from Larissa Seto, City Attorney, to Ralph Faust, Chief Counsel, re: opinion for the City of Half Moon Bay regarding the processing of Coastal Development Permits for previously approved vesting tentative maps.
3. Agenda Report for City Council hearing of 01.13.98 prepared by City Planning Director "Bud" Carney re: vesting tentative map workshop.
4. Letter of March 24, 2000 from William Parkin, representing the Coastside Community Association, to Harry Yahata, Caltrans Supervisor, re: Encroachment permit for Traffic Signal at Terrace Avenue and Highway 1.
5. Letter of 02.15.00 from William Parkin, representing the Coastside Community Association, to HMB City Council, re: Access options for the Pacific Ridge Subdivision.
6. Correspondence between Terrace Avenue residents, the City, MacKay & Somps Civil Engineers, and Caltrans, 1983-1990.
7. Petition for writ of mandate, Coastside Community Association et. al. vs. City of Half Moon Bay and Ailanto Properties. San Mateo County Superior Court, case #409070.
8. Memorandum of points and authorities in opposition to motion for dismissal of first amended petition for writ of mandate, Coastside Community Association et. al. vs. City of Half Moon Bay and Ailanto Properties. San Mateo County Superior Court, case #409070.
9. Letter of April 8, 1999 from Robert Henry to Bill van Beckum, re: list of persons who will communicate for compensation on behalf of applicant with Commission or Staff.
10. Letter of May 17, 2000 from Robert Henry to Charise McHugh, demanding the support of the HMB Chamber of Commerce for Pacific Ridge.
11. Letter of June 19, 2000 from Henri de Roule, Chairman HMB Chamber of Commerce, to California Coastal Commission, supporting Pacific Ridge.

F6a

**City of Half Moon Bay
Appeal Number A-1-HMB-99-022
Ailanto Properties**

Attachment # 1

**Revised Project Plans submitted by the
applicant and received by the California
Coastal Commission on January 26, 2001**



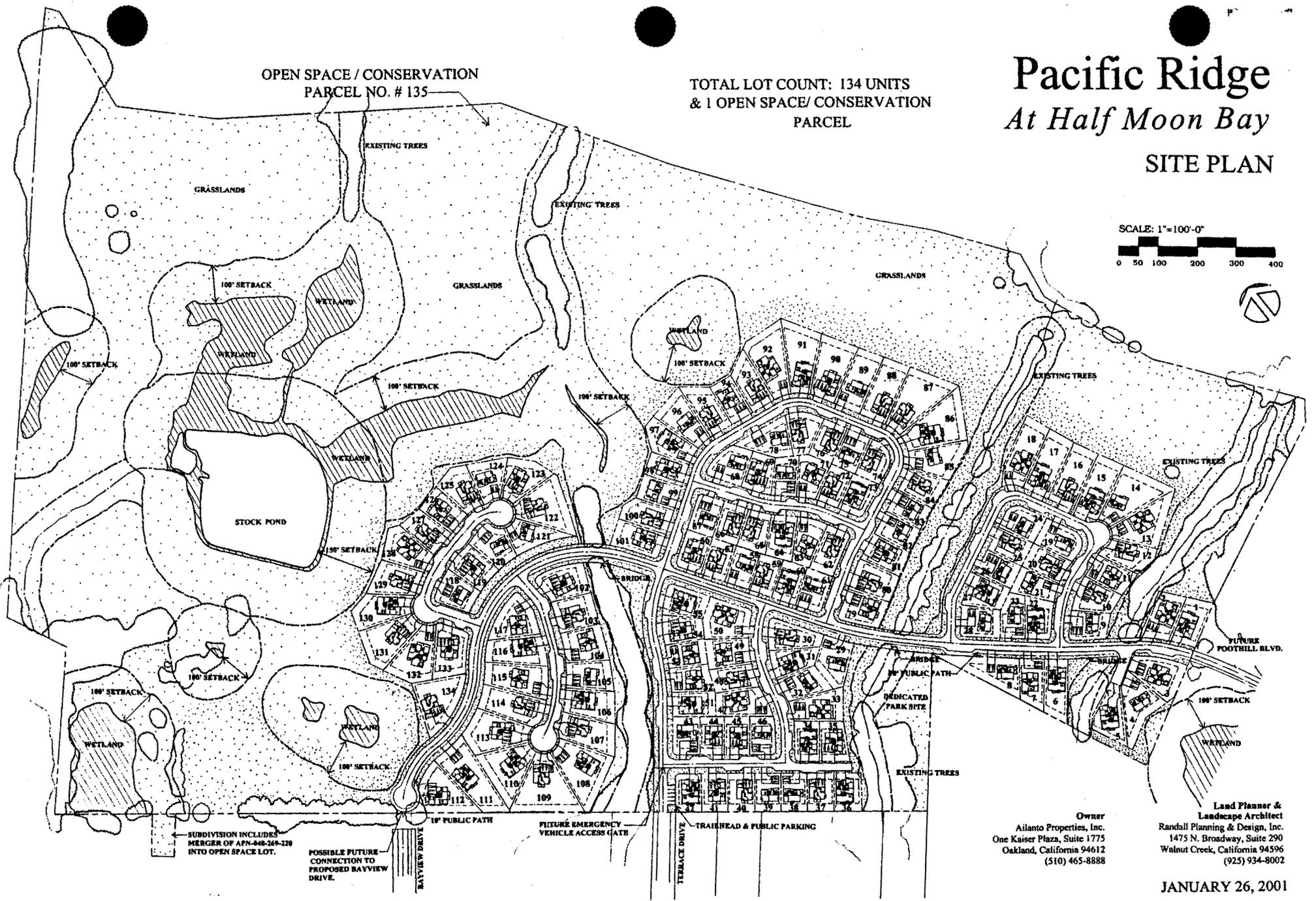
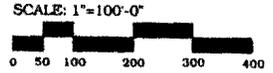
Pacific Ridge

At Half Moon Bay

SITE PLAN

TOTAL LOT COUNT: 134 UNITS
& 1 OPEN SPACE/ CONSERVATION
PARCEL

OPEN SPACE / CONSERVATION
PARCEL NO. # 135



SUBDIVISION INCLUDES
MERGER OF APN-048-269-120
INTO OPEN SPACE LOT.

POSSIBLE FUTURE
CONNECTION TO
PROPOSED BAYVIEW
DRIVE.

Owner
Ailanto Properties, Inc.
One Kaiser Plaza, Suite 1775
Oakland, California 94612
(510) 465-8888

**Land Planner &
Landscape Architect**
Randall Planning & Design, Inc.
1475 N. Broadway, Suite 290
Walnut Creek, California 94596
(925) 934-8002

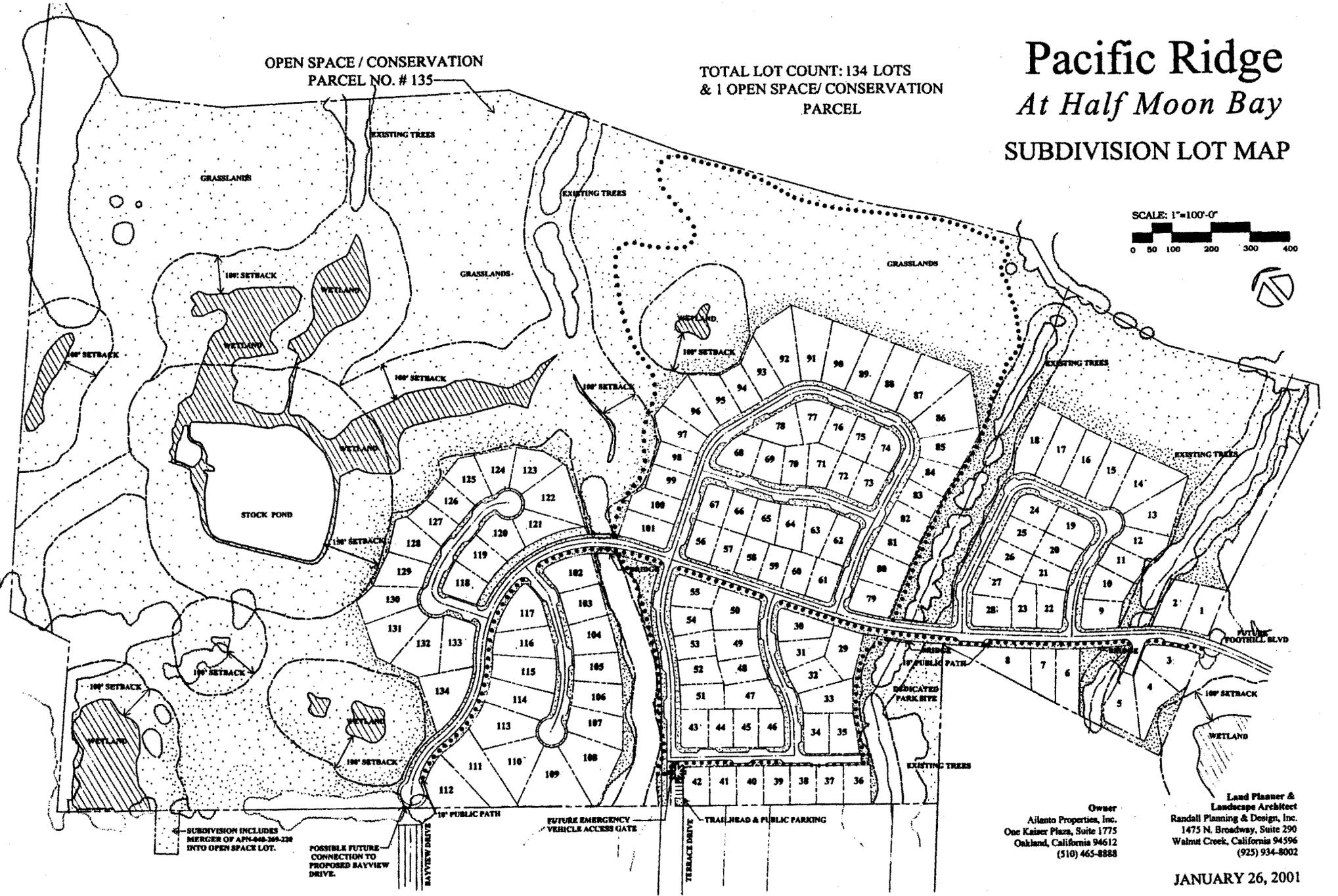
JANUARY 26, 2001

OPEN SPACE / CONSERVATION
PARCEL NO. # 135

TOTAL LOT COUNT: 134 LOTS
& 1 OPEN SPACE/CONSERVATION
PARCEL

Pacific Ridge At Half Moon Bay SUBDIVISION LOT MAP

SCALE: 1"=100'-0"
0 50 100 200 300 400



SUBDIVISION INCLUDES
MERGER OF APNs 448-369-228
INTO OPEN SPACE LOT.

POSSIBLE FUTURE
CONNECTION TO
PROPOSED RAYVIEW
DRIVE.

Owner
Ailanto Properties, Inc.
One Kaiser Plaza, Suite 1775
Oakland, California 94612
(510) 465-8888

Land Planner &
Landscape Architect
Randall Planning & Design, Inc.
1475 N. Broadway, Suite 290
Walnut Creek, California 94596
(925) 934-8002

JANUARY 26, 2001

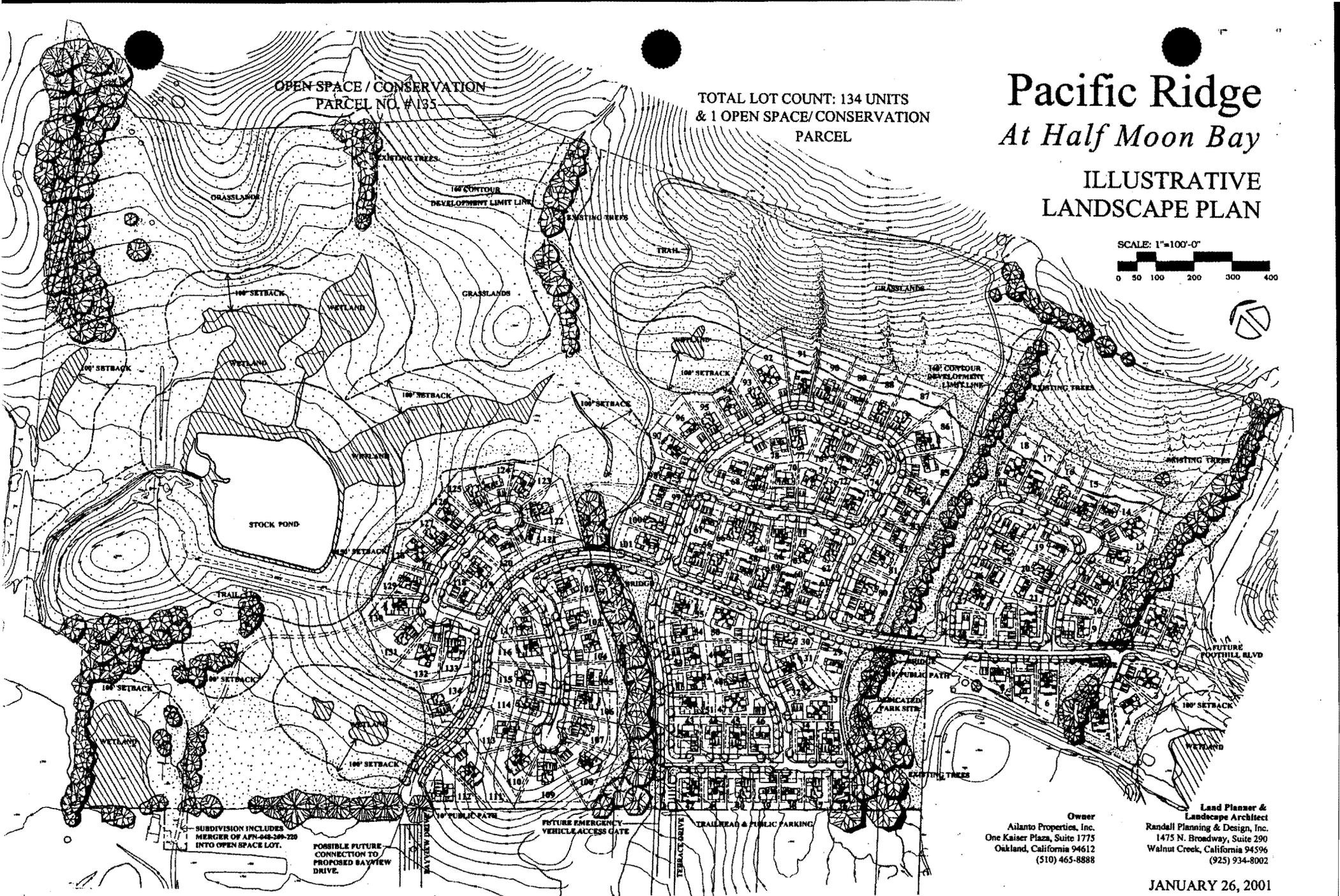
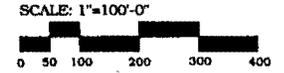
Pacific Ridge

At Half Moon Bay

ILLUSTRATIVE LANDSCAPE PLAN

TOTAL LOT COUNT: 134 UNITS
& 1 OPEN SPACE/CONSERVATION
PARCEL

OPEN SPACE / CONSERVATION
PARCEL NO. #135



SUBDIVISION INCLUDES
MERGER OF APN-048-289-220
INTO OPEN SPACE LOT.

POSSIBLE FUTURE
CONNECTION TO
PROPOSED BAYVIEW
DRIVE.

FUTURE EMERGENCY
VEHICLE ACCESS GATE

TRAILHEAD & PUBLIC PARKING

Owner
Ailanto Properties, Inc.
One Kaiser Plaza, Suite 1775
Oakland, California 94612
(510) 465-8888

Lead Planner &
Landscape Architect
Randall Planning & Design, Inc.
1475 N. Broadway, Suite 290
Walnut Creek, California 94596
(925) 934-8002

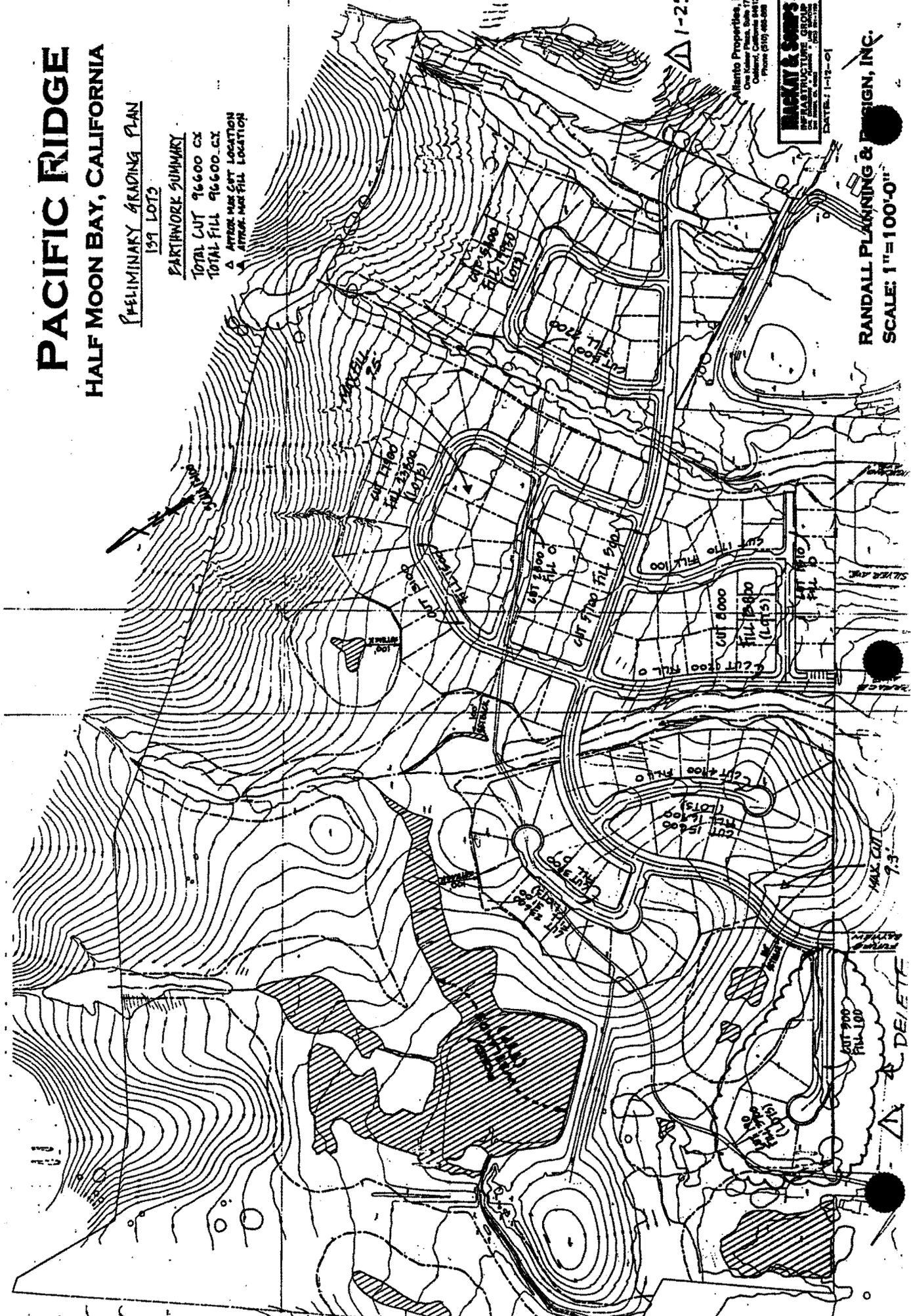
JANUARY 26, 2001

PACIFIC RIDGE

HALF MOON BAY, CALIFORNIA

PRELIMINARY GRADING PLAN
139 LOTS

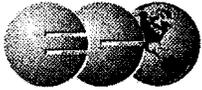
EARTHWORK SUMMARY
TOTAL CUT 96,600 CY
TOTAL FILL 96,600 CY
▲ APPROX MAX CUT LOCATION
▲ APPROX MAX FILL LOCATION



Alento Properties, Inc.
One Kaiser Plaza, Suite 1775
Culver City, CA 90230
Phone (310) 948-8888



RANDALL PLANNING & DESIGN, INC.
SCALE: 1"=100'-0"



MEMORANDUM

DATE: January 15, 2001

TO: Mr. David Kelley
Kelley & Associates **Fax:** (530) 753-2935

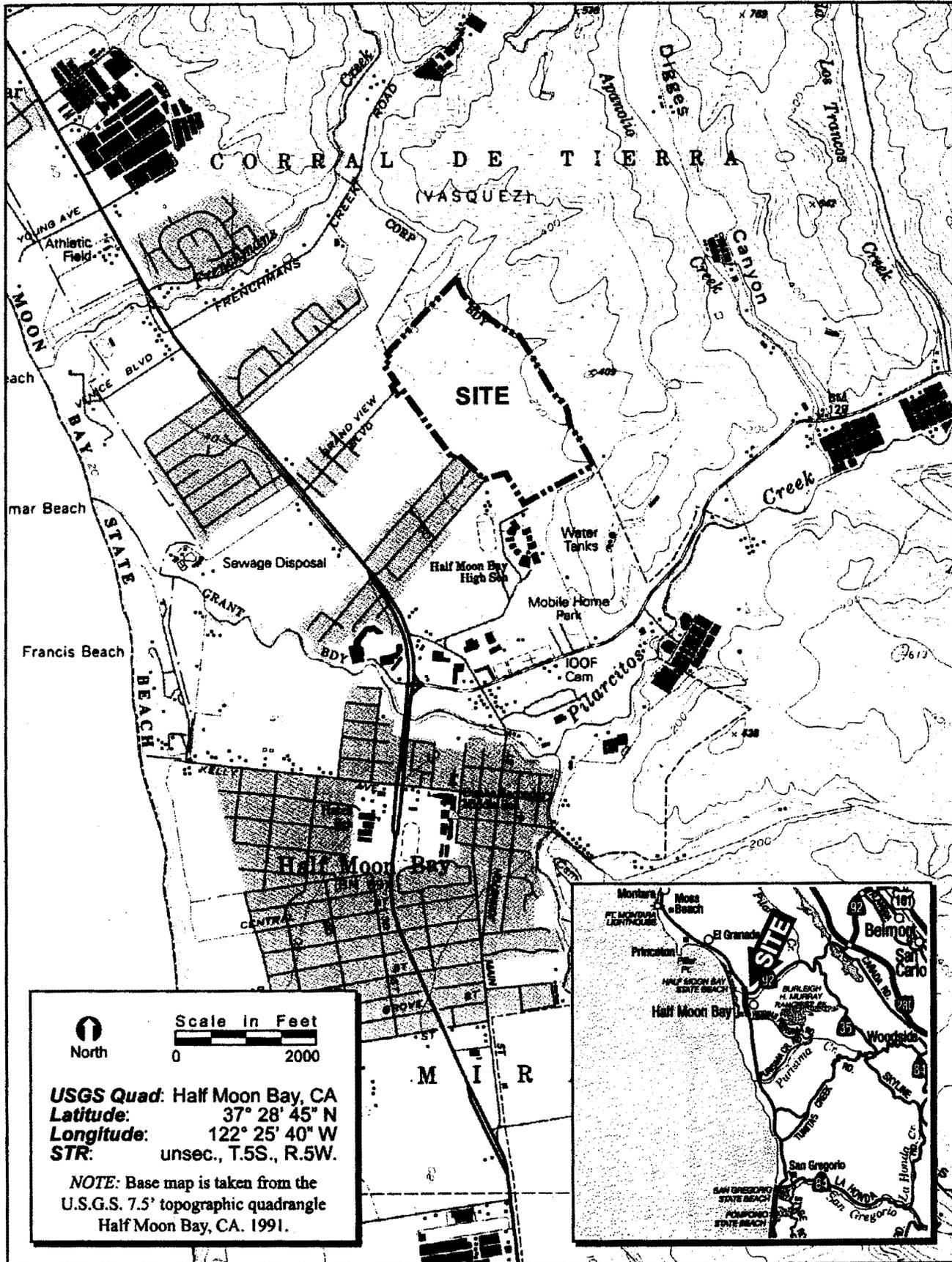
CC: Mr. Robert Henry, Ailanto Properties, Inc.
Mr. Albert Fong, Ailanto Properties, Inc.
Mr. Norbert Dall, Dall & Associates

FROM: Peter Balfour

RE: ***Pacific Ridge Subdivision; Half Moon Bay, California- California Red-legged Frog and San Francisco Garter Snake Habitat Assessment and Constraints Analysis.***

At your request, I met with you and Mr. Norbert Dall (Dall & Associates) on January 4, 2001 at the proposed Pacific Ridge Subdivision site in Half Moon Bay, California. The 114-acre property (previously known as the Dykstra Ranch) is located north of Highway 92 and east of Highway 1 in the city of Half Moon Bay, in San Mateo County, California (Figure 1).

The purpose of our site visit was to identify likely or potential habitat (including migration corridors to and from the property) for the California red-legged frog (CRLF) (*Rana aurora draytonii*) (federally-listed threatened) and San Francisco garter snake (SFGS) (*Thamnophis sirtalis tetrataenia*) (State and federally-listed endangered). During the investigation we visited all delineated wetlands within the property to assess whether CRLF and/or SFGS may likely or potentially utilize any of the drainages on site, adjacent ranches/farmed areas, or frontal slopes of the Coastal Range, which lie to the east of the project site. Special emphasis was placed on the site's stock pond (constructed circa 1953-1954), and its associated drainages, given that these areas provide the most suitable habitat relative to other areas on site for the reference



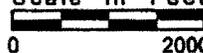

 Scale in Feet

 0 2000
USGS Quad: Half Moon Bay, CA
Latitude: 37° 28' 45" N
Longitude: 122° 25' 40" W
STR: unsec., T.5S., R.5W.
NOTE: Base map is taken from the
 U.S.G.S. 7.5' topographic quadrangle
 Half Moon Bay, CA. 1991.

FIGURE 1. Project Site and Vicinity Map

2001-002 Pacific Ridge

ECORP Consulting, Inc.
 ENVIRONMENTAL CONSULTANTS
 ©2001

species. Following our field visit, I reviewed locality data (including published and unpublished records) for both species to document both regional (i.e. within a 5-mile radius of the project) as well as local occurrences (i.e. within 1-mile of the site). I also familiarized myself with several environmental documents/correspondences pertaining to the development of the project, including a previously issued Biological Opinion (B.O.) by the U.S. Fish and Wildlife Service (USFWS) (1-1-98-F-78) (USFWS 1998). Information resulting from biological work performed by LSA Associates was also reviewed during this analysis (see citations). I contacted several herpetological researchers as well, in order to obtain additional information regarding life history aspects of the reference species, as well as information pertaining to occurrences in the Half Moon Bay region. Finally, I reviewed the proposed current land use plan (January 5, 2001) for the project as it relates to potential habitat for these species, and have provided recommendations pertaining to land use design and mitigation measures to avoid/minimize potential impacts to these species. Implementation of these measures will protect on-site potential breeding/foraging habitat (including contributing watershed and associated uplands) and allow for dispersal of the reference species through developed and undeveloped portions of the project area.

FINDINGS

DOCUMENTED LOCALITY DATA

The Pacific Ridge Subdivision property is located within the geographic range of both the CRLF and the SFGS (USFWS 1998). In fact, much of San Mateo County (Unit 14; Coast Range Recovery Unit) is currently proposed for designation as critical habitat for the CRLF (USFWS 2000). Queries of the California Department of Fish and Game's (CDFG) Natural Diversity Data Base (CNDDDB) (Rarefind II) for the Half Moon Bay U.S.G.S. 7.5-minute topographic quadrangle and adjacent quadrangles documented regional and local occurrences for both species (attached), but none on the site (U.S.G.S. 1991) (CDFG 2000).

The San Francisco garter snake has been reported from a ponded area near the mouth of Pilarcitos Creek, approximately one mile west of the Pacific Ridge property (observed by Dr. Sam McGinnis 1988) (CDFG 2000). The exact location of this occurrence has been repressed by CDFG given its sensitive nature. Additional CNDDDB sensitive locations for this species are documented on adjacent topographic quadrangles. The current status of the SFGS in the Half Moon Bay area is unknown (USFWS 1998).

Several California red-legged frog records are also documented by the CNDDDB for the Half Moon Bay region. The closest CRLF population documented by the CNDDDB is from Pilarcitos Creek (Rarefind Occurrence #354). Additional unpublished records have also been documented, within nearly 1/2 mile of the project site (Seymour and Westphal 2000) (Figure 2). These records represent recent "road kills" documented by Michael Westphal and Richard Seymour. The closest record is from the frontage road west of Highway 1, south of the intersection of Highway 1 and Grandview Boulevard. The second record is from Highway 92, west of Apanolio Creek (Digges Canyon) and north of Pilarcitos Creek. Road kill CRLFs were even documented within the city of Half Moon Bay (Richard Seymour pers.com). This is not surprising, given that Pilarcitos Creek and the surrounding area are known to support a significant population of CRLF (Sean Barry pers.com) and that radiotelemetry studies have documented dispersing CRLF to travel distances of up to 2 miles (Richard Seymour pers.com).

ON-SITE HABITAT

The Pacific Ridge Subdivision property provides potential habitat for both the CRLF and the SFGS in the form of the site's stock pond, associated drainages, and associated uplands. A wetland delineation map of the property prepared by LSA Associates and an aerial photograph depicting and numbering the site's drainages are provided for reference as Figure 3 and Figure 4, respectively. The most significant perennial wetland feature on the property is the site's stock pond. The pond and its adjacent wetland and upland areas represent potential habitat for the CRLF and, perhaps, the SFGS.

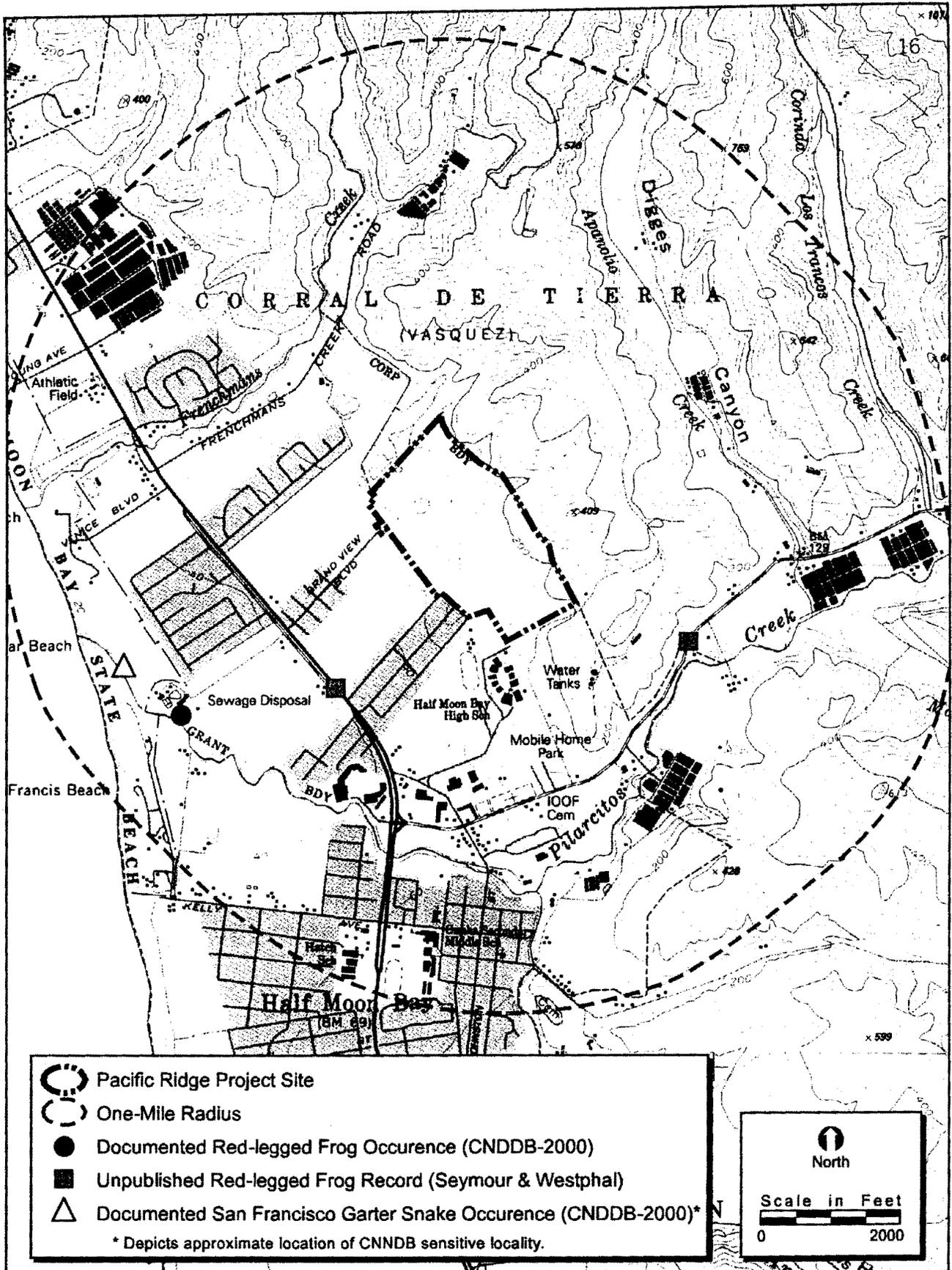


FIGURE 2. Local Special-Status Species Locations



FIGURE 4. Project Site - Aerial View with Drainage Locations

The stock pond represents potential breeding habitat for the CRLF, although no CRLF were observed on the site during surveys conducted by LSA Associates during July and August 1997 and August 2000 (RMI 1997) (Lacy 2000). Bullfrogs (*Rana catesbeiana*) were the only ranid frogs positively identified and were commonly observed during survey investigations. During the August 2000 survey, eleven of the frogs observed were not positively identified. While the presence of bullfrogs at the pond is not favorable for the establishment of CRLF populations, the two species can and often do co-occur in coastal areas (Gary Fellers pers. com). While no CRLF were observed on site, it is possible that they were present in low numbers and not encountered and/or that they may use the pond to breed on occasion. The success of CRLF breeding is further complicated by the reported presence of predatory fishes including bluegill and possibly bass and catfish (LSA 1999a). Irrespective of less than optimal conditions and survey findings, the periodic use of the pond by CRLF is considered likely and as such the pond should be considered to represent potential breeding habitat. Additional ponds representing potential breeding habitat are located to the north of the site. Smaller seasonal ponds to the east and to the west could possibly support frogs. Given descriptions of existing conditions presented in supporting biological documents, the ephemeral pond to the east is not likely to represent breeding habitat. The pond/wetland located on the property to the west, however, supports emergent vegetation and appears to pond water for an extended period of time and, as such, represents potential CRLF breeding habitat. The remaining wetlands and drainages on the property do not provide suitable breeding habitat for CRLF, given their inadequate hydrological regimes, but do represent potential modes of dispersal. Isolated marginal wetlands such as the area mapped as wetland H by LSA Associates, do not represent significant habitat.

The presence of SFGS within the project area is considered less likely, albeit potential, given the apparent lack of recent verified locality records in the area. Nevertheless, the USFWS conservatively considers San Francisco garter snakes to potentially be present "at any water body in the Half Moon Bay area that supports emergent vegetation and amphibians" (USFWS 1998). The stock pond within the property and the off-site ponds to the north all support both emergent vegetation and an established amphibian food base (e.g. small bullfrogs and Pacific tree frogs), and as such meet USFWS criteria for a potential habitat determination. While SFGS

will prey on bullfrogs, the large population of bullfrogs in the area is, conversely, viewed negatively, given that bullfrogs are highly predaceous and are known to prey on juvenile SFGS (WESCO 1988) (USFWS 1998).

RECOMMENDATIONS

The northern portion of the Pacific Ridge property supports important habitat components for the CRLF, and possibly the SFGS, that provide potential foraging habitat, upland refuge areas and breeding opportunities. The stock pond, its associated drainages/wetlands, and contributing watershed mapped on Figure 5 are recommended for complete avoidance of residential development and associated infrastructure. Wetlands A and F and the intervening upland area west of the stock pond are, similarly, recommended for avoidance (Figure 5). This avoidance strategy would maintain the integrity of the stock pond's watershed, and permit unobstructed movements of potentially-occurring listed species (and other wildlife) through the property. It is important that this large corridor be maintained as open space, allowing for connectivity with western lands, as well as potential habitat to the north (e.g. several other stock ponds) and east of the property (e.g., Apanolio Creek and other tributaries to Pilarcitos Creek). The proposed development area southwest of the pond should be situated at least 150-feet away from the mapped pond edge so as not to encroach upon the pond's watershed. It is further recommended that grading in the development area north of the lower drainage #3 be contoured to drain away from the pond, to reduce the potential for siltation and watershed alteration.

Buffers along non-riparian drainages between development zones (i.e. #1, #2, and western portion of #3) are proposed to be 30-feet wide. This width is consistent with guidance provided in the Half Moon Bay Local Coastal Program (LCP) and Land Use Plan (LUP). These widths also were previously deemed acceptable to USFWS (B.O. 1-1-98-F-78), provided that specific mitigation measures, as stated in the B.O. Terms and Conditions were implemented. The primary compensatory mitigation measure for buffer encroachments (as well as fill of approximately 1-acre of wetland, since avoided by the project) stipulated the funding of

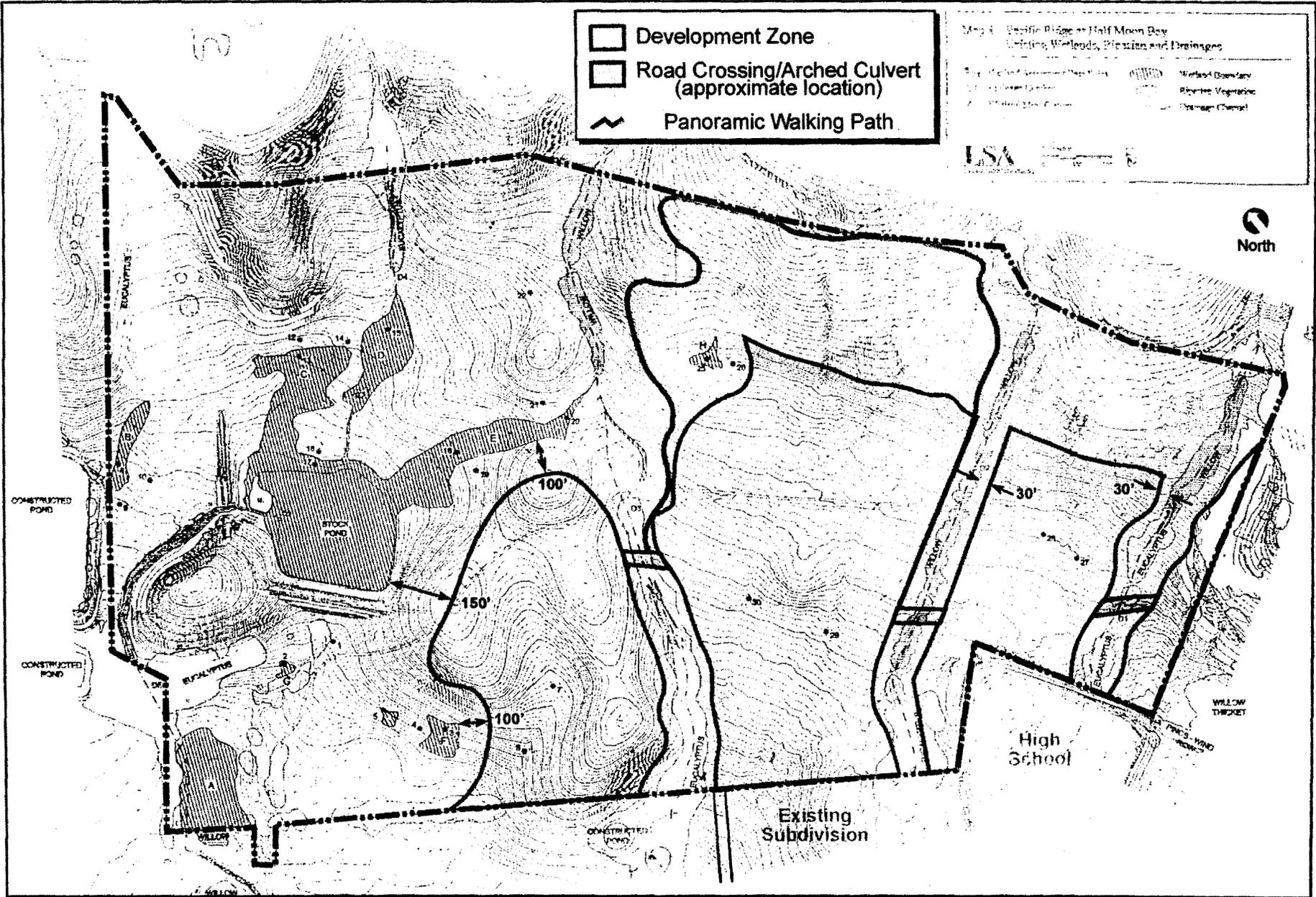


FIGURE 5. Constraints Map / Development Zones

acquisition and enhancement of off-site habitat that is "presently occupied or adjacent to occupied California red-legged frog and San Francisco garter snake habitat within 15-miles of the project site." However, it should be noted that since the issuance of the previous B.O., the residential land use has been greatly reduced in the developed area and currently avoids wetland fill, buffers the pond, and avoids the entire watershed of the pond. This significant on-site avoidance and proposed enhancement mitigation strategy is considered adequate to protect the target species, their potential habitat, and dispersal routes at the site. Two of the drainages (#1 and #2) are of limited value to CRLF and SFGS, given that neither support pools or prolonged water flows and both are ultimately directed into a storm drain system associated with adjacent developments to the west (i.e. a subdivision and Half Moon Bay High School). While these drainages are of lower habitat value to CRLF, their preservation and buffered area will allow for potential CRLF movements through the property. Buffer areas should remain in their existing state, be undisturbed except for the mapped road crossings and the walking path, and not be encroached upon by grading or other development. Arched culverts, or similar structures, with natural substrate bottom will facilitate movements under the road crossings.

The western lower segment of drainage 3, below the diversion to the stock pond, receives little or no water flow from the upper reach of drainage 3 or adjacent areas. At present, although the lower segment of drainage 3 is directed into an off-site storm drain system, the undeveloped land between the project site and Highway 1 may potentially serve as a corridor/connector between habitat areas west of Highway 1 and the Coast Range to the east. Given the relatively lower potential of this portion of Drainage 3's functioning as a migration corridor, when compared to the likely major corridor between and among the drainages and ponds to the north, a 30-foot wide buffer along lower drainage 3 (as measured from the tree drip line) is considered adequate to promote this potential function. It is further recommended that frog walls be provided within the buffer to help direct any frog movement through the corridor. Frog walls are also recommended in the outer buffer south and west of the pond near the northern edge of development in the area north of Drainage 3.

I concur with the Reasonable and Prudent Measures and Terms and Conditions provided in the USFWS Biological Opinion and many of the general recommendations pertaining to open space

management (LSA 1999b). Most notably, I support an appropriately-timed eradication effort to eliminate introduced fishes from the stock pond. This will ultimately be of benefit to the listed species. I question, however, the ultimate success of the USFWS – recommended bullfrog eradication program, given the site's proximity to a large bullfrog population immediately to the north. Biennial (once every two years) bullfrog eradication, in conjunction with a monitoring and reporting program (for a period of ten years), may, however, increase the likelihood for establishment of a CRLF population and possible CRLF co-habitation with bullfrogs. As stated earlier, relatively long-lived co-occurrences of the two species have been documented in coastal areas to the north (Gary Fellers pers com). Finally, I recommend against the proposed re-establishment of the normal high water level of the pond (LSA 1999b), as it would likely favor the persistence of bullfrogs by increasing the extent of perennial water and increased bullfrog breeding success. Head-cutting erosion at the pond outflow into drainage #5 should be monitored and if deemed to represent a threat to the longevity of the pond, appropriate erosion control measures should be implemented to insure that the pond is not undermined over the course of time. Proposed enhancement through re-vegetation of the pond and an intervening area between the pond and the upper reach of drainage #3, is considered beneficial and will likely be of ultimate benefit to the listed species and wildlife use in general by providing additional shelter and foraging opportunities.

CITATIONS

- CDFG (California Department of Fish and Game). 2000. *Rarefind 2* personal computer program (version dated: 7/19/00). California Department of Fish and Game, Sacramento, California. Queires of Half Moon Bay, Woodside, San Mateo and Montara Mountain U.S.G.S. Topographic Quadrangles.
- Lacy, Tim. 2000. Results of Red-Legged Frog Survey at Pacific Ridge at Half Moon Bay. Memorandum to Steve Foreman (LSA Association) dated August 21, 2000.
- LSA Associates. 1999a. Biological Resources Report for Pacific Ridge at Half Moon Bay. Prepared for Ailanto Properties, Inc. Point Richmond, California. June 15, 1999.
- LSA Associates. 1999b. Pacific Ridge Appeal Number A-1-HMB-99-022; Addendum to Biological Report. Letter addressed to Chris Kern (California Coastal Commission) dated November 2, 1999.
- RMI (Resource Management International, Inc.). 1997. Site Assessment and Survey Results for California Red-Legged Frogs at Dykstra Ranch, Half Moon Bay, San Mateo County. Letter addressed to U. S. Fish and Wildlife Service dated August 20, 1997.
- Seymour, R., and Mike Westphal. 2000. Regional distribution of a declining anuran, *Rana aurora draytonii*, on the San Francisco Peninsula, California, USA. Poster presented at the Annual Joint Meeting for the ASIH, HL, and SSAR. La Paz, Baja California, Mexico.
- USFWS (U.S. Department of Interior, Fish and Wildlife Service). 2000. Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the California Red-Legged Frog (*Rana aurora draytonii*); Proposed Rule. 50 CFR Part 17. September 11, 2000.
- USFWS (U. S. Department of the Interior, Fish and Wildlife Service). 1998. Formal Consultation on the Proposed Pacific Ridge Development Project, Half Moon Bay, San Mateo County, California (1-1-98-F-78). Letter addressed to Mr. Calvin C. Fong (U. S. Army Corps of Engineers) dated November 16, 1998.
- USGS (U. S. Department of the Interior, Geological Survey). 1980a. Montara Mountain, Calif. 7.5 Minute Series. USGS, Denver, Colorado.
- USGS (U. S. Department of the Interior, Geological Survey). 1980b. San Mateo, Calif. 7.5 Minute Series. USGS, Denver, Colorado.
- USGS (U. S. Department of the Interior, Geological Survey). 1991a. Half Moon Bay, Calif. 7.5 Minute Series. USGS, Denver, Colorado.
- USGS (U. S. Department of the Interior, Geological Survey). 1991b. Woodside, Calif. 7.5 Minute Series. USGS, Denver, Colorado.

WESCO (Western Ecological Services Company, Inc.). 1988. Dykstra Ranch Development Draft Environmental Impact Report, Half Moon Bay, California. Prepared for the City of Half Moon Bay. Novata, California. April 1988

PERSONAL COMMUNICATIONS

Barry, Sean. 2001. Telephone conversation between Sean Barry (University of California, Davis) and Peter Balfour (ECORP Consulting, Inc.), January 10, 2001.

Fellers, Gary. 2001. Telephone conversation between Gary Fellers (USGS Pt. Reyes National Seashore) and Peter Balfour (ECORP Consulting, Inc.), January 11, 2001.

Seymour, Richard. 2001. Telephone conversation between Richard Seymour (Consulting Biologist) and Peter Balfour (ECORP Consulting, Inc.). January 10, 2001



↑ View of stock pond, facing northwest.

↓ Off-site pond to the north.



↑ Stock pond watershed.

↓ Emergent vegetation at stock pond.



FIGURE 6. Representative Site Photos

California Department of Fish and Game
Natural Diversity Data Base

Full Condensed Report - Multiple Records per Page
San Francisco garter snake
Half Moon Bay Quad

THAMNOPHIS SIRTALIS TETRATAENIA
SAN FRANCISCO GARTER SNAKE
Element Code: ARADE3613B

-----List Status-----
Federal: Endangered
State: Endangered

-----NDDB Element Ranks-----
Global: GST2
State: S2

-----Other Lists-----
CDFG Status:

-----Habitat Associations-----

General: VICINITY OF FRESHWATER MARSHES, PONDS AND SLOW MOVING STREAMS IN SAN MATEO COUNTY AND EXTREME NORTHERN SANTA CRUZ COUNTY
Micro: PREFERS DENSE COVER & WATER DEPTHS OF AT LEAST ONE FOOT. UPLAND AREAS NEAR WATER ARE ALSO VERY IMPORTANT.

* SENSITIVE *

Occurrence No. 31	Map Index:	-----Dates Last Seen-----	Lat/Long: /	Township:
Occ Rank: Unknown		Element: 198X-XX-XX	UTM:	Range:
Origin: Natural/Native occurrence		Site: 198X-XX-XX	Precision:	Section: Qtr
Presence: Presumed Extant			Symbol Type:	Meridian:
Trend: Unknown			Radius:	Elevation:
Main Source: MURPHY, M. 1988 (OBS)				
Quad Summary: HALF MOON BAY (3712244/429B)				
County Summary: SAN MATEO				
SNA Summary: Mouth of Pilarcitos Creek				
Location: *SENSITIVE* Location information suppressed.				

-----Comments-----

Distribution: Please contact the California Natural Diversity Database, California Department of Fish and Game, for more information: (916) 324-3812.
Ecological: SNAKE FOUND BY SAM MCGINNIS IN AN AREA WHERE PONDING OCCURS DURING WINTER MONTHS.
Threat: MAIN THREATS ARE CONSTRUCTION AND WATER-PUMPING FROM PILARCITOS CREEK.
General:
Owner/Manager:

Full Condensed Report - Multiple Records per Page
California red-legged frog
Half Moon Bay, Montara Mtn, San Mateo, Wood

RANA AURORA DRAYTONII

CALIFORNIA RED-LEGGED FROG
Element Code: AAABH01022

-----List Status-----NDBE Element Ranks-----Other Lists-----
Federal: Threatened Global: G4T2T3 CDFG Status: SC
State: None State: S2S3

Habitat Associations

General: LOWLANDS & FOOTHILLS IN OR NEAR PERMANENT SOURCES OF DEEP WATER WITH DENSE, SHRUBBY OR EMERGENT RIPARIAN VEGETATION.
Micro: REQUIRES 11-20 WEEKS OF PERMANENT WATER FOR LARVAL DEVELOPMENT. MUST HAVE ACCESS TO ESTIVATION HABITAT.

Occurrence No. 33 Map Index: 17144 ---Dates Last Seen--- Lat/Long: 37°36'39" / 122°23'45" Township: 04S
Occ Rank: Fair Element: 1990-10-12 UTM: Zone-10 N4162612 E553335 Range: 05W
Origin: Natural/Native occurrence Site: 1990-10-12 Precision: NON-SPECIFIC Section: XX Qtr XX
Presence: Presumed Extant Symbol Type: POINT Meridian: M
Trend: Unknown Radius: 1/5 mile Elevation: 25 ft
Main Source: BRODE, J. 1990 (OBS)
Quad Summary: MONTARA MOUNTAIN (3712254/448C)
County Summary: SAN MATEO
SNA Summary:
Location: SOUTH LOMITA CANAL, WEST OF HWY 101 - BETWEEN HWY 101 AND SOUTHERN PACIFIC RR TRACKS, OPPOSITE SFO ENTRANCE.
-----Comments-----
Distribution: 6 LARVAE FOUND IN 40 FT WIDE DRAINAGE CANAL.
Ecological: CANAL GROWN TO CATTAILS AND OTHER SMALLER AQUATIC PLANTS. SURROUNDING AREA IS GRASS WITH SEVERAL DEPRESSIONS THAT HOLD SEASONAL WATER IN WET YEARS.
Threat: POSSIBLE DEVELOPMENT OF PARKING LOTS OR BART STATION. 1 ADULT & 1 JUVENILE BULLFROG SEEN, FIRST OBS OF BULLFROGS HERE.
General: DFG & USFWS HAVE DENIED SFO PERMISSION TO DREDGE CANAL. HAVE ONLY PERMITTED CUTTING OF CATTAILS UNTIL HCP IN PLACE. SAN FRANCISCO GARTER SNAKE ALSO OCCURS HERE.
Owner/Manager: SFO CITY/COUNTY

Occurrence No. 38 Map Index: 17330 ---Dates Last Seen--- Lat/Long: 37°31'02" / 122°29'16" Township: 05S
Occ Rank: Good Element: 1989-06-09 UTM: Zone-10 N4152157 E545268 Range: 06W
Origin: Natural/Native occurrence Site: 1989-06-09 Precision: SPECIFIC Section: XX Qtr XX
Presence: Presumed Extant Symbol Type: POINT Meridian: M
Trend: Unknown Radius: 80 meters Elevation: 75 ft
Main Source: SUDDJIAN, D. 1989 (OBS)
Quad Summary: MONTARA MOUNTAIN (3712254/448C)
County Summary: SAN MATEO
SNA Summary:
Location: ALONG DENNISTON CREEK, APPROXIMATELY 300 M UPSTREAM FROM BRIDGEPORT DRIVE, EL GRANADA.
-----Comments-----
Distribution: 5+ HEARD CALLING IN POND AT 11:15 AM, ALTHOUGH NONE COULD BE SEEN OR CAPTURED.
Ecological: HABITAT IS A MAN-MADE POND FILLED WITH SCIRPUS SPP AND TYPHA SPP. POND IS ADJACENT TO A WILLOW-RIPARIAN CORRIDOR AND COYOTE BUSH SCRUB.
Threat: POTENTIAL THREAT OF RESIDENTIAL DEVELOPMENT.
General: POND CONTAINED LIMITED SURFACE WATER ON SURVEY DATE.
Owner/Manager: UNKNOWN

Occurrence No. 242 Map Index: 38311 ---Dates Last Seen--- Lat/Long: 37°33'57" / 122°30'41" Township: 04S
Occ Rank: Fair Element: 1997-04-16 UTM: Zone-10 N4157561 E543157 Range: 06W
Origin: Natural/Native occurrence Site: 1997-04-16 Precision: SPECIFIC Section: 22 Qtr SW
Presence: Presumed Extant Symbol Type: POINT Meridian: M
Trend: Unknown Radius: 80 meters Elevation: 100 ft
Main Source: VONARB, R. 1997 (OBS)
Quad Summary: MONTARA MOUNTAIN (3712254/448C)
County Summary: SAN MATEO
SNA Summary:
Location: GREEN VALLEY CREEK, ON THE EAST SIDE OF HWY 1. 1.5 MILES NORTH OF MONTARA
-----Comments-----
Distribution:
Ecological: HABITAT CONSISTS OF A SMALL POND RECEIVING OVERFLOW FROM GREEN VALLEY CREEK; PLANT DOMINANTS INCLUDE WILLOW AND JUNCUS.
Threat:
General: 1 ADULT AND SOME TADPOLES OBSERVED ON 16 APRIL 1997.
Owner/Manager: DPR

California Department of Fish and Game
Natural Diversity Data Base

Full Condensed Report - Multiple Records per Page
California red-legged frog
Half Moon Bay, Montara Mtn, San Mateo, Wood

RANA AURORA DRAYTONII (cont.)
CALIFORNIA RED-LEGGED FROG
Element Code: AAABH01022

-----List Status----- NDDB Element Ranks -----Other Lists-----
Federal: Threatened Global: G4T2T3 CDFG Status: SC
State: None State: S2S3

Occurrence No. 243 Map Index: 38312 ---Dates Last Seen--- Lat/Long: 37°29'30" / 122°22'28" Township: 05S
Occ Rank: Excellent Element: 1997-07-10 UTM: Zone-10 N4149405 E555288 Range: 05W
Origin: Natural/Native occurrence Site: 1997-07-10 Precision: SPECIFIC Section: 14 Qtr SE
Presence: Presumed Extant Symbol Type: POINT Meridian: M
Trend: Unknown Radius: 80 meters Elevation: 350 ft
Main Source: VONARE, R. 1997 (OBS)
Quad Summary: WOODSIDE (3712243/429A)*, HALF MOON BAY (3712244/429B)
County Summary: SAN MATEO
SNA Summary:

Location: ALBERT CANYON CREEK, TRIB TO PILARCITOS CREEK, ON THE NE SIDE OF HWY 92, 1 MILE WEST OF THE INTERSECTION WITH HWY 35.

-----Comments-----

Distribution: DESCRIBED BY SAM MCGINNIS (CSU HAYWARD) AS "RANDOM WANDERING" BY AN ADULT FROG IN AN ATTEMPT TO COLONIZE A NEW SITE.

Ecological: HABITAT CONSISTS OF A DEEPER POOL IN THE CREEK; PLANT DOMINANTS INCLUDE WILLOWS.

Threat: THREATENED BY HWY 92 (LOCATED ABOVE ON FILL EMBANKMENT) CONSTRUCTION ACTIVITIES.

General: 1 ADULT OBSERVED ON 10 JULY 1997.

Owner/Manager: UNKNOWN

Occurrence No. 269 Map Index: 40085 ---Dates Last Seen--- Lat/Long: 37°33'41" / 122°23'12" Township: 04S
Occ Rank: Fair Element: 1998-10-20 UTM: Zone-10 N4157141 E554163 Range: 05W
Origin: Natural/Native occurrence Site: 1998-10-20 Precision: SPECIFIC Section: 27 Qtr XX
Presence: Presumed Extant Symbol Type: POINT Meridian: M
Trend: Unknown Radius: 80 meters Elevation: 600 ft
Main Source: DREIER, J. 1998 (OBS)
Quad Summary: MONTARA MOUNTAIN (3712254/448C)
County Summary: SAN MATEO
SNA Summary:

Location: CRYSTAL SPRINGS GOLF COURSE, 0.4 MILE NE OF THE NORTH END OF LOWER CRYSTAL SPRINGS RESERVOIR, SOUTH OF HILLSBOROUGH.

-----Comments-----

Distribution:

Ecological: HABITAT CONSISTS OF AN IRRIGATION POND, WHICH SUPPORTS CATTAIL GROWTH ALONG THE NORTH MARGIN OF THE POND, SURROUNDED BY GOLF COURSE. POND LEVEL IS MAINTAINED BY PUMPING WATER UP FROM CRYSTAL SPRINGS RESERVOIR.

Threat: POSSIBLE THREATS INCLUDE GOLFER DISTURBANCE AND MORTALITY FROM PUMP OPERATION.

General: GOLF COURSE INTENDS TO MANAGE THE POND FOR RED-LEGGED FROGS. 2 ADULTS AND 3 JUVENILES OBSERVED ON 20 OCT 1998.

Owner/Manager: PVT-CRYSTAL SPRGS GOLF COURSE

Occurrence No. 301 Map Index: 41133 ---Dates Last Seen--- Lat/Long: 37°30'13" / 122°29'41" Township: 05S
Occ Rank: Good Element: 1999-05-07 UTM: Zone-10 N4150657 E544643 Range: 06W
Origin: Natural/Native occurrence Site: 1999-05-07 Precision: SPECIFIC Section: 10 Qtr XX
Presence: Presumed Extant Symbol Type: POINT Meridian: M
Trend: Unknown Radius: 80 meters Elevation: 10 ft
Main Source: COLLINS, P. 1999 (OBS)
Quad Summary: MONTARA MOUNTAIN (3712254/448C)
County Summary: SAN MATEO
SNA Summary:

Location: UPPER END OF PRINCETON MARSH, JUST DOWNSTREAM (SOUTH) OF WEST POINT ROAD, HALF MOON BAY

-----Comments-----

Distribution: POOLS ARE LOCATED ON THE DOWNSTREAM SIDE OF THE CULVERTS LOCATED BENEATH WEST POINT ROAD.

Ecological: HABITAT CONSISTS OF RIPARIAN ON THE UPSTREAM SIDE OF WEST POINT ROAD, GRADING INTO CATTAIL MARSH, THEN SALICORNIA MARSH, ON THE DOWNSTREAM SIDE OF THE ROAD. SCOUR POOLS AT THE BASE OF THE ROAD CULVERTS ARE SURROUNDED BY CATTAILS/BULRUSH.

Threat: THREATENED BY HERBICIDE TREATMENT OF ROAD SHOULDERS.

General: 1 ADULT AND 1 SUB-ADULT OBSERVED ON 7 MAY 1999.

Owner/Manager: SMT COUNTY

Full Condensed Report - Multiple Records per Page
California red-legged frog
Half Moon Bay, Montara Mtn, San Mateo, Wood

RANA AURORA DRAYTONII (cont.)
CALIFORNIA RED-LEGGED FROG
Element Code: AAABH01022

-----List Status-----	NDDDB Element Ranks-----	-----Other Lists-----
Federal: Threatened	Global: G4T2T3	CDFG Status: SC
State: None	State: S2S3	

Occurrence No. 354	Map Index: 42675	---Dates Last Seen---	Lat/Long: 37°28'19" / 122°26'33"	Township: 05S
Occ Rank: Fair		Element: 2000-02-11	UTM: Zone-10 N4147195 E549278	Range: 05W
Origin: Natural/Native occurrence		Site: 2000-02-11	Precision: SPECIFIC	Section: 29 Qtr XX
Presence: Presumed Extant			Symbol Type: POINT	Meridian: M
Trend: Unknown			Radius: 80 meters	Elevation: 20 ft

Main Source: VONARB, R. 2000 (OBS)

Quad Summary: HALF MOON BAY (3712244/429B)

County Summary: SAN MATEO

SNA Summary:

Location: CALTRANS MITIGATION SITE, NEAR PILARCITOS CREEK, HALF MOON BAY.

-----Comments-----

Distribution:

Ecological: HABITAT CONSISTS OF A NEWLY-CREATED SEASONAL POND AT THE CALTRANS MITIGATION SITE. WASTEWATER TREATMENT PLANT FOUND TO THE NORTH AND AG CROPS TO THE SOUTH.

Threat:

General: RLF EGG MASS OBSERVED ON 11 FEB 2000.

Owner/Manager: CITY OF HALF MOON BAY

PETER S. BALFOUR, M.S.
Vice President/Principal Biologist

Mr. Balfour has over ten years of professional experience working with fauna and flora of various ecosystems in California. As principal biologist for ECORP Consulting, Inc., his responsibilities include biotic resource assessments, special-status species surveys, wetland delineations, impact assessments, mitigation habitat design, project management, report preparation, invertebrate and floristic identification, state and federal regulatory compliance, agency liaison, and supervision of biological staff. He has conducted and participated in numerous biological resource investigations, jurisdictional wetland delineations and Section 7 Consultations for public and private sector projects throughout much of California. While his areas of particular interest/expertise are entomology and herpetology, he is familiar with numerous special-status plant and wildlife species. He regularly conducts assessments of project requirements pertaining to the federal Endangered Species Act (ESA), and consults with federal agencies (i.e., U. S. Army Corps of Engineers and U. S. Fish and Wildlife Service) in obtaining compliance with Section 7 and Section 10 of the federal Endangered Species Act (ESA).

Mr. Balfour is certified by the Society of Wetland Scientists as a Professional Wetland Scientist (Certificate No. 000426), and by the U.S. Fish and Wildlife Service in Habitat Evaluation Procedure (HEP), and in the identification of California Anostraca (fairy shrimp) and Notostraca (tadpole shrimp). He is authorized under Federal Fish and Wildlife Permit No. TE012973-0 to work with federally-listed vernal pool branchiopod crustacea, as well as the giant garter snake (*Thamnophis gigas*) (federal-threatened).

Professional Experience

- Conducted and participated in numerous biological resource investigations, wetland assessments, and jurisdictional wetland delineations for proposed projects, including: public works projects, industrial and residential developments, due diligence analyses, golf courses, agricultural conversions, community Specific Plan developments, and mitigation sites. Projects have ranged in size from approximately five acres to 5,000 acres located within several California counties including Sacramento, Placer, El Dorado, Nevada, San Joaquin, Yolo, Stanislaus, Butte, Tehama, Merced, Solano, Sonoma, Napa, Contra Costa, Alameda, Yuba, and Calaveras County. Have conducted wetland determinations in the state of Colorado for the Colorado Department of Transportation. Global Positioning System (GPS) technology was used during several wetland delineations/determinations.
- Conducted numerous habitat assessments and determinate surveys for California- and federally-listed special status plant and wildlife species at several locations in California. Plants surveyed for include Orcutt grasses (*Orcuttia* sp.), Bogg's Lake hedge hyssop (*Gratiola heterosepala*), other vernal pool species, and species associated with serpentine-based (e.g. Gabbro) soils and coastal salt marsh habitats. Wildlife survey experience

includes several sensitive wildlife species, including various mammals {e.g. Preble's meadow jumping mouse (*Zapus hudsonius preblei*)}, reptiles {e.g., giant garter snake (*Thamnophis gigas*), Alameda whipsnake (*Masticophis lateralis euryxanthus*), and northwestern pond turtle (*Clemmys marmorata marmorata*)}, amphibians {e.g., California red-legged frog (*Rana aurora draytonii*), California tiger salamander (*Ambystoma californiense*) and western spadefoot toad (*Scaphiopus hammondi*)}, and invertebrates {e.g., various species of fairy shrimp (Anostraca), tadpole shrimp (Notostraca), and Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*)}.

- Regularly assist in assessment of project regulatory requirements pertaining to the federal Clean Water Act (Sections 404 and 401) governing wetlands and other Waters of the United States, and prepare necessary permit applications and other documentation. Authored or contributed to the development of Pre-discharge Notification documents and Individual Permits and applications.
- Regularly conduct assessments of project requirements pertaining to the federal Endangered Species Act (ESA) and consult with U. S. Fish and Wildlife Service to obtain compliance with Section 7 of the ESA. Develop necessary mitigation measures including Habitat Conservation Plans (HCP's) (Section 10 of the ESA) pertaining to federally-listed wildlife (i.e., Valley elderberry longhorn beetle). Liaison with agency personnel.
- Served as lead investigator (per Memorandum of Understanding with the California Department of Fish and Game) during a two-year determinate survey for the Alameda whipsnake (*Masticophis lateralis euryxanthus*) at the proposed 1,136+ acre Wiedemann Ranch Community development site, Contra Costa County, California. Coordinated and participated in trapping efforts during 1991 and 1992 totaling over 2,760 logged trap hours. Survey data were compiled and results summarized in annual reports which were submitted to the California Department of Fish and Game.
- Served as the principal investigator during a California Central Valley-wide fairy/tadpole shrimp survey involving nearly three thousand vernal pools and other seasonal water bodies, during 1993. The investigation consisted of literature review, compilation of survey efforts undertaken by others, and both locally intensive and regionally extensive field surveys conducted throughout portions of the Central Valley of California. The results of the study were published in *Documented distribution of California fairy shrimp and tadpole shrimp federally listed during 1994*. (Balfour and Freeman 1996).
- Conducted California red-legged frog site assessment investigations for several projects in California's Coast Range, Central Valley, and Sierra Nevada. Assessments have involved a comprehensive review of frog distributive data for the surrounding region and characterizations of the nature and extent of potential habitat areas in and around project areas. Designated as lead investigator for determinate survey efforts of potential habitat areas (when required by U. S. Fish and Wildlife Service).

- Managed and participated in herpetofauna/fish surveys within the Plumas National Forest. Surveys targeted California red-legged frog, mountain yellow-legged frog, foothill yellow-legged frog, western pond turtle, and hardhead minnow. Over 100 miles of stream were evaluated. Species locations were documented using Global Positioning System (GPS).
- Participated in the coordination and implementation of various special status species surveys conducted for fourteen participating project parcels within the 5,422 acre Sunrise-Douglas Specific Plan Area, Sacramento County, California. The survey, covering an estimated 3,334 acres of the Plan Area, involved a review of historical locality data and various reconnaissance surveys. Determinate field surveys for special-status invertebrates, amphibians, mammals, and plants were conducted over a period of several months between April 1992 and June 1993.
- Served as designated non-federal representative biologist for the Interstate Commerce Commission during Section 7 consultation proceedings associated with the proposed abandonment, by Southern Pacific Railroad, of approximately 19 miles of railway right-of-way (ROW), extending from Los Banos to Oxalis, California. Participated in a biological assessment of the ROW area, evaluating existing adjacent biotic resources and the extent of potential habitat for various special-status plant and wildlife species (including giant garter snake) known from the region. The assessment involved both photographic and field scoping reconnaissance of the project area, necessary for liaison with the U. S. Fish and Wildlife Service.
- Conducted special-status species surveys at Naval Communication Station (NCS) Stockton, located on Rough and Ready Island, Stockton, California. Ten field surveys for federally-listed giant garter snake (*Thamnophis gigas*) and Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) were conducted on the 1, 459-acre Rough & Ready Island property. The investigation included mapping of special-status species habitat, the characterization of onsite plant communities, and an inventory of all wildlife species encountered.
- Conducted revegetation monitoring, vegetation community mapping, and special-status species surveys at Naval Weapons Support Facility Seal Beach, Detachment, Concord, California, California between July and October, 1997, August and October, 1998, and July and October 1999. The investigations involved numerous field surveys to monitor remediated/revegetated pickleweed marsh, brackish marsh, and upland habitats. Four species of special-status coastal salt marsh plants were identified and their locations mapped. Special-status plant species included Suisun marsh aster (*Aster lentus*), Soft bird's beak (*Cordylanthus mollis* ssp. *mollis*), Delta tule pea (*Lathyrus jepsonii* var. *jepsonii*), and Mason's lilaeopsis (*Lilaeopsis masonii*). The investigation involved the mapping of over fifty (50) vegetation associations and use of Global Positioning System (GPS) technology to map special status species locations. Monitoring efforts included assessments of several vegetative parameters, soil chemical analyses, and soil moisture analyses.

- Assessed five separate properties in Sacramento, Placer, Sutter and Yuba Counties for potential to support a 20,000 person capacity amphitheater site for Bill Graham Presents. Wetland and special status species assessments were conducted for all five properties. Wetland boundary data at some sites were collected using Global Positioning System (GPS) technology. Interfaced with U.S. Army Corps of Engineers and Natural Resource Conservation Service in compliance with Section 404 of the Clean Water Act to obtain development clearance at 90 acre Yuba County site.
- Provided review/critique of impact assessments and collected and contributed biotic resource data for National Environmental Policy Act (NEPA) documentation (e.g., Environmental Assessments) and California Environmental Quality Act (CEQA) documentation (e.g., Environmental Impact Reports and Negative Declarations) for several projects throughout California.
- Coordinate project regulatory compliance specifically pertaining to California Fish and Game Code Sections 1600-1607 governing activities that may affect fish and wildlife habitats associated with streams, and have participated in the coordination and implementation of necessary mitigation measures.
- Participated in the implementation of mitigation wetland habitats for various projects within the North Central Roseville Specific Plan, Northwest Roseville Specific Plan and Southeast Roseville Specific Plan areas in Placer County, California. Field activities included supervision of habitat construction, and subsequent monitoring of vegetation and wildlife resources.
- Served as designated primary biologist for an on-call snake relocation service for the Intel Corporation and City of Folsom, California. Services included the capture and relocation of rattlesnakes and other species migrating away from construction activities at the Intel Corporation project site.
- Coordinated general invertebrate monitoring activities at numerous wetland mitigation monitoring sites since 1991. Coordinated and participated in the production of "90 Day/Annual Reports" specifically related to findings regarding the presence of listed branchiopods, in compliance with Federal Fish and Wildlife Permit.

Related Experience

- Have served as biologist guide for various state and federal regulatory agency personnel (e.g., California Department of Fish and Game, U. S. Fish and Wildlife Service, U.S. Army Corps of Engineers, and U. S. Environmental Protection Agency), leading tours at many Sacramento and Placer County wetland mitigation sites. Have served as biologist guide/educator for various educational events (e.g. City of Roseville and Sacramento County Creek Week events, USFWS-sponsored Duck Days and Stone Lake Refuge tours). Regularly train docents of the U. S. Fish and Wildlife Stone Lakes Wildlife Refuge in the identification of local amphibian and reptile species, and serve as a board member for the Stone lakes Wildlife Refuge. Member of the Roseville Creek Week Committee since inception (1997).

- Have assisted during small mammal trapping efforts on various occasions within the Mojave desert and other locations in California. Various rodents captured have included squirrels (*Citellus* sp.), western harvest mouse (*Reithrodontomys megalotis*), salt marsh harvest mouse (*Reithrodontomys raviventris*), deer mice (*Peromyscus maniculatus*), voles (*Microtus* sp.), woodrats (*Neotoma* sp.), and various heteromyids {e.g. pocket mice (*Perognathus* sp.), kangaroo mice (*Microdipodops* sp.) and various kangaroo rats (*Dipodomys* sp.)}.
- Employed as Entomology Museum Assistant by California State University, Sacramento during 1988 and 1989. Duties included the collection, identification and cataloguing of various entomological specimens for California State University, Sacramento.
- Have conducted sampling of aquatic macro-invertebrates using Rapid Bioassessment Protocols to document invertebrate composition.
- Served as volunteer for curation/organization of specimens for the Museum of Vertebrate Zoology, University of California, Berkeley.
- Assisted with herpetological field collections for the University of California, Berkeley.
- Assisted with fisheries surveys at California State University, Sacramento. Survey methods included electro-shocking, seining, and gillnetting.
- Have taught/lectured at several schools in Sacramento, Yolo, and Alameda Counties. Lectured, displayed various wildlife, and led discussions relating to various biological topics.

Education

- Master of Science, Biology, California State University, Sacramento, California.
- Bachelor of Science, Zoology, University of California, Davis, California.
- California Single Subject Teaching Credential (Clear) Biological/Life Sciences, California State University, Sacramento, California.

Publications/Presentations

- 2000, Balfour, P. S. and Eric W. Stitt. Documented Occurrence of an Introduced Population of the Southern Water Snake (*Nerodia fasciata*) in Northern California. (In Progress).
- 2000, Balfour, P. S. and Eric W. Stitt. Species Note: Predation by Bullfrog (*Rana catesbeiana*) on Larval California Tiger Salamander (*Ambystoma californiense*). (In Progress).
- 2000, Balfour, P. S. *Mitigation Banking Opportunities in the Greater San Francisco Bay Area*, CLE International Conference: "California Wetlands", San Francisco, California, August 15, 2000.

- 1999, Balfour, P. S. and Steven R. Morey. *Prey Selection by Juvenile Bullfrogs in a Constructed Vernal Pool Complex*. Transactions of the Western Section of the Wildlife Society, Volume 35:1999, pp. 35-40.
- 1999, Balfour, P. S. *Threatened and Endangered Species Mitigation through Programmatic Consultation*, CLE International Conference: "California Wetlands", Sacramento, California, August 13, 1999.
- 1996, Balfour, P. S. -- *Life history aspects of Edward's water penny beetle (Eubrianax edwardsii) (Le Conte) (Coleoptera: Psephenidae)*, Society of Wetland Scientists, 17th Annual Meeting, Kansas City, Missouri, June 9-14, 1996.
- 1996, Balfour, P. S. and Hal V. Freeman. *Documented distribution of California fairy shrimp and tadpole shrimp federally listed during 1994*. In Kent et. al 1996 *Western Wetlands, Selected Proceedings of the 1994 Conference of the Society of Wetland Scientists, Western Chapter*, at the University of California at Berkeley, September 18-20, 1994.
- 1995, Balfour, P. S. -- *Life history aspects of Edward's water penny beetle (Eubrianax edwardsii) (Le Conte) (Coleoptera: Psephenidae)*. Fall 1995, California State University, Sacramento. M. S. Thesis.

Technical Review Panels

Vernal Pool Ecosystem Recovery Team.

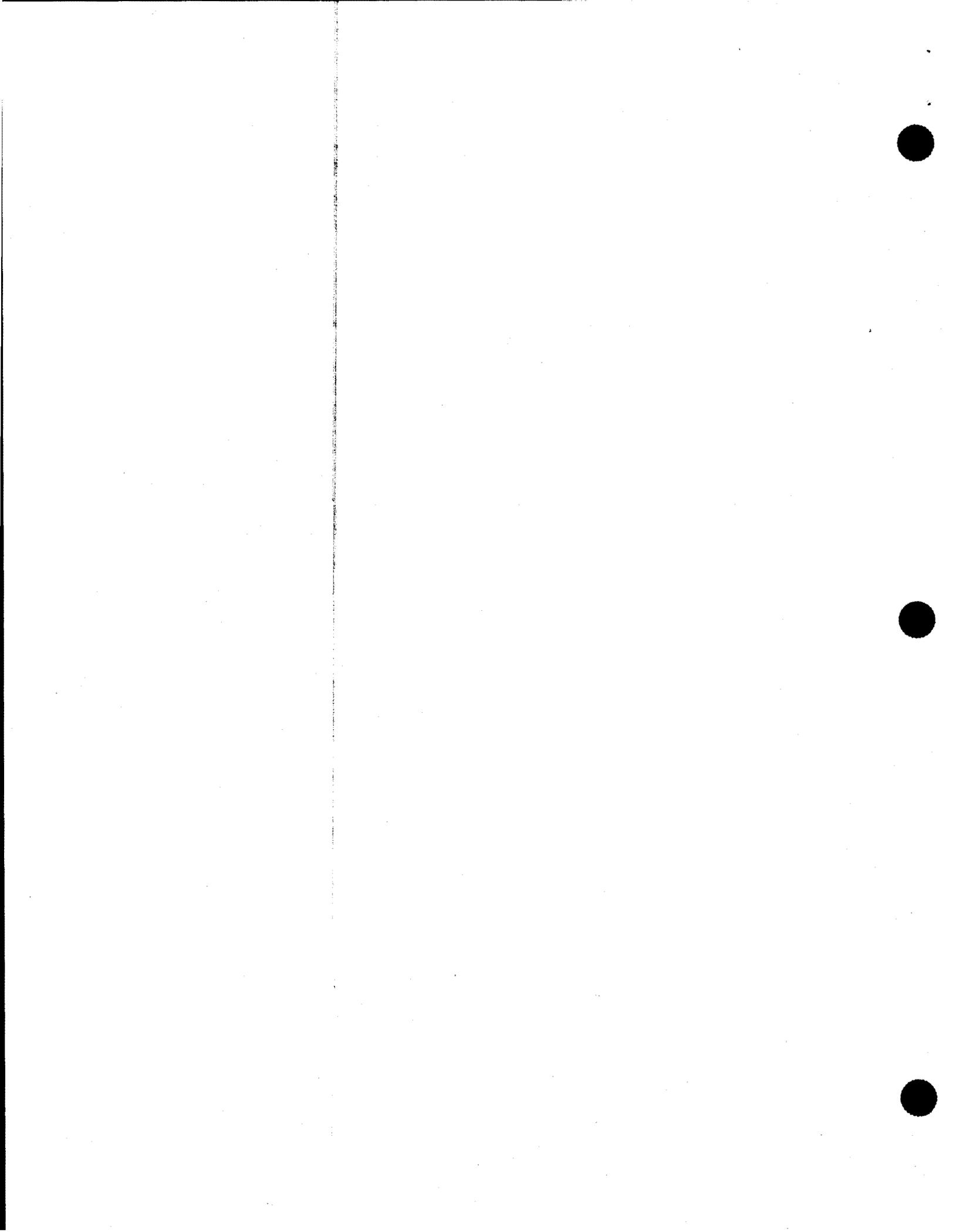
Served as a panel member on the Vernal Pool Ecosystem Recovery Team, an advisory team to the U. S. Fish and Wildlife Service charged with the responsibility of developing a Recovery Plan, the ultimate goal of which is the recovery of federally-listed plant and wildlife species associated with vernal pools and similar ephemeral ecosystems in California.

California Inland Invertebrate Working Group.

Currently a member of the California Inland Invertebrate Working Group, an apolitical organization comprised of individuals from the public and private sector. A policy of the group is the dissemination of information related to non-marine invertebrates in the state of California. The group collectively provided the U.S. Fish and Wildlife Service with technical comments/advice during the early development of vernal pool branchiopod survey protocols.

Certifications

- Society of Wetland Scientists, Professional Wetland Scientist (No. 000426).
- U. S. Fish and Wildlife Service, Habitat Evaluation Procedure (HEP).
- U. S. Fish and Wildlife Service, Identification/Collection of California Anostraca, Notostraca, and Giant garter snake (*Thamnophis gigas*) (Permit No. TE012973-0)
- International Society of Arboriculture, Certified Arborist (No. WC. 3289).
- Occupational Safety and Health Administration, "40-Hour HAZWOPER" training.
- Red Cross Cardiopulmonary Resuscitation (CPR) and First Aid Certification.



F6a

**City of Half Moon Bay
Appeal Number A-1-HMB-99-022
Ailanto Properties**

Attachment # 2

**Information submitted by the applicant and
received by the California Coastal
Commission on January 16, 2001**

(Colored versions of the habitat assessment and constraints analysis provided to
Commissioners and alternates.)

6



AILANTO PROPERTIES, INC.

ONE KAISER PLAZA / ORDWAY BUILDING / SUITE 1775
OAKLAND, CA 94612 • (510) 465-8888 • FAX (510) 465-5704

January 15, 2001

RECEIVED

JAN 17 2001

CALIFORNIA
COASTAL COMMISSION

Hand Delivered 1/16/01
Mr. Steve Scholl, Deputy Director
Mr. Chris Kern, Assistant Deputy Director
California Coastal Commission
45 Fremont Street, 20th Floor
San Francisco, CA 94105-2219

Re: Pacific Ridge at Half Moon Bay Subdivision,
Commission Appeal Number A-1-HMB-99-022

Dear Mr. Scholl and Mr. Kern:

We are transmitting to you herewith a further revised site plan and related project description material. As you recall, our project was heard for the second time on December 13, 2000. In that hearing, several concerns were raised by Commissioners. The enclosed material addresses these concerns and continues to meet and exceed all requirements of the Local Coastal program (LCP) for the City of Half Moon Bay.

Our primary response to the prior Coastal Commission staff reports continues to be our October 31, 2000 binder submittal and our December 6, 2000 response to the 11/28/00 staff report and they are incorporated herein by reference. In this letter we will speak to those issues that were raised by Commissioners in the December 13, 2000 hearing and that we believe would be addressed by the Commission's consideration of the enclosed plan.

Biology: ECORP Consulting, Inc. has completed a peer review for Ailanto Properties of the Biological Reports previously submitted to staff. Mr. Peter Balfour is a respected expert concerning California Red-Legged Frog (CRLF) and his report and resume is attached as **Exhibit A**. To prevent any fragmentation of the pond area and related sensitive habitats, the loop road and trail around the pond area have been deleted and the pond's buffer increased to 150-feet as required by the previous USFWS Biological Opinion. Only three lots touch this buffer. These additional buffers and migration corridors for listed species have increased the project open space (by more than 10 %) to 64% (73.7 acres) of the 115-acre project area. Roads are estimated to be 8% (9.3 acres) of the project area and the lots comprise 28% (32 acres). The impervious surface area has been reduced to approximately 15.6 acres, only 13.5% of the site area. (Down from 19.9%.) We propose to eradicate CRLF predator species in the pond as recommended by Mr. Balfour in his report and in the manner in which he describes.

In addition, Kelley & Associates Environmental Sciences, Inc. has completed their review of the willow trees that are associated with drainages 1 through 3. Mr. David

Mr. Steve Scholl
Mr. Chris Kern
January 15, 2001
Page 2 of 3

Kelley is a respected arborist with expertise in riparian vegetation. His report and resume is attached as **Exhibit B**. In accordance with Mr. Kelley's findings and recommendations, the project plans fully adhere to the LCP buffer guidance in drainages 1 and 3. The proposed bridge crossing of drainage 2 would impact 5 to 7 LCP-jurisdictional Arroyo Willows. This relatively minor impact is proposed to be fully offset through implementation of riparian corridor enhancement (new willow plantings) in presently unvegetated segments of drainage 2. As a result, the project will avoid any significant adverse effects of Environmentally Sensitive Habitat Areas (ESHA) within or approximate to the site.

Project Layout: The project is now even more clustered, contains slightly smaller lots and has been reduced by another 6 units. Under the revised plan, the project includes 139 single-family homes of which ten percent would be offered at below market rate. The density of the project has now been reduced to an incredibly low 1.21 units/acre. Enclosed please find a revised Illustrative Landscape Plan (**Exhibit C**), Site Plan (**Exhibit D**) and Subdivision Lot Map (**Exhibit E**) which detail this new layout. As a major enhancement, please note that the project plans require only three bridge crossings now in lieu of the six shown in the prior plan.

Grading and Drainage: The project grading requirements have been substantially reduced. A revised Preliminary Grading Plan has been attached as **Exhibit F**. Approximately 96,600 cubic yards are required to be cut and 96,600 cubic yards for fill; therefore, a balanced grading concept is maintained. (The prior plan required 192,000 cubic yards of cut and 192,000 cubic yards of fill.) Areas of cuts and fills are shown with the area of maximum cut and maximum fill noted. All lots are proposed to be graded away from the pond and drainages for maximum water quality protection. All other water quality measures remain as described to you in our previous correspondence. A concrete V-ditch, of which details were previously submitted to you, is still necessary for protection of the homesites located below the easterly hills. Consequently, this will be installed just east of lots 14 through 18 and another just east of lots 86 through 92. This hillside runoff will be diverted to drainage 1 and 2. The v-ditch will not be visible to the public or the homes below.

One significant and beneficial infrastructure change is the deletion of all storm water drainage work at the pond. In keeping with the biology requirements, we no longer propose any permanent facilities at the pond and grading work will not be required there. Also, we have deleted the community garden concept. A water pump at the pond for irrigation purposes is no longer required or proposed.

Water: Anna Shimko of Cassidy, Shimko and Dawson has addressed the question of water connections in **Exhibit G**. This exhibit also attaches our water contract with the water district and their 3/31/91 letter to Coastal Commission confirming our 223 water connections.

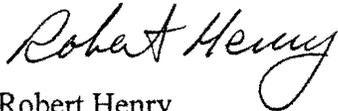
Mr. Steve Scholl
Mr. Chris Kern
January 15, 2001
Page 3 of 3

Traffic: The proposed reduction in density will further decrease traffic impacts by another 4.1 percent. Our previously submitted traffic mitigation measures are incorporated by reference.

Miscellaneous: Also incorporated by reference, is our December 6, 2000 Proposed Special Conditions of Approval, which, if adopted by the Commission, would further modify the project description.

Ailanto Properties, Inc. appreciates this opportunity to address these questions and concerns raised at the December hearing. We are available to meet with Commission staff to discuss any of the scientific, technical, or legal matters addressed herein. Please call me if you have any questions about this material or if you would like to schedule such a meeting.

Sincerely,



Robert Henry
Project Manager

Cc: Albert Fong, President, Ailanto Properties, Inc.
✓ Peter Douglas, Executive Director, California Coastal Commission
Ralph Faust, Esq., Chief Counsel, California Coastal Commission
Blair King, City Manager, City of Half Moon Bay
Anna Shimko
Nancy Lucast
Tom Gwyn
William Rutland
Norbert Dall
Stephanie Dall

DAVID B. KELLEY
Consulting Plant and Soil Scientist

15 January 2001

Mr. Robert Henry
Ailanto Properties, Inc.
One Kaiser Plaza
Ordway Building, Suite 1775
Oakland, California 94612
TEL: 510-365-8888
FAX: 510-465-5704

RE: Resource Issues at Pacific Ridge
Half Moon Bay, California

Dear Mr. Henry:

Per your recent request, I have performed a focused field review and resource assessment along the drainages and across the remainder of the landscape of the proposed Pacific Ridge project in Half Moon Bay. I have visited the site several times and traversed the five drainages which extend from the terrace/hillslope rises on the eastern side of the property across the property to the west, and I have examined the mapped wetlands, the large pond, and other landscape and biological features of the site. I have paid particular attention to the tree resources of the site and will provide below a brief discussion of the results of my site reviews.

In addition to my field reviews of trees and drainages, I have helped coordinate an examination of the site with regard to amphibian and reptile resources and helped to develop resource utilization plans and a habitat constraints assessment of the site. That work is fully discussed in the attached report (prepared by Peter Balfour).

Kelley & Associates Environmental Sciences, Inc.
216 F Street #51 • Davis, California 95616
TEL: 530-753-1232 • FAX: 530-753-2935 • E-mail: dbkelley@jps.net

DAVID B. KELLEY
Consulting Plant and Soil Scientist

Willows

As I previously reported to you, I performed a focused arboricultural/botanical assessment of three mixed stands of willows (*Salix* spp.) and other tree species occupying the three southernmost drainages of the site (for identification purposes, I will refer to them as the south, central, and north drainages). I present below an assessment of the willow trees occurring along those modified drainages. The information presented below is a slight revision and expansion of my previous report to you.

In order to try to identify to species the willows growing on the property, I examined the trees in the field and reviewed several reports and standard taxonomic treatments of the genus. There appear to be at least two species growing on the property and possibly a third species growing just west of the property line. One species was still in leaf at the times of my visits (in November and December 2000 and in January 2001) and one has lost its leaves. As of the time of my most recent visit (13 January 2001), the leafless species exhibits some bud break (primarily leaf buds and male flowers) in its upper branches. The fully-leafed species (though it remains in the initial stages of leaf senescence) shows no bud swelling or bud break. The two species on the property are distinguishable from a distance (because of the differences in leaf loss and differences in habit) and are generally growing in unmixed stands in separate reaches of the drainages.

I reviewed a short taxonomic analysis of the willows prepared by Eva Buxton and Steve Foreman of LSA Associates (copy attached). Ms. Buxton noted many of the same differences I have described above and performed a fairly complete taxonomic review of the members of the genus found along the Central Coast, including reviews of currently accepted and widely used floras of the area. Her conclusions were that there are two

DAVID B. KELLEY
Consulting Plant and Soil Scientist

species of willows onsite, *Salix lasiolepis* (Arroyo willow) (sic) and *S. scouleriana* (Scouler willow) (sic). She based her conclusions primarily on an examination of vegetative parts of the plants and on her literature review. I have examined those willows in light of her conclusions, and I have consulted several other literature sources and discussed the taxonomy of the trees with other persons with local familiarity with the Half Moon Bay flora.

My own conclusions are essentially the same as hers, and I agree that there are two species of willow on the site. The arroyo willow, *S. lasiolepis*, occurs, as she indicated, along the eastern end of the south drainage, at the eastern and western ends of the central drainage, and along the upper (eastern) end of the north drainage. The largest stands of willows on the site--occupying the middle portion of the central drainage and the western end of the truncated eastern reach of the northern drainage--are another species of willow, probably Scouler's willow (*S. scouleriana*). The attached map illustrates the distribution of these trees along the drainages on the site.

Drainages

There are five drainages cutting across the property, running east-west. The two northernmost drainages debouch along the eastern edge of the northern portion of the property and will not be discussed further in this report. The three southern drainages have apparently been modified and channelized. The willows found in and along the margins of the drainage channels appear to have been planted along those channels within the last 40-50 years (a common bank stabilization practice in the region) and some are naturalized (regenerated from naturally dispersed seed). Channel morphologies, especially of the central drainage, are characteristic of artificial channels--they are

DAVID B. KELLEY
Consulting Plant and Soil Scientist

straight, deep, occasionally interrupted (non-continuous across the property) and, in some cases, show evidence of bank augmentation and fencing. The westernmost ends debouch into offsite channels or drop structures which have been modified to accept runoff waters. All three carry runoff waters generated upslope of the more-or-less flat (gently sloped) pastures through which they run.

South Channel

This channel is roughly continuous across the property (although the central portion of it has no bed-and-bank configuration and is used as a roadway access from the southernmost pasture north to the next adjacent pasture) and supports willows in the upper end, eucalypts (*Eucalyptus* spp.), Monterey cypress (*Cupressus macrocarpa*), Monterey pine (*Pinus radiata*), poison oak (*Toxicodendron diversilobum*), and other understory species. The willows, eucalypts, cypresses, and pines appear to have been planted in this drainage and are probably naturalized. The willows, while not in flower at the times of my visits and therefore not definitively identifiable, appear to be the arroyo willow, *Salix lasiolepis*.

Central Channel

This channel supports two species of willows of varying age and habit. The very straight channel would more appropriately be termed a ditch and is interrupted by a couple of vehicle and cattle crossings (probably culverted in the past). The willows growing on either end of the central drainage are probably arroyo willows. The willows occupying the middle reach (about 80% of the total length of the drainage) are not arroyo willows. Runoff water from its offsite (upslope) watershed has been diverted on the adjacent property at the fenceline and no longer enters the channel.

DAVID B. KELLEY
Consulting Plant and Soil Scientist

North Channel

This channel has been truncated in the center. The eastern reach has banks which have been greatly modified (especially the south bank, which has been augmented with soil materials, to the point of partially burying fence posts along the lower reaches of this portion of the drainage) and the trees appear to have been planted along its banks. The willows of the western 85 feet or so of this eastern reach of the channel appear to be Scouler's willows. The upper end (easternmost reach) of this section of the channel to the eastern fence line is occupied by arroyo willows and other shrubs and trees.

Riparian Issues

The drainages do not support riparian vegetation communities typical of the central coast. The stands of trees are probably horticultural (planted for bank stabilization and pasture segmentation purposes) and are in any event of low plant diversity. The drainage channels experience only episodic saturation from rainstorm runoff and do not carry water during times between storms. The vegetation communities of the channels are depauperate and provide little habitat for native animals.

Impacts and Protections

In their current configurations, the drainages discussed are interrupted at several points where they are crossed by ranch (dirt) roads or otherwise brought to grade. If development proceeds, developed crossings for paved roads will take advantage of these crossings. The tree corridors lining these drainages will be protected by setbacks and where the drainages are bordered by houses or other infrastructure, the buffers will be demarcated by "frog walls" designed to prevent movement of amphibians and reptiles out of the drainage corridors (see the attached Balfour discussion). All drainages should

DAVID B. KELLEY
Consulting Plant and Soil Scientist

become part of an active habitat and runoff waters management system with appropriate debris traps and maintenance. Crossings should be either arched culverts or bridges to minimize impacts to vegetation, animal movement corridors, and water passage.

South Drainage

There is one proposed crossing near the lower end of the southern drainage. This crossing will take advantage of the current crossing configuration and there are no anticipated impacts to tree or other biological resources. An arched culvert or low bridge would be appropriate for this crossing.

Central Drainage

A crossing of this drainage at its lower end could result in the loss of 5-7 willows and associated understory plants. This impact should be mitigated by planting replacements at a similar density or transplanting the impacted trees into unoccupied reaches of the drainage. A bridge crossing of the drainage will allow the flow of water and the movement of animals along the drainage. The bridge abutments should be constructed outside the dripline of existing trees along the drainage.

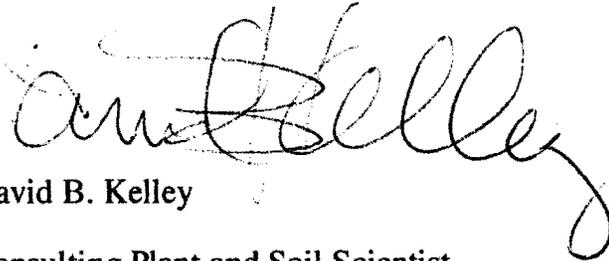
North Drainage

The portion of this drainage to be crossed supports an almost pure stand of eucalypts. This drainage should be bridged where a crossing is desirable. It is possible that the removal of 2-3 eucalypts and a crown reduction of the remaining eucalypts of the corridor should be undertaken. Bridge abutments should be outside the dripline of the remaining trees.

DAVID B. KELLEY
Consulting Plant and Soil Scientist

Please let me know if I can provide further details on the information I have provided here. I have other maps and photos of the site and will be happy to provide those to you if you need them.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "David B. Kelley". The signature is written in black ink and is positioned above the typed name and title.

David B. Kelley

Consulting Plant and Soil Scientist

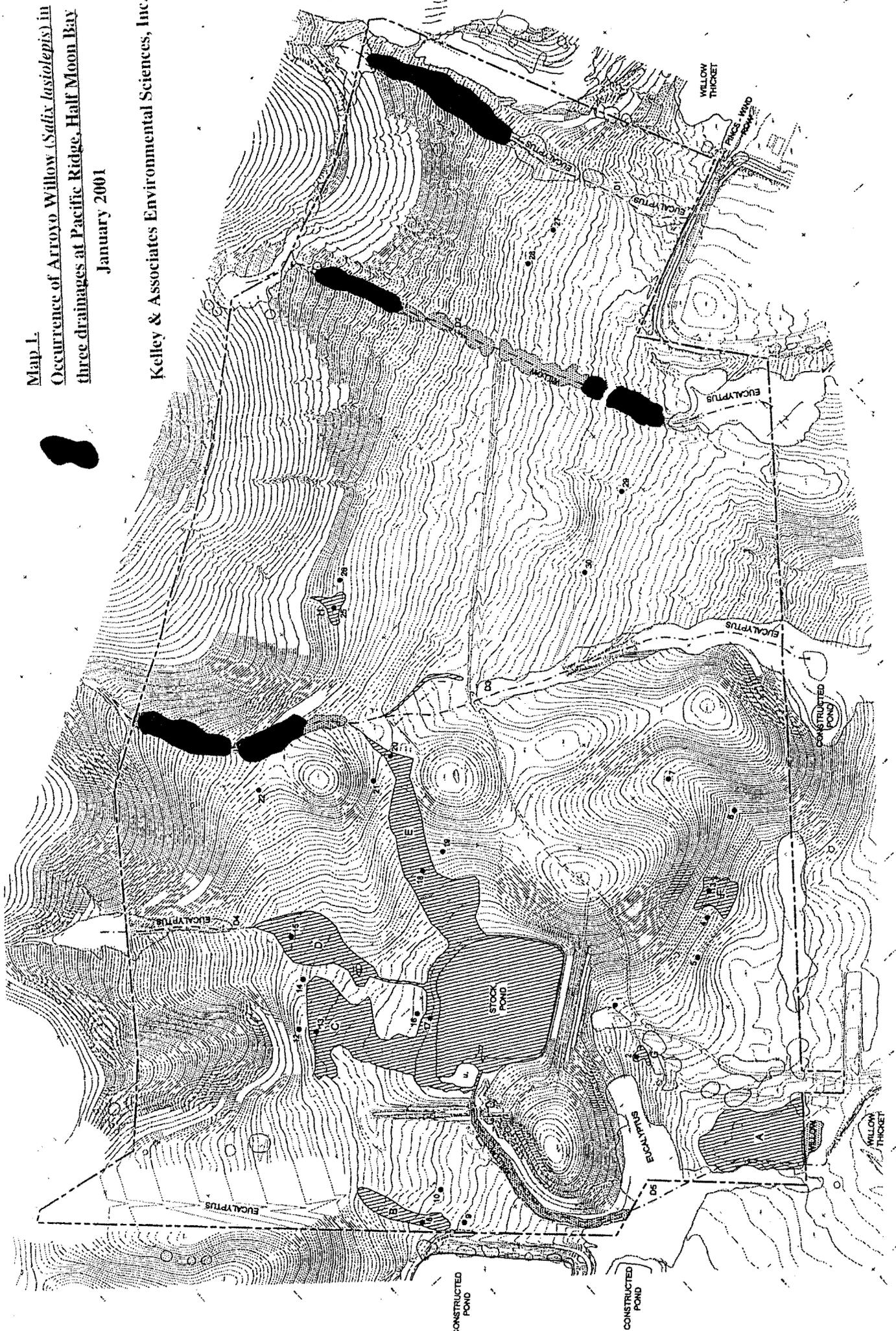
Attachments

Map 1.

Occurrence of Arroyo Willow (*Salix lasiolepis*) in
three drainages at Pacific Ridge, Half Moon Bay

January 2001

Kelley & Associates Environmental Sciences, Inc.



MEMORANDUM

DATE: October 13, 2000

TO: Robert Henry, Ailanto Properties

FROM: Steve Foreman

SUBJECT: Willows at Pacific Ridge at Half Moon Bay

The Half Moon Bay Local Coastal Program (LCP) Land Use Plan (LUP) defines riparian corridors by the "limit of riparian vegetation (i.e. a line determined by the association of plant and animal species normally found near streams, lakes, and other bodies of fresh water: red alder, jaumea, pickleweed, big leaf maple, narrow leaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder)." The LUP further states that riparian corridor "must include at least a 50% cover of some combination of the plants listed."

The visual appearance and vegetative characteristics of the willows along the drainage courses on the property suggest the presence of more than one species of willow. Most of the willows have leaves with a light green to blueish color while others have leaves with a much darker green color. There are also differences in leaf shape between the two willows. In September 2000, I collected representative samples from three of the lighter green willows (two trees on along the lower 85 feet of willows along Drainage 3 and one from the central portion of Drainage 2) and two samples from the darker green appearing willows (both along the upper portions of willows on Drainage 3). Eva Buxton, LSA Staff Botanist (resume attached) analyzed the samples for identification. The following summarizes our analysis.

Five native species of willow, Arroyo willow (*Salix lasiolepis*), Scouler willow (=Nuttall willow) (*S. scouleriana*), silky (Coulter's) willow [*S. sitchensis* (= *S. coulteri*)], red willow (*S. laevigata*), and yellow willow [*S. lucida* ssp. *lasiandra* (= *S. lasiandra*)] grow sympatrically (in the same geographical region) along watercourses in this portion of the central California coastline. The primary distinguishing characteristics by which species are separated are floral characteristics. At the time of collection of the material at the Pacific Ridge property in the middle of September, such characters were not present and next year's floral structures were too immature for positive species identification. Thus, determination to possible species (of the material collected) must be based on vegetative characters only.

In addition to LSA's familiarity with willows in the general region of the Pacific Ridge site, several floristic manuals were used in an attempt to identify the willows: *The Jepson Manual: Higher Plants of California* (Hickman 1993); *Pacific Coast Trees* (McMinn and Mano 1980); *Flora of the Santa Cruz Mountains* (Thomas 1961); *Illustrated Flora of the Pacific States* (Abrams 1940); and *A California Flora and Supplement* (Munz and Keck

1968). Of these manuals, only *The Jepson Manual* contains a key to 'vegetative plants'; keys in the remainder of the manuals base separation on floristic structures (male and female parts).

Three of the willow species listed above can be ruled out: red willow has bud scales that are free and overlapping, those of the collected specimens are fused; the twigs of yellow willow are smooth and yellow, those of the collected specimens are brownish and rough; and the leaves of silky willow are densely silky-villous. The collected willow specimens are either glabrous (non-hairy) or pubescent.

While positive identification of the specimens is not possible at this time, the following observations and conclusions can be made.

The darker green willows present as individuals along the upper portion of Drainage 3 (beginning approximately 85 feet upstream of the existing diversion point/proposed loop road crossing) are arroyo willow. ^{Arroyo} The leaves of this species are mostly narrow, 1-2 cm wide and 6-10 cm long, mostly glabrous (non-hairy) when mature, green above and glaucous (covered with a white waxy powder) below. Young leaves are often have short-tomentose on the underside, but the hairs disappear as the leaf matures. These vegetative characteristics fit these characteristics.

The leaves of other, lighter green trees (in the lower 85 feet of Drainage 3, interspersed on upper Drainage 3, and the majority of the trees along Drainage 2) exhibit a mix of leaf shapes, most of which are broader, 2-2.5 cm, and shorter, 3-5 cm, than those of a typical arroyo willow, although some leaves were 6-8 cm. All of the lighter green leaves also have a relatively dense white and rust-colored pubescence on the underside of mature leaves. This pubescence is lacking on the darker green willows. The leaf characteristics (broader and shorter, and rust-colored pubescence) of the lighter green willow are more typical of Scouler willow. ^{Scouler} Furthermore, in mature (not available) female parts, the ovary is glabrous in arroyo willow and silky in Scouler willow. When viewed through a dissecting scope, the ovaries of the lighter green colored willows appear silky pubescent. The ovaries of the darker green willows were glabrous. However, it is possible that the pubescence in the lighter green willows may become glabrous as the part elongates and matures.

While positive identification is not possible without floral parts, the differences in leaf color, leaf shape, and ovaries indicate two different willows are present: Arroyo willow (darker green willows) and another unidentifiable species (likely Scouler willow). Leaves on the lighter green trees exhibit a mix of leaf shapes on the same tree: broader and shorter leaves mixed with somewhat longer and elliptical leaves, but not as long as is typical for arroyo willow. These mixed leaf characteristics of the lighter green willows are intermediate between the two typical leaf shapes (lanceolate-elliptic to oblanceolate in arroyo willow and oblanceolate to narrowly elliptic in Scouler willow), leaf lengths and widths, and amount

and kind of pubescence discussed above. These intermediate characteristics suggest the possibility of hybrids of Scouler and arroyo willow. Different willow species will commonly hybridize when they occur in proximity to each other

On the upper portion of Drainage 3, the first tree with the definitive characteristics of arroyo willow occurs about 85 feet upstream of the proposed road crossing and the downstream end of the willows. The willows along the lower 85 feet of the drainage and the majority of the willows along drainage 2 are the lighter green appearing trees which have the intermediate leaf shapes characteristics and the dense white and rust-colored pubescence on the underside of mature leaves. These characteristics indicate the presence of the Scouler willow or at least hybrids of Scouler and arroyo willow, plants not listed in the LCP riparian corridor definition. No other plants listed in the definition are present in the understory along Drainages 2 and 3 or on the property.

DAVID B. KELLEY

CONSULTING PLANT AND SOIL SCIENTIST

As a consulting plant and soil scientist with almost 20 years of professional experience, David B. Kelley has performed a full range of consultation services in earth, agricultural, and environmental sciences for a wide variety of clients. He has extensive domestic and international experience in projects and litigation involving wetland delineation, permitting, mitigation, and restoration; agronomic and arboricultural assessment; soil, water, and plant resource analysis; soil and water quality; land capability assessments; soil mapping and agricultural development; erosion control design and mine reclamation; and environmental restoration. He is president of K&AES, Inc., an environmental consulting firm, and of Tuscan, Inc., a private, non-profit wetlands mitigation corporation. Project descriptions, references, and a list of publications are available upon request.

Professional Registrations and Experience

Certified Professional Wetland Scientist #748

Society of Wetland Scientists

Professional Soil Scientist #123

Professional Soil Scientists Association of California

Research Scientist/Lecturer

Soil, Plant, and Water Science 1974-2000

University Extension, University of California, Davis

Botany, Zoology, Range Science 1969-1974

Texas Tech University

International Agricultural Development

North, Central, and South America, 1980-2000

Education

B.Sc., Zoology

Texas Tech University, 1970

M. Sc., Botany

Texas Tech University, 1974

Ph.D. Cand., Plant Physiology/Soil Science

University of California, Davis

Work/Project Experience

Investigation and consultation on over 500 wetland delineation and habitat restoration projects, wildlife habitat restoration, land-use assessments, legal issues, agricultural and land development projects, resource impacts, and landscaping and arboricultural issues in the United States and other countries.

Court-qualified expert witness and litigation consultant and a career-long involvement as a wetland scientist and consulting soil scientist/agronomist and agricultural land assessment expert for projects in North, Central, and South America (including Mexico, Belize, Guatemala, Venezuela, Ecuador, Peru, and much of the United States) and Southeast Asia (the Philippines).

Publications and Presentations

Over 25 publications on various aspects of wetland science, soil and water science, plant and range science, and agricultural issues.

Frequent presentations to scientific societies and congresses on wetland science and environmental restoration, soils and land use assessment, mine reclamation, tree and orchard problems, range science, soil geomorphology, soil and water conservation, watershed management, and agricultural science.

Numerous seminars to attorneys, insurance companies, developers, and public agencies on wetland delineation and permitting, environmental restoration, natural hazards, soil and water quality issues, toxic wastes, reclamation/revegetation of disturbed sites, erosion control, vegetation management, and conservation issues.

Teacher and coordinator of professional plant and soil science short courses on natural and agricultural resource topics--soil science and geomorphology, wetland science, expert witness and litigation consultation, agricultural soil and land capability, ecological restoration, erosion control, agricultural development, agricultural and arboricultural science, environmental regulation, stream restoration, watershed management, and others.

Consultation Services in Earth, Environmental, and Agricultural Sciences

216 F STREET #51, DAVIS, CA 95616

TEL: 530-753-1232 • FAX: 530-753-2935 • dbkelley@jps.net

DAVID B. KELLEY

Consulting Plant and Soil Scientist

David B. Kelley is founder and president of Kelley & Associates Environmental Sciences, Inc., an earth, environmental, and agricultural sciences consulting firm, and of Tuscan, Inc., a non-profit wildlands management organization, and has been a consultant on environmental resource issues and arboricultural and agricultural matters for about 20 years. He is a registered professional soil scientist, a certified professional wetland scientist, and an arborist. As a practicing plant and soil scientist and arborist, Mr. Kelley performs specialized analyses of arboricultural issues, agricultural land assessments, wetland systems, range and timberland restoration, and vegetation management and is a specialist in working with disturbed sites. He has developed and teaches training courses for private- and public-sector arboriculture, agriculture, and biology professionals and has prepared several books and publications for those classes. He is often involved in litigation consultation, analysis, and testimony on tree and soil issues, land resource interpretations, rangelands, and orchard and field crop problems. He has worked in most of the U.S. and North America, Belize, Mexico, Venezuela, and Peru.

In addition to designing and implementing several large-scale environmental restoration projects in urban and agricultural settings, Mr. Kelley is a specialist in the relationships of trees, windbreaks, crops, and soils; soil science and soil geomorphology; and in most aspects of wetland delineations, agricultural development projects, and regulatory permitting. He has permitted many mitigation projects designed to compensate for impacts to wetlands, trees, and other natural resources and has been directly responsible for numerous resource surveys and environmental constraints analyses. Among other projects, his firm has created a large off-site wetlands mitigation preserve in Butte County, encompassing natural and created vernal pool wetlands and plantings of an endangered species of vernal pool plant; designed, permitted, and developed as a mitigation project a 254-acre preserve in Yolo County incorporating a large oxbow lake built as mitigation for loss of riparian habitat on the Sacramento River; designed restoration/reclamation plans for several sand and gravel mines in Northern California; designed a native plant community/endangered species habitat restoration effort for a marina and roadway project in southern California; and performed resource surveys and mitigation planning for projects ranging in size from 2 to 12,700 acres throughout California.

KELLEY & ASSOCIATES ENVIRONMENTAL SCIENCES, INC.

216 F STREET #51 • DAVIS, CALIFORNIA 95616

TEL: 530-753-1232 • FAX: 530-753-2935

dbkelley@jps.net

DAVID B. KELLEY
CONSULTING PLANT AND SOIL SCIENTIST

SELECTED PUBLICATIONS

- Kelley, D. B. 2000 (in press). **Tree roots and soils of the Davisville landscape: soil compaction, root distribution, and the soil landscape.** In: **Strategies to Reduce Infrastructure Damage by Tree Roots. A Symposium for Researchers and Practitioners.** University of California, Davis.
- Hobson, W. A., R. A. Dahlgren, and D. B. Kelley. (In preparation) **Aquic conditions and hydric soils along four vernal pool catenas, Northern California.** 27 pp.
- Kelley, D. B. November, 2000. **Soil and Water Quality Issues, Northern Salinas Valley, Monterey County, California.** Tanimura & Antle, Inc., Luhdorff and Scalmanini, Inc., and K&AES, Inc., Davis, California. 26 pp., plus exhibits.
- Kelley, D. B. (ed.) 2000. **Strategies to Reduce Infrastructure Damage by Tree Roots. Field Trip Guidebook.** University of California, Davis. 22 pp.
- Kelley, David B. 2000. **Site evaluation and soils.** In: **Techniques and Strategies for Using Native Grasses and Graminoids in Restoration Projects. A CNGA Training Workshop Manual.** California Native Grass Association, Davis, California.
- Kelley, D. B., V. P. Claassen, and J. Haynes. 2000. **Reading the soil landscape.** In: D. B. Kelley (ed.) **Soils: Evaluation and Remediation. Caltrans Training Course Manual.** California Department of Transportation, Sacramento; University of California, Davis; and K&AES, Inc., Davis. Pp. 1-18.
- D. B. Kelley (ed.) **Soils: Evaluation and Remediation. Caltrans Training Course Manual.** California Department of Transportation, Sacramento; University of California, Davis; and K&AES, Inc., Davis. 71 pp.
- Kelley, D. B., R. C. Herriman, R. A. Dahlgren, and V. P. Claassen. 2000. **Assessment of Agricultural Soils II: Soils of Trees, Vines, and Other Perennials.** University of California University Extension, Davis. 91 pp., plus exhibits.
- Kelley, D. B., R. C. Herriman, and R. A. Dahlgren. 1999. **Assessment of Agricultural Soils and Land Capabilities: The Basics.** University of California University Extension, Davis. 158 pp., plus exhibits.
- Kelley, D. B., and R. C. Herriman. 1997. **Soil Geomorphology and Ecological Restoration.** Society for Ecological Restoration and K&AES, Inc., Davis, CA. 185 pp.

DAVID B. KELLEY
CONSULTING PLANT AND SOIL SCIENTIST

SELECTED PUBLICATIONS (continued)

- Kelley, D. B., and R. C. Herriman. 1995. **Vernal Pool Wetlands and the Soil Landscape: An Introduction to Soil Geomorphology**. US Fish and Wildlife Service and K&AES, Inc., Davis, CA. 78 pp., plus exhibits.
- Kelley, D. B., and R. C. Herriman. 1994. **Wetland Soil Geomorphology**. Society of Wetland Scientists/K&AES, Davis, CA. 171 pp.
- Kelley, D. B., and G. Begg (eds.) 1989. **Field Identification of Hydric Soils**. Field Guide and Road Log. Professional Soil Scientists Association of California. 89 pp.
- Kelley, D. B. 1984. **Halophytes as rangeland resources**. California Agriculture 38(10): 26-29.
- Kelley, D. B. 1982. **Salt-affected rangelands: potential for productivity and management**. In: A. San Pietro (ed.) **Biosaline Research. A Look to the Future**. Plenum Publishing Corp., New York. Pp. 507-510.
- Rush, D. W., D. B. Kelley, R. Richards, J. D. Norlyn, R. W. Kingsbury, and G. A. Cunningham. 1981. **Salt-tolerant crops. Solution to a complex problem**. Crops and Soils. October, 1981:12-16.
- Kelley, D. B., J. R. Goodin, and D. R. Miller. 1980. **Biology of *Atriplex***. In: D. N. Sen and K. S. Rajpurohit (eds.) **Tasks for Vegetation Science. Vol. 2**. Dr. W. Junk, Publishers, The Hague, The Netherlands. Pp. 79-107.
- Epstein, E., J. D. Norlyn, D. W. Rush, R. W. Kingsbury, D. B. Kelley, G. A. Cunningham, and A. F. Wrona. 1980. **Saline culture of crops: a genetic approach**. Science 210:399-404.
- Kelley, D. B., J. D. Norlyn, and E. Epstein. 1979. **Salt tolerant crops and saline water: resources for arid lands**. In: J. R. Goodin and D. K. Northington, (eds.) **Arid Land Plant Resources**. Texas Tech University Press, Lubbock. Pp. 326-334.
- Epstein, E., G. A. Cunningham, D. B. Kelley, R. W. Kingsbury, J. D. Norlyn, D. W. Rush, and A. F. Wrona. 1978. **Crop Production in Arid and Semi-Arid Regions Using Saline Water**. University of California, Davis. 151 pp.
- Kelley, D. B. 1974. **Salinity Effects on Growth and Fine Structure of *Atriplex halimus* L.** M. S. Thesis. Texas Tech University, Lubbock. 70 pp.

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Page 2

Exhibit G



A PROFESSIONAL CORPORATION

CASSIDY
SHINKO
DAWSON

January 15, 2001

Robert Henry
Construction Manager
Ailanto Properties, Inc.
One Kaiser Plaza
Ordway Building, Suite 1775
Oakland, CA 94612

Re: Ailanto's Rights to Connect to and Receive Service from the Coastsidc County
Water District

Dear Bob:

As you know, at the December 13, 2000 meeting of the California Coastal Commission, some Commissioners raised the question whether the Coastsidc County Water District (the "District") is willing and able to provide water service to support development of your property for residential use (the "Project"). Specifically, you were asked whether Ailanto had obtained a "will serve" letter from the District. Subsequent to that hearing, we have reviewed your Water Service Connection Purchase Agreement, as well as other relevant District documents, and have analyzed pertinent legal authorities. Based on such analysis and as described below, Ailanto has an absolute, contractual right to connect with the District's system and to receive water for the Project from the District. Such very clear legal right is much more than a "will serve" letter from the District would convey. In light of your binding contracts with the District, it is unquestionable that the Project will have adequate water service.

As stated in California Law and Water Policy (Slater, 2000, LEXIS Publishing), section 14.09, "Although a customer within a validly designated service area may compel the provision of water service, the potential customer does not possess a vested property right to future service. *The existence of an express contract would change the result.*" (emphasis added) Water districts may enter into binding agreements to allow connections to their water systems and to provide water, and the behavior of the contracting water districts is thereafter dictated by the terms of such contracts. Louisiana-Pacific Corp. v. Humboldt Bay Municipal Water District (1982) 137 Cal. App. 3d 152 (district bound by agreements to provide water at a certain rate); American-Hawaiian Steamship Co. v. Home Savings & Loan Assn. (1974) 38 Cal. App. 3d 73, 80 (water district ordinance created a contract with five landowners for a water system); see also, Marin Municipal Water District v. KG Land California Corp. (1991) 235 Cal. App. 3d 1652, 1665-1666 (district properly concluded that reducing its existing commitment to serve future development at Hamilton Air Force Base was not a feasible alternative to imposing a moratorium on new water service connections since such commitment was contractual). On the other hand, a letter from a

Robert Henry
January 15, 2001
Page 2

water district indicating that the district "will serve" certain land with water and sewer service is not necessarily a binding commitment by the district to furnish such services. Winnaman v. Cambria Community Services District (1989) 208 Cal. App. 3d 49, 57-58.

In your case, Ailanto has very definitive contractual rights to water service, and the District could not abrogate such enforceable rights without redress. As you are aware, Ailanto and the District entered into a Water Service Purchase Agreement, which, together with the Addendum to Water Service Purchase Agreement, became effective on February 10, 1988 (collectively, the "Agreement"; see Exhibit A hereto, February 29, 1988 letter from the District with the Agreement attached thereto). In the Agreement, Ailanto committed to pay \$1,589,160.00 in exchange for 222 service connections "to be used to provide water to the real property" on which the Project is located (Agreement, Section 2). The actual amount that Ailanto has paid to date to the Coastside County Water District is over \$2.1 million (including interest costs in assessments). As clearly stated in the recitals to the Agreement, the District's purpose in selling water service connections was to finance certain capital improvements to "expand its access to water supplies and enlarge its transmission, treatment, and distribution capacity." (Agreement, Recital A) Recital D of the Agreement states that "District and Purchaser wish to establish the terms and conditions on which District will sell and Purchaser will purchase, pay for, and utilize the right to five or more service connections to the District's water system made possible by the construction of the [District's capital improvements]." The Agreement provides that once the district's capital improvements were completed and subject to the District's general rules and regulations, Ailanto "will at that time be entitled to physically connect to the District's water system the service connections" purchased under the Agreement. (Agreement, Section 10)

On October 10, 1989, a Second Addendum to Water Service Connection Purchase Agreement (the "Second Addendum," attached hereto as Exhibit B, with cover letter from the District) was executed between Ailanto and the District. The Second Addendum (Recital 1) acknowledged that the parties had previously "entered into a Water Service Connection Purchase Agreement under which Purchaser agreed to purchase up to a specified number of service connections entitling it to connection to the District's water supply system." By virtue of the Second Addendum, Ailanto acquired one additional service connection "to be used to provide water to the real property" involved in the Project (Section 2), bringing Ailanto's total service connections to 223. In light of the current, diminished number of homes proposed by Ailanto compared to the size of the Project when the 223 water service connections were secured, Ailanto will plainly have sufficient water connections to serve Project demand.

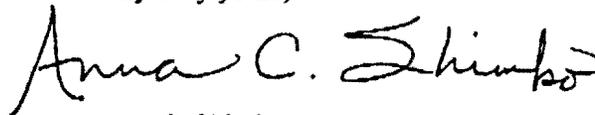
Ailanto's right to 223 water service connections was acknowledged by the District in a March 15, 1991 letter to the Coastal Commission (attached hereto as Exhibit C). Thus, the Coastal Commission has long been aware that the Project will have adequate water service.

Robert Henry
January 15, 2001
Page 3

On March 25, 1994, in light of completion of the District's capital improvements financed in part by Ailanto, the District provided to Ailanto "official notification that the water service connection you purchased . . . is now immediately available." See, Exhibit D attached hereto, including "Guidelines for the Connection to the Coastside County Water District's Water System." The District stated that, "[n]ow that you have a water permit, you may wish to have your water service connection installed to your property." In its letter and attached Guidelines, the District outlined the process and fees involved in connecting to the system and noted that some new customers may need to pay for distribution pipeline to extend to their properties.

In light of all relevant documents, laws and regulations, it is abundantly clear that Ailanto currently has a contractual right to initiate water service for the Project, subject to payment of certain fees and reimbursement of District costs for any additional distribution pipeline. We are convinced that any effort by the District at this point to preclude you from connecting to the District's system would constitute an actionable breach of contract.

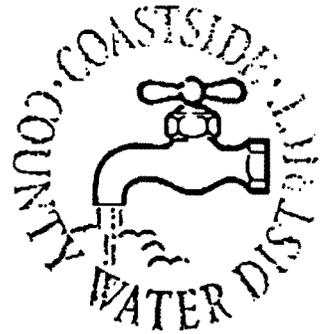
Very truly yours,



Anna C. Shimko

Enclosures

EXHIBIT A



February 29, 1988

Dear Sir or Madam:

I am enclosing a copy of the Water Service Connection Purchase Agreement you submitted, signed on behalf of the Water District. The Purchase Agreement, along with several hundred other such Agreements, was approved by the District's Board of Directors on February 9, 1988 and is now in effect.

Also enclosed is an Amendment to the Purchase Agreement adopted by the Board of Directors on February 18. The Amendment relates to the situations under which connections financed through participation in the assessment district being formed by the Water District may be transferred. Previously, the Purchase Agreement and the District's regulations prohibited all transfers of connections assigned to property in the assessment district. More recently, we were advised by our bond counsel that the law would allow such connections to be transferred after the assessment was fully paid off. The Board then amended its regulations and the Purchase Agreement to allow for limited transferability of connections assigned to property in the assessment district after the assessment is paid off and other requirements met.

If you elected to pay cash for the connection or connections covered by your Purchase Agreement, the enclosed Amendment will not affect you in any way. The regulations governing transfers of water connections purchased in cash remain unchanged. If you elected to pay for the connections through the assessment district, the Amendment will allow those connections to be transferred, subject to the approval of the District, after the assessment has been paid off and other specified requirements met. Since the Amendment either increases your rights or does not affect you, it is not necessary that you sign and return a copy. However, if for some reason you do not want the Amendment to apply to your Purchase Agreement, please let me know and we will so note in our records.

February 29, 1988
Page 2

We are moving ahead with the final design of the Crystal Springs Project. We will keep you informed of progress on its construction. Those of you who are participating in the assessment district will also be informed this Spring of steps relating to its formation.

If you have any questions on the enclosed Purchase Agreement, the Amendment, or the Project generally, please feel free to give me a call.

Sincerely,



ROBERT R. RATHBORNE
General Manager

/ld
Enclosures

AMENDMENT TO WATER SERVICE CONNECTION PURCHASE AGREEMENT

1. Delete Paragraph C in Section 11, "Assignment of Rights Under Agreement."

2. Amend Section 12, "Transfer of Service Connections," to read as follows:

"A. Transfer of service connections to property other than that shown on Exhibit B is limited. Applicable District regulations now in effect provide that service connections may not be transferred to other property unless such transfer has been approved in writing by District. These regulations also specify a procedure for seeking approval and describe a number of circumstances in which approval will not be granted. Purchaser acknowledges that he has familiarized himself with these regulations and understands them.

B. If Purchaser elects to pay the balance of the purchase price in cash, then:

1. Service connections may be transferred for use at other property owned by Purchaser in accordance with District regulations;

2. Service connections may be transferred to members of Purchaser's immediate family (i.e., spouse, parent, child, or brother/sister) for use at other property not owned by Purchaser, in accordance with District regulations; and

3. Service connections may not be transferred to unrelated third parties for use at property other than that described in Exhibit B.

C. If the Property shown on Exhibit B ("Property") is to be included in the Assessment District, then some or all of the service connections assigned to it on Exhibit B may be transferred to other property, provided:

to
Property,
Cement on

or brother/sister) for use at other property not owned by Purchaser, in accordance with District regulations.

7. Service connections may not be transferred to unrelated third parties for use at property other than that described in Exhibit B."

The foregoing amendments were adopted by the Board of Directors of the Coastside County Water District at a meeting duly called and held on February 18, 1988 and were then distributed to all holders of Water Service Connection Purchase Agreements.

Coastside County Water District

By Robert Rathborne
Robert Rathborne, General Manager

Date: February 10, 1988



ADDENDUM TO
WATER SERVICE CONNECTION
PURCHASE AGREEMENT

JAN 26 1988

THIS ADDENDUM TO AGREEMENT is entered into between COASTSIDE COUNTY WATER DISTRICT ("District") and AILANTO PROPERTIES, INC.

("Purchaser"). (NOTE: PLEASE TYPE OR PRINT THE NAMES OF ALL PURCHASERS HERE.)

RECITALS

1. Purchaser and District entered into a Water Service Connection Purchase Agreement ("Agreement") effective as of FEB 10 1988, 1988, under which Purchaser agreed to purchase up to a specified number of service connections entitling it to connection to the District's water supply system.

2. As contemplated by the Agreement, the number of service connections which the District is legally authorized to sell to Purchaser is less than the maximum number which Purchaser applied for and which is set forth in the Agreement.

3. The purpose of this Addendum is to reflect the revised number of service connections which District can sell to Purchaser and to effect the changes to provisions of the

Agreement made necessary by the reduction in service connections to be sold and purchased.

Section 1 - Number of Service Connections Purchased

Purchaser hereby agrees to purchase, on the terms set out in this Agreement, the number of service connections shown on Supplemental Exhibit A, which is attached hereto and incorporated herein by this reference.

(NOTE: PURCHASER PLEASE FILL OUT AND SIGN SUPPLEMENTAL EXHIBIT A.)

Section 2 - Location of Use of Service Connection

The service connections described in Section 1 are to be used to provide water to the real property described on Supplemental Exhibit B, which is attached hereto and incorporated herein by this reference. It is understood and agreed that, except as hereinafter provided, such service connections may not be transferred to any other person nor used at any other property.

(NOTE: PURCHASER PLEASE FILL OUT AND SIGN SUPPLEMENTAL EXHIBIT B.)

Section 3 - Purchase Price

The cash purchase price of service connections shall be the applicable transmission and storage fee as set forth in the District's Rate and Fee Schedule in effect as of the date this

Agreement is signed on behalf of the District and thereby becomes effective pursuant to Section 24, below. The transmission and storage fees now in effect are as follows:

<u>Size of Service Connection</u>	<u>Transmission & Storage Fee</u>
5/8 inch	\$ 6,970.00
3/4 inch	\$10,455.00
1 inch	\$17,425.00
1-1/2 inch	\$34,850.00
2 inch	\$55,760.00

The cash Purchase Price for the service connections described in Section 1 is the sum obtained by multiplying the number of each size service connection to be purchased (as shown on Supplemental Exhibit A) by the applicable transmission and storage fee (as shown above).

The cash Purchase Price for the service connections to be purchased under this Agreement, as modified by this Addendum, is One Million Five Hundred Forty-seven Thousand Three Hundred Forty and no/100 Dollars (\$ 1,547,340).

(NOTE: PURCHASER PLEASE FILL IN THE MODIFIED PURCHASE PRICE HERE.)

Section 4 - Ratification of Agreement

Except as provided above, all the provisions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT BY THEIR DULY AUTHORIZED REPRESENTATIVES WHO HEREBY REPRESENT THAT THEY HAVE AUTHORITY TO SIGN ON BEHALF OF SUCH PARTIES.

1. If individual or individuals, sign here:

Signature _____ Print Name _____

Signature _____ Print Name _____

Signature _____ Print Name _____

2. If corporation, have authorized officer sign here:

AILANTO PROPERTIES, INC.

Type or Print Name of Corporation _____

By [Signature] Albert M.C. Fong President

Signature _____ Print Name _____ Print Title _____

Incorporated in the State of California

3. If partnership, have general partner sign here:

Type or Print Name of Corporation _____

By _____
Signature _____ Print Name _____
General Partner

Indicate type of partnership (general or limited): _____

Indicate state partnership created in: _____

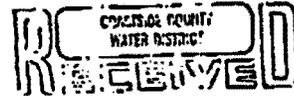
COASTSIDE COUNTY WATER DISTRICT

BY [Signature]
Signature _____

General Manager

Title: Coastside County Water District

Date: FEB 10 1988 ("Effective Date")



NUMBER OF SERVICE CONNECTIONS PURCHASED

EXHIBIT A

JAN 26 1988

TO

WATER SERVICE CONNECTION

PURCHASE AGREEMENT

BETWEEN

COASTSIDE COUNTY WATER DISTRICT

AND

1. AILANTO PROPERTIES, INC.

(Type or print name(s) of Purchaser(s) exactly as they appear on Page 1)

<u>2. Size of Service Connections</u>	<u>Number Purchased</u>
5/8 inch	222 ✓
3/4 inch	_____
1 inch	_____
1-1/2 inch	_____
2 inch	_____

FOR DISTRICT USE ONLY

3. I/We agree the number of connections shown above is correct.

Purchaser(s) - Please sign here:

AILANTO PROPERTIES, INC.

By: *Albert M.C. Fong* *1/25/88*

Albert M.C. Fong, President

2/2/88 completed meeting

LOCATION OF USE OF SERVICE CONNECTIONS

EXHIBIT B
TO
WATER SERVICE CONNECTION
PURCHASE AGREEMENT
BETWEEN
COASTSIDE COUNTY WATER DISTRICT
AND

1. AILANTO PROPERTIES, INC.

(Type or print name(s) of Purchaser(s) exactly
as they appear on Page 1)

2. Assessors Parcel No.	Number of Connections	Size of Connections	Amount of Deposit
056-350-010	222	5/8"	\$45,600
048-269-060	-		
048-269-070	-		

(IF MORE SPACE IS NEEDED, CONTINUE ON PAGE 2)

TOTAL DEPOSIT \$45,600

FOR DISTRICT USE ONLY

3. I/We agree the information
shown above is correct.

Purchaser(s) - Please sign here:

AILANTO PROPERTIES, INC.
By: Albert M.C. Fong 1/25/00
Albert M.C. Fong, President



WATER SERVICE CONNECTION
PURCHASE AGREEMENT

DEC 3 1987

THIS AGREEMENT is entered into between COASTSIDE COUNTY
WATER DISTRICT ("District") and AILANTO PROPERTIES, INC., a
California corporation

("Purchaser"). (NOTE: PLEASE TYPE OR PRINT THE NAMES OF ALL
PURCHASERS HERE)

RECITALS:

This Agreement is entered into with reference to the
following facts and circumstances.

A. District is a local government agency established under
the provisions of the California Water Code. District has for
several years investigated methods by which it could expand its
access to water supplies and enlarge its transmission, treatment,
and distribution capacity. District has determined that a par-
ticular project is the best of the alternative methods investi-
gated. This project entails, in general, the construction of a
pump station at Crystal Springs Reservoir, the construction of a
pipeline from Crystal Springs Reservoir to Half Moon Bay, the ex-
pansion of the District's Nunes Treatment Plant, and the enlarge-
ment of certain distribution pipelines (hereafter "Project").

B. District has determined to finance the construction of
the Project by the sale of rights to connect to the system upon
completion of the Project to persons who applied for such rights

on or before December 31, 1986 and by the contribution of District retained earnings.

C. Purchaser owns property within the District which he wishes to develop or enlarge and requires water service. Purchaser has submitted an "Application for Water Service Connection(s)" to District on or before December 31, 1986, or has purchased property whose previous owner had applied by that date and has notified District of the purchase and submitted a separate Application.

D. District and Purchaser wish to establish the terms and conditions on which District will sell and Purchaser will purchase, pay for, and utilize the right to five or more service connections to the District's water system made possible by the construction of the Project.

THE PARTIES AGREE AS FOLLOWS:

Section 1 - Number of Service Connection(s) Purchased

Purchaser hereby agrees to purchase from District, on the terms set out in this Agreement, the number of service connections shown on Exhibit A, which is attached hereto and incorporated herein by this reference. (NOTE: PURCHASER PLEASE FILL OUT AND SIGN EXHIBIT A).

Purchaser recognizes that (1) the number of service connections which the District may sell at this time is limited by the permit for the Project issued by San Mateo County; (2) property owners in the District have submitted applications to purchase more service connections than the District is authorized to sell;

(3) the District's Board of Directors has adopted, by resolution, an allocation plan under which the number of service connections that will be sold to an applicant who requests 5 or more connections is based on the ratio which the number of connections for non-priority uses requested by that applicant bears to the total number of connections for non-priority uses requested by all applicants for 5 or more connections.

As a result of these circumstances, the District will not know how many service connections for non-priority uses it will have available until after November 16, 1987, at which time all prospective purchasers are to have signed and returned Water Service Purchase Agreements indicating the number of connections which they wish to purchase.

The District will, after receipt of all Water Service Purchase Agreements, determine whether it is able to sell Purchaser all the service connections listed on Exhibit A or whether some reduction in the number to be sold to Purchaser (and to all other prospective purchasers requesting 5 or more connections for non-priority uses) is necessary. The District will notify Purchaser by December 31, 1987 of the number of service connections it can sell. If that number is fewer than that shown on Exhibit A, the District will at the same time furnish to Purchaser an Addendum to this Agreement (substantially in the form of Exhibit E) together with supplemental Exhibit A and Exhibit B forms. Purchaser will promptly determine how it wishes to utilize the number of service connections allocated to it, in terms of the number of connections of various sizes and the parcels of property to which

each is assigned. Purchaser will complete supplemental Exhibits A and Exhibit B accordingly and will return them, together with the executed Addendum, to the District on or before January 29, 1988. Purchaser understands and agrees that it will purchase and pay for the number of service connections allocated to it notwithstanding that the number is fewer than the number shown on Exhibit A hereto. If Purchaser fails to execute the Addendum and supplemental Exhibits A and B and return them to the District by January 29, 1988, Purchaser hereby authorizes District to make whatever decisions regarding distribution of the service connections allocated to Purchaser as District may deem appropriate and to complete supplemental Exhibits A and B accordingly.

Section 2 - Location(s) of Use of Service Connection(s)

The service connection(s) described in Section 1 are to be used to provide water to the real property described on Exhibit B, which is attached hereto and incorporated herein by this reference. It is understood and agreed that, except as hereinafter provided, such service connections may not be transferred to any other person nor used at any other property. (NOTE: PURCHASER PLEASE FILL OUT AND SIGN EXHIBIT B)

(NOTE: IF THE NUMBER OF CONNECTIONS WHICH PURCHASER IS ALLOWED IS FEWER THAN THOSE SHOWN ON EXHIBIT A, THIS SECTION WILL BE MODIFIED BY ADDENDUM)

Section 3 - Purchase Price

The cash purchase price of service connections shall be the applicable transmission and storage fee as set forth in the District's Rate and Fee Schedule in effect as of the date this Agreement is signed on behalf of the District and thereby becomes effective pursuant to Section 24, below. The transmission and storage fees now in effect are as follows:

<u>Size of Service Connection</u>	<u>Transmission & Storage Fee</u>
5/8 inch	\$ 6,970.00
3/4 inch	\$10,455.00
1 inch	\$17,425.00
1-1/2 inch	\$34,850.00
2 inch	\$55,760.00

(FOR INFORMATION ON LARGER SIZES, CONTACT DISTRICT)

The cash purchase price for the service connections described in Section 1 is the sum obtained by multiplying the number of each size service connection to be purchased (as shown on Exhibit A) by the applicable transmission and storage fee (as shown above).

The cash Purchase Price for the service connection(s) to be purchased under this Agreement is One Million Five Hundred

Eighty-nine Thousand One Hundred Dollars (\$1,589,160.00).
Sixty and no/100 Dollars

(NOTE: PURCHASER PLEASE FILL IN THE PURCHASE PRICE HERE. SEE INSTRUCTION SHEET, SECTION 3.)

(NOTE: IF THE NUMBER OF CONNECTIONS WHICH PURCHASER IS ALLOWED IS FEWER THAN THOSE SHOWN ON EXHIBIT A, THIS SECTION WILL BE MODIFIED BY ADDENDUM.)

Section 4 - Deposit

District and Purchaser acknowledge that Purchaser has previously deposited with District the sum of Forty-five Thousand Six Hundred and no/100 Dollars (\$ 45,600.00). This deposit will be applied toward the Purchase Price of the service connection(s), without interest. If Purchaser fails to perform its obligations under this Agreement, including without limitation, its obligation to pay the balance of the Purchase Price, the District may retain the deposit in addition to whatever other legal or equitable remedies may be available to it. (NOTE: PURCHASER PLEASE FILL IN AMOUNT DEPOSITED HERE. SEE INSTRUCTION SHEET, SECTION 4.)

Section 5 - Payment of Balance of Purchase Price

A. Purchaser will pay the balance of the Purchase Price in one of the two following methods:

1. CASH

On or before February 15, 1988 Purchaser will deliver to District cash or a cashier's or certified check in the amount of the Purchase Price shown in Section 3 less the deposit shown in Section 4. Personal checks will not be accepted.

2. ASSESSMENT DISTRICT

Purchaser will, alternatively, agree to participate in appropriate special assessment and assessment bond proceedings for the payment of the balance of the Purchase Price (plus any and all additional costs and expenses associated with the formation of the Assessment District and Purchaser's election to use the assessment method of payment) and waives any right to protest any and all matters relating thereto. Should Purchaser subsequently fail to participate in or object to such proceedings, Purchaser hereby agrees to pay to District in cash or by cashier's or certified check, the amount of the Purchase Price shown in Section 3 less the deposit shown in Section 4, (plus interest on that sum from February 15, 1988 to the date of payment at the rate of 10 percent per annum) such payment to be made within five days of demand therefor by District. Purchaser's failure to participate in, or its objection to, Assessment District formation proceedings will constitute a breach of this Agreement. District will have the right, but not the duty, to demand a cash payment at that time, as provided in this section; it may alternatively elect to exercise any of the remedies provided in Section 14.

B. Election of Method of Payment

Purchaser, by completing Exhibit C, attached hereto and incorporated herein by this reference, hereby elects to pay the balance of the Purchase Price by cash or by participation in the Assessment District. (NOTE: PURCHASER - PLEASE FILL OUT AND SIGN EXHIBIT C.)

Section 6 - Disposition of Funds

A. The District will deposit funds received from Purchaser pursuant to this Agreement into a trust fund account which will be utilized solely for purposes of the Project. Any interest earned on funds in the trust fund account shall be retained therein and shall be utilized solely to defray Project costs.

B. If District does not award one or more contracts for the construction of all or a portion of the Project on or before December 31, 1988, then, upon the written request of Purchaser, District will refund sums paid by Purchaser, without interest. This provision will not apply if, prior to December 31, 1988, the Assessment District referred to in Section 5A.2. has been formed.

C. The District may at any time elect to terminate proceedings toward the Project and return sums paid by Purchaser. Upon such termination and refund the parties will have no further obligations to one another under this Agreement.

Section 7 - Additional Charges

Purchaser understands that the Purchase Price, whether paid in cash or through participation in the assessment district covers only the transmission and storage fees charged by the District. It does not cover other District charges, which will include the meter installation/service connection charge prevailing at the time the service connection and/or water meter are physically installed. It also does not cover District charges for review, plan checking, construction administration and other costs associated with projects which involve extensions of the

District's water system, such as subdivisions and some commercial developments. Purchaser acknowledges that he has familiarized himself with the District's current Rate & Fee Schedule, is aware of the other types of charges which will be imposed and recognizes that these other charges may be increased by the District prior to the time he is required to pay them.

Section 8 - Additional Approvals and Facilities

Purchaser understands that this Agreement does not, in itself, mean or imply that his property can be developed. Land use policies, zoning ordinances, slope density ordinances and other applicable ordinances, rules and regulations of the City of Half Moon Bay and/or San Mateo County may preclude the type or intensity of development. Purchaser plans or may regulate the timing of development or both. Other utilities, such as connections to the sewage treatment system, must be secured and it also may be necessary for a water distribution main to be extended, at Purchaser's sole expense, in order to deliver water to the property shown on Exhibit B. Purchaser must, at his own expense, secure any other permits or licenses from and comply with any and all ordinances, rules and regulations of any other governmental entity, department or agency having jurisdiction, including requirements for environmental reviews and reports arising from the California Environmental Quality Act. Purchaser, by signing this Agreement, hereby acknowledges that it is his sole responsibility to satisfy himself as to all such matters and that matters beyond

the control of this District may affect his ability to develop said property.

Section 9 - Determination of Water Use Requirement

Purchaser acknowledges that he has investigated the water use requirements of his intended development and has elected to purchase the number and size of service connections based on that investigation. While District staff may have provided information on the hydraulic capacity of various service connection sizes and/or reviewed development plans with Purchaser, the decision on the number and size of service connections to purchase was made by Purchaser. Purchaser acknowledges that, at the stage of applying for a building permit and/or obtaining installation of a water meter, he will be limited in the number of water using facilities which he may install in his project to a number within the capacity of the service connection size he elects to purchase in this Agreement.

Section 10 - Physical Connection to Water System

Within 10 days after the Project is completed and has been accepted by District, District will mail a written notice to Purchaser. Subject to compliance with other District rules and regulations of general applicability, including payment of fees, Purchaser will at that time be entitled to physically connect to the District's water system the service connections described on Exhibit A, at the locations described on Exhibit B. Purchaser will have no right to physical installation of any service con-

nection(s) prior to acceptance of the Project by District. District, however, may in its discretion but need not, permit Purchaser or others who are similarly situated to Purchaser to physically install one or more service connections prior to acceptance of the entire Project if, in its sole discretion, District determines that it is safe and in the public interest to do so.

Section 11 - Assignment of Rights Under Agreement

A. Purchaser may assign this Agreement and his rights under it only as permitted in this section. Such assignment may be made only:

1. to a purchaser of the property described on Exhibit B, in connection with a sale of such property to the assignee; or
2. to a member of Purchaser's immediate family (i.e., spouse, parent, child or brother/sister) in conjunction with the transfer of a service connection to such family member for use on other property not owned by Purchaser, which transfer has been approved by the District pursuant to Section 12 below and applicable District regulations.

B. Any such assignment, in order to be effective, must be in writing, substantially in the form of Exhibit D, attached hereto and incorporated herein by this reference, signed by Purchaser, the assignee, and District. Assumption by the assignee of Purchaser's obligations to District under this Agreement shall not relieve Purchaser of his liability under the Agreement.

C. As further explained in Section 12, service connections for property included in the Assessment District must remain on such property and may neither be assigned nor transferred to another property. If the Purchaser elects to pay for the service connections through participation in the Assessment District, then assignments pursuant to subsection A2 of this section will not be allowed.

Section 12 - Transfer of Service Connections

Transfer of service connections to property other than that shown on Exhibit B is limited.

A. If the property shown on Exhibit B is to be included in the Assessment District, then service connections assigned to it on Exhibit B may not be transferred.

B. If Purchaser elects to pay the balance of the Purchase Price in cash, then:

1. service connections may be transferred for use at other property owned by Purchaser in accordance with District regulations;
2. service connections may be transferred to members of Purchaser's immediate family (i.e., spouse, parent, child or brother/sister) for use at other property not owned by Purchaser, in accordance with District regulations; and
3. service connections may not be transferred to unrelated third parties for use at property other than that described in Exhibit B.

Applicable District regulations now in effect provide that service connections may not be transferred to other property unless such transfer has been approved in writing by District. These regulations also specify a procedure for seeking approval and describe a number of circumstances in which approval will not be granted. Purchaser acknowledges that he has familiarized himself with these regulations and understands them.

Section 13 - Subject to District Rules; Regulations, Etc.

The installation and use of service connections purchased under this Agreement shall be subject to all District rules, regulations, orders, and policies in effect from time to time, including water conservation policies adopted pursuant to the California Water Code.

Section 14 - Default

If Purchaser fails to pay the balance of the Purchase Price when due, or fails to perform any action with respect to the Assessment District set out in Section 5B, the District shall be entitled to exercise any and all remedies available under California law, in contract or equity, including, without limitation, the right to specific performance and damages, or damages alone. In addition, and not as an alternative, the District may terminate this Agreement, and Purchaser's interest in the service connections, and may immediately resell the service connections.

Section 15 - Entire Agreement

This Agreement, which includes the Exhibits, contains the entire Agreement between the parties hereto. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist.

Section 16 - Applicable Law

This Agreement shall be governed by, and construed and enforced in accordance with, and subject to, the laws of the State of California. Except as expressly provided for herein, this Agreement is not intended to, and does not, modify the District's rights to exercise the legislative discretion awarded it under the laws of the State of California.

Section 17 - Binding on Successors

Subject to the limitations upon assignment or other transfer set forth elsewhere herein, all of the terms, provisions and conditions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, assigns and legal representatives.

Section 18 - Section Headings

Section headings are for convenience only and shall not be used in interpreting this Agreement.

Section 19 - Interpretation

This Agreement shall be interpreted and construed reasonably so as to effectuate its purpose and shall not be construed either in favor of or against either party.

Section 20 - Time

Time is of the essence of this Agreement.

Section 21 - Severability

If any word, phrase, sentence, section or other provision of this Agreement is held to be illegal and unenforceable, the remainder of the Agreement shall be given full force and effect if the illegal or unenforceable portion can be severed.

Section 22 - Gender; Number

The masculine gender has been used in this Agreement for convenience only and includes the feminine and neuter whenever the context so requires. The singular includes the plural where the context so requires and vice versa.

Section 23 - Notices

Any notice, request, instruction or other document given with respect to this Agreement shall be in writing. It may be given by personal delivery to a representative of the other party at the address below or by mailing the same by first class mail, postage prepaid, addressed to the other party as follows:

If to District: Coastside County Water District
766 Main Street
Half Moon Bay, CA 94019
Attn: General Manager

If to Purchaser: Albert M. C. Fong, President
Name AILANTO PROPERTIES, INC.

One Kaiser Plaza, Suite 965
Street Address

Oakland
City

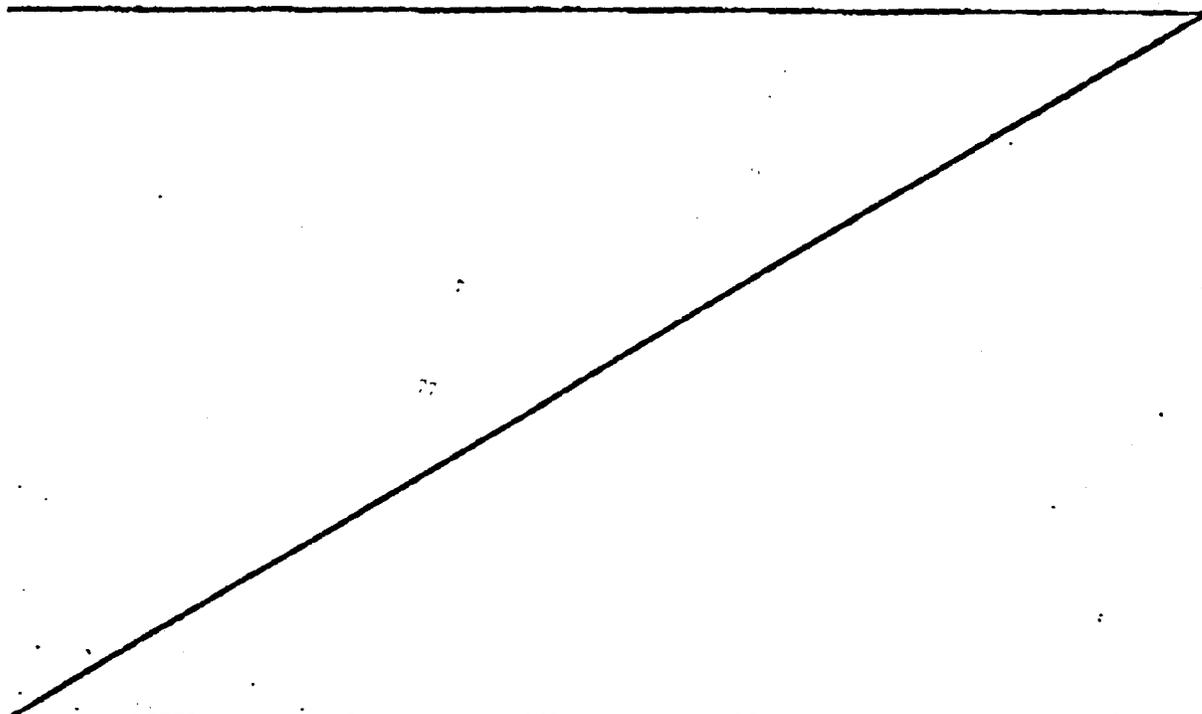
California 94612
State Zip Code

(NOTE: PURCHASER PLEASE FILL IN NAME AND ADDRESS OF ONE PERSON TO WHOM THE DISTRICT SHOULD SEND MAIL REGARDING THIS CONTRACT)

IT IS PURCHASER'S RESPONSIBILITY TO NOTIFY DISTRICT IN WRITING OF ANY CHANGES IN PURCHASER'S MAILING ADDRESS.

Section 24 - Effective Date

This Agreement shall become effective when it is signed below by an authorized representative of the District.



IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT BY THEIR DULY AUTHORIZED REPRESENTATIVES WHO HEREBY REPRESENT THAT THEY HAVE AUTHORITY TO SIGN ON BEHALF OF SUCH PARTIES.

NOTE: PURCHASER - PLEASE SIGN AT 1, 2, OR 3, AS APPLICABLE.

- 1. If individual or individuals, sign here:

Signature _____ Print Name _____

Signature _____ Print Name _____

Signature _____ Print Name _____

- 2. If corporation, have authorized officer sign here:

AILANTO PROPERTIES, INC.
Type or Print Name of Corporation

BY  Albert M.C. Fong President
Signature Dec. 2, 1987 Print Name Print Title

Incorporated in the State of California

- 3. If partnership, have general partner sign here:

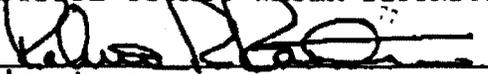
Type or Print Name of Partnership _____

BY _____
Signature _____ Print Name _____
General Partner

Indicate type of partnership (general or limited): _____

Indicate state partnership created in: _____

COASTSIDE COUNTY WATER DISTRICT

BY 
Signature

Title: General Manager
Coastside County Water District

Date: FEB 10 1988 ("Effective Date")

NUMBER OF SERVICE CONNECTIONS PURCHASED

EXHIBIT A

TO

WATER SERVICE CONNECTION

PURCHASE AGREEMENT

BETWEEN

COASTSIDE COUNTY WATER DISTRICT

AND

- 1. AILANTO PROPERTIES, INC., a California
corporation

(Type or print name(s) of Purchaser(s) exactly as they appear on Page 1)

<u>2. Size of Service Connections</u>	<u>Number Purchased</u>
5/8 inch	<u>228</u>
3/4 inch	<u> </u>
1 inch	<u> </u>
1-1/2 inch	<u> </u>
2 inch	<u> </u>

- 3. I/We agree the number of connections shown above is correct.

Purchaser(s) - Please sign here:

Albert M.C. Fong Dec 2, 1987

Albert M.C. Fong, President

AILANTO PROPERTIES, INC.

FOR DISTRICT USE ONLY

LOCATION OF USE OF SERVICE CONNECTIONS

EXHIBIT B
TO
WATER SERVICE CONNECTION
PURCHASE AGREEMENT
BETWEEN
COASTSIDE COUNTY WATER DISTRICT
AND

1. AILANTO PROPERTIES, INC., a California
corporation

(Type or print name(s) of Purchaser(s) exactly
as they appear on Page 1)

2. Assessors Parcel No.	Number of Connections	Size of Connections	Amount of Deposit
056-350-010	228	5/8"	\$45,600.00 Ailanto
048-269-060			
048-269-070			

(IF MORE SPACE IS NEEDED, CONTINUE ON PAGE 2)

TOTAL DEPOSIT \$45,600.00

3. I/We agree the information shown above is correct.
Purchaser(s) Please sign here:
Albert M.C. Fong, President
AILANTO PROPERTIES, INC.

FOR DISTRICT USE ONLY
12/10/87 received attached letter from purchaser who confirmed that above parcels should all be included in request.
1/2/88 - changed 1-1 to class # 8 - 2:2 # 9 - 5/8
2/4/88 Ailanto completed.

METHOD OF PAYMENT

EXHIBIT C

TO

WATER SERVICE CONNECTION

PURCHASE AGREEMENT

BETWEEN .

COASTSIDE COUNTY WATER DISTRICT

AND

1. AILANTO PROPERTIES, INC., a California
corporation

(Type or print name(s) of Purchaser(s) exactly
as they appear on Page 1)

2. I/We hereby elect to pay the balance of Purchase Price by
one of the following methods:

IN CASH, pursuant to Section 5A (Cash Due on or
before December 30, 1987)

or

By participation in the ASSESSMENT DISTRICT,
pursuant to Section 5B

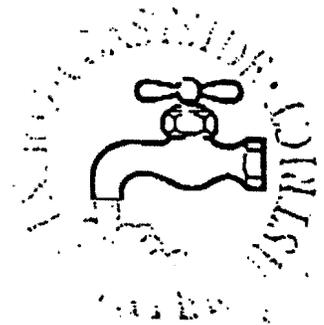
3. Purchaser(s) - Please sign here

AILANTO PROPERTIES, INC.

By: *Albert M.C. Fong* Dec. 2, 1987

Albert M.C. Fong, President

EXHIBIT B



October 12, 1989

Mr. Albert M.C. Fong
President
AILANTO PROPERTIES
965 Ordway Bldg., 8 Kaiser Plaza
Oakland, CA 94612

Dear Mr. Fong:

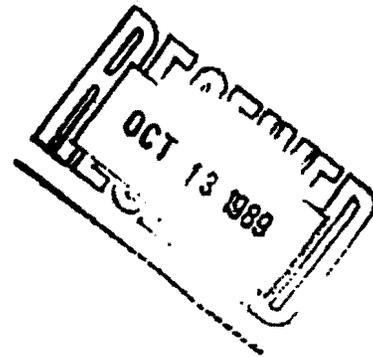
Please find enclosed a copy of the completed and signed Second Addendum to the Water Service Connection Purchase Agreement with Coastside County Water District. This is also to acknowledge receipt of your check #404 in the amount of \$6,970 for one--5/8" future water service connection.

Sincerely,

Glenna Lombardi

Glenna Lombardi
Executive Assistant
Project Coordinator

Enclosure



**SECOND ADDENDUM
TO
WATER SERVICE CONNECTION
PURCHASE AGREEMENT**

THIS SECOND ADDENDUM TO WATER SERVICE CONNECTION AGREEMENT is entered into between COASTSIDE COUNTY WATER DISTRICT ("District") and AILANTO PROPERTIES, INC.

("Purchaser").

(NOTE: PLEASE TYPE OR PRINT THE NAMES OF ALL PURCHASERS HERE.)

RECITALS

1. Purchaser and District entered into a Water Service Connection Purchase Agreement under which Purchaser agreed to purchase up to a specified number of service connections entitling it to connection to the District's water supply system.

2. In 1988 the District and Purchaser entered into an Addendum to the Water Service Connection Purchase Agreement under which the number of connections which the District would sell to Purchaser was reduced, as had been contemplated in the Agreement.

3. The number of other non-priority water service connections which the District has actually sold and for which it has received consideration as of this date is nine larger than at the time the Addendum was entered into.

4. The District has offered Purchaser, and all other similarly situated purchasers whose Agreements were modified by Addendum reducing the number of connections they could purchase,

the opportunity to purchase one of the additional service connections that have become available.

5. Purchaser wishes to purchase one additional connection.

THE PARTIES AGREE AS FOLLOWS:

Section 1. Number of Service Connections Purchased

Purchaser agrees to purchase and District agrees to sell, on the terms and conditions set out below, one (1) additional 5/8" service connection.

Section 2. Location of Use of Service Connection

The service connection described in Section 1 is to be used to provide water to the real property described on (check one):

- Exhibit A to the Agreement. APN 056-350-010
048-269-060
043-260-070
- Supplemental Exhibit A to the Addendum. APN _____
- The property described on Exhibit One, attached hereto (attach only if property is different from that shown on the Exhibit A to your original Agreement or the Exhibit A to the Addendum. APN _____

Section 3. Purchase Price

The purchase price shall be Six Thousand, Nine Hundred Seventy Dollars (\$6,970), which is payable in cash concurrently with execution of this Second Addendum.

Section 4. Ratification of Agreement

All of the provisions of the Agreement, as modified by the Addendum, remain in full force and effect and apply to the one additional connection purchased hereunder.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT BY THEIR DULY AUTHORIZED REPRESENTATIVES WHO HEREBY REPRESENT THAT THEY HAVE AUTHORITY TO SIGN ON BEHALF OF SUCH PARTIES.

1. If individual or individuals, sign here:

Signature _____ Print Name _____

Signature _____ Print Name _____

Signature _____ Print Name _____

2. If corporation, have authorized officer sign here:

AILANTO PROPERTIES, INC.

Type or Print Name of Corporation _____

By: Albert M.C. Fong President
Signature _____ Print Name _____ Print Title _____

Date: _____

Incorporated in the State of California

3. If partnership, have general partner sign here:

Type or Print Name of Corporation _____

By: _____
Signature, General Partner _____ Print Name _____

Indicate type of partnership (general or limited): _____

Indicate State partnership created in: _____

COASTSIDE COUNTY WATER DISTRICT

By: Robert [Signature]
Signature _____

Title: General Manager

Date: 10/10/89 ("Effective Date")

EXHIBIT C

March 15, 1991
Date



California Coastal Commission
Central Coast District
640 Capitola Road
Santa Cruz, CA 95062

Re: APN(s) 056-350-010, 048-269-060, 048-269-070

This letter is confirming that the above referenced parcel is included in the Crystal Springs Project Phase I with a signed purchase agreement between the current owners, Ailanto Properties, Inc., and Coastside County Water District for 223----5/8" future water service connection(s).

Sincerely,

ROBERT R. RATHBORNE, GENERAL MANAGER, by:

Glenna Lombardi

Glenna Lombardi
Executive Assistant
Project Coordinator

EXHIBIT D



A.P.N. : 056-350-010
 AILANTO PROPERTIES INC
 1 KAISER PL #965
 OAKLAND, CA 94612

March 25, 1994

Dear Property Owner(s):

The Coastside County Water District is pleased to announce that the Crystal Springs Water Supply Project is about ready to go into service. The expansion of the Nunes Water Treatment Plant and the construction of approximately 8 miles of pipeline from Half Moon Bay to Crystal Springs Reservoir are completed. The pump station itself is now in the final testing stage, and the District's consulting engineers expect it to be ready for acceptance, and operational, by the end of April. This is official notification that the water service connection that you purchased for the above referenced property is now immediately available. However, prior to connecting your property to the CCWD system, certain tasks must be completed. Your property is either improved, with or without a well; or it is unimproved. The general steps required to activate your water service connection in either situation are described below.

Improved Property: Improved property, with a structure on it, which is currently being served by a well requires two basic steps. At the same time that the CCWD connection is installed, the well must be disconnected. If the well is to remain in use, a cross connection or backflow prevention device must be installed to keep the well water from entering the CCWD system. The property owner is responsible for this work. Enclosed with this letter is a more detailed description of the steps to be taken to activate your water service connection if you have an active well on your property.

Unimproved Property: Now that you have a water permit, you may wish to have your water service connection installed to your property. To begin with, you must deliver a set of building plans to the CCWD office for review. Included in the plan review is an analysis of whether a water service line must be run from the street to your property and if your water service connection is large enough to adequately serve your building. The cost of installing a water service line is based on the actual time and materials required to run it to your property. An estimate of the cost to install the line will be provided upon request.

Activating Water Service: All new customers are required to pay a \$50 deposit fee prior to activating water service which is refundable after one year if the customer's account is kept current. If you are no longer the owner of this property, please contact Glenna Lombardi of this office at (415) 726-4405.

Very truly yours,


 ROBERT R. RATHBORNE
 General Manager

766 MAIN STREET, HALF MOON BAY, CALIFORNIA 94019 415-726-4405

GUIDELINES FOR CONNECTION TO THE COASTSIDE COUNTY WATER DISTRICT'S WATER SYSTEM

I. GENERAL FEES AND PROCEDURES:

The following fees and procedures apply to property when it is connected to the Coastside County Water District system. The property can either be an unimproved property or developed property on an interim well. If the property has a well, it must either be destroyed or a cross connection device must be installed. If the well is to remain in use, a backflow prevention device must be installed prior to connection to the municipal (CCWD) system. Items A through E below apply in all cases.

A. New Customer Account fee: Prior to connection to the District's water system, all new customers must pay a deposit of \$50 to establish credit which is refundable after one year if the customer's account is kept current.

B. Meter installation fee: All new customers must pay meter installation fees which are based on prevailing labor and material costs. An estimate will be furnished by the District upon request. Call (415) 726-4405.

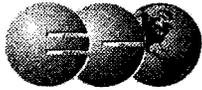
C. Installation of new pipeline to extend the CCWD's water distribution service lines to your property: The above fees do not cover any expense for the installation of new pipeline in the street to serve your property if an extension of the District's water system is needed. An estimate of these additional costs can be obtained from the District.

D. Run water service line from building to meter box for improved properties: Have a water service line installed from the point of connection to your building to the property line at the street. A public right of way or utility easement already exists between your property line and the roadway. The water meter box will be located in the public utility easement. For assistance in determining the location of your meter box, contact the District.

E. Contact the CCWD: The CCWD will arrange to run a water line from the distribution pipeline in the street to your meter box if it is necessary to do so.

II. IMPROVED PROPERTY; DISCONTINUED USE (DESTRUCTION OF WELL)

If your property has been improved, with a structure on it, and you have been using a well as a source of potable water, the well must either be destroyed or a cross connection device must be installed. Cross connection devices prevent untreated well water from entering the treated municipal water system.



MEMORANDUM

DATE: January 15, 2001

TO: Mr. David Kelley
Kelley & Associates **Fax:** (530) 753-2935

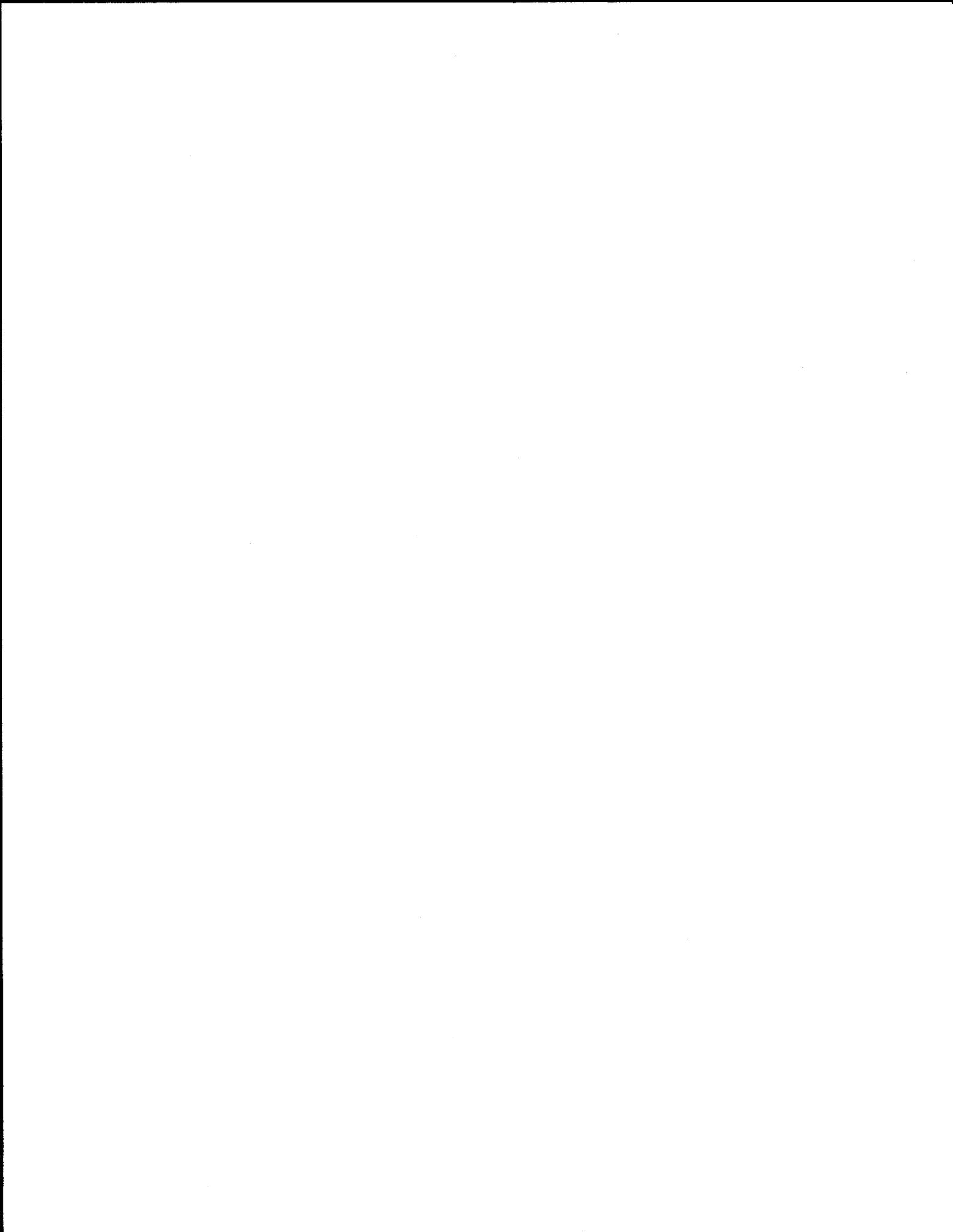
CC: Mr. Robert Henry, Ailanto Properties, Inc.
Mr. Albert Fong, Ailanto Properties, Inc.
Mr. Norbert Dall, Dall & Associates

FROM: Peter Balfour

RE: ***Pacific Ridge Subdivision; Half Moon Bay, California- California Red-legged Frog and San Francisco Garter Snake Habitat Assessment and Constraints Analysis.***

At your request, I met with you and Mr. Norbert Dall (Dall & Associates) on January 4, 2001 at the proposed Pacific Ridge Subdivision site in Half Moon Bay, California. The 114-acre property (previously known as the Dykstra Ranch) is located north of Highway 92 and east of Highway 1 in the city of Half Moon Bay, in San Mateo County, California (Figure 1).

The purpose of our site visit was to identify likely or potential habitat (including migration corridors to and from the property) for the California red-legged frog (CRLF) (*Rana aurora draytonii*) (federally-listed threatened) and San Francisco garter snake (SFGS) (*Thamnophis sirtalis tetrataenia*) (State and federally-listed endangered). During the investigation we visited all delineated wetlands within the property to assess whether CRLF and/or SFGS may likely or potentially utilize any of the drainages on site, adjacent ranched/farmed areas, or frontal slopes of the Coastal Range, which lie to the east of the project site. Special emphasis was placed on the site's stock pond (constructed circa 1953-1954), and its associated drainages, given that these areas provide the most suitable habitat relative to other areas on site for the reference



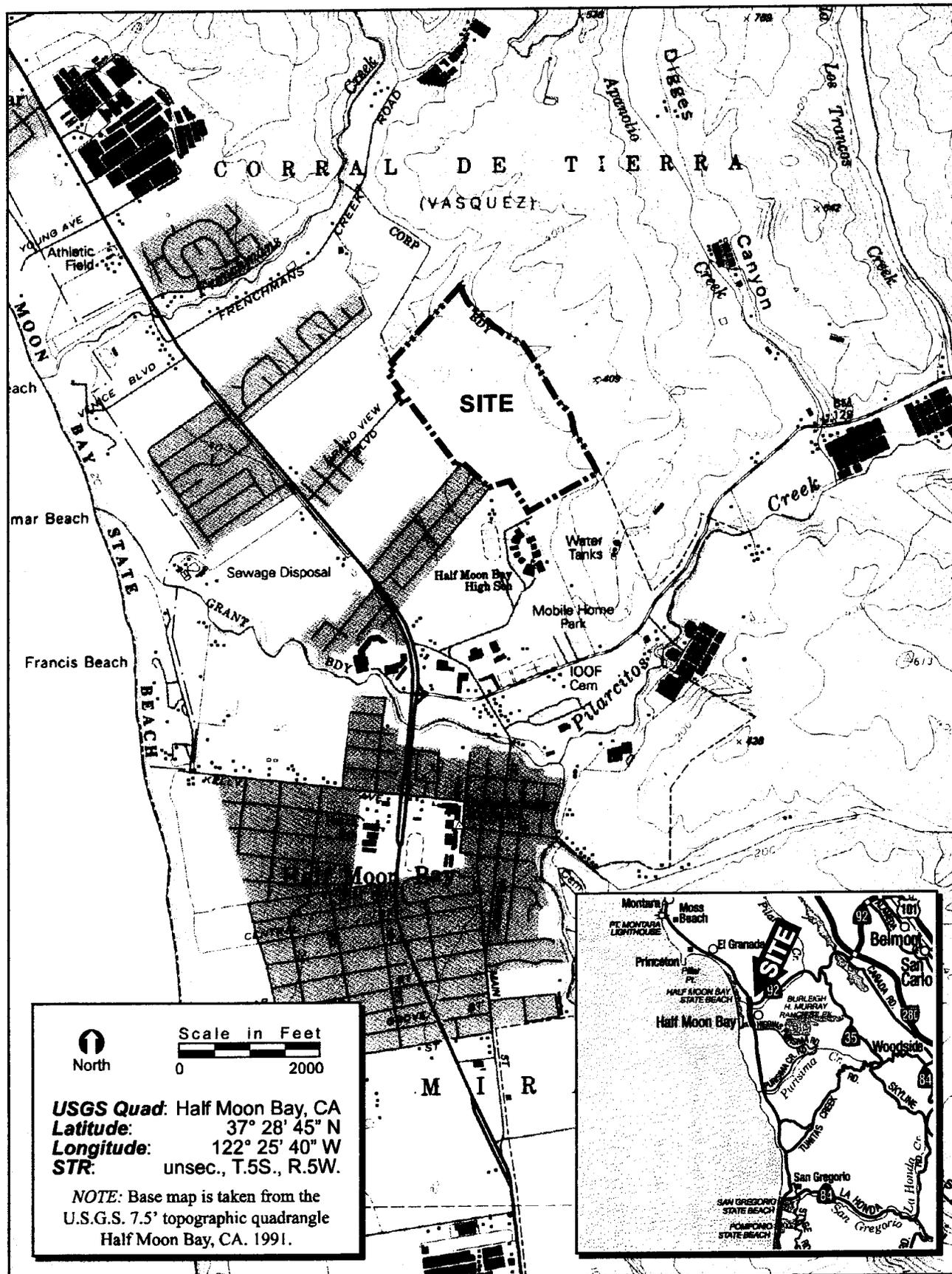
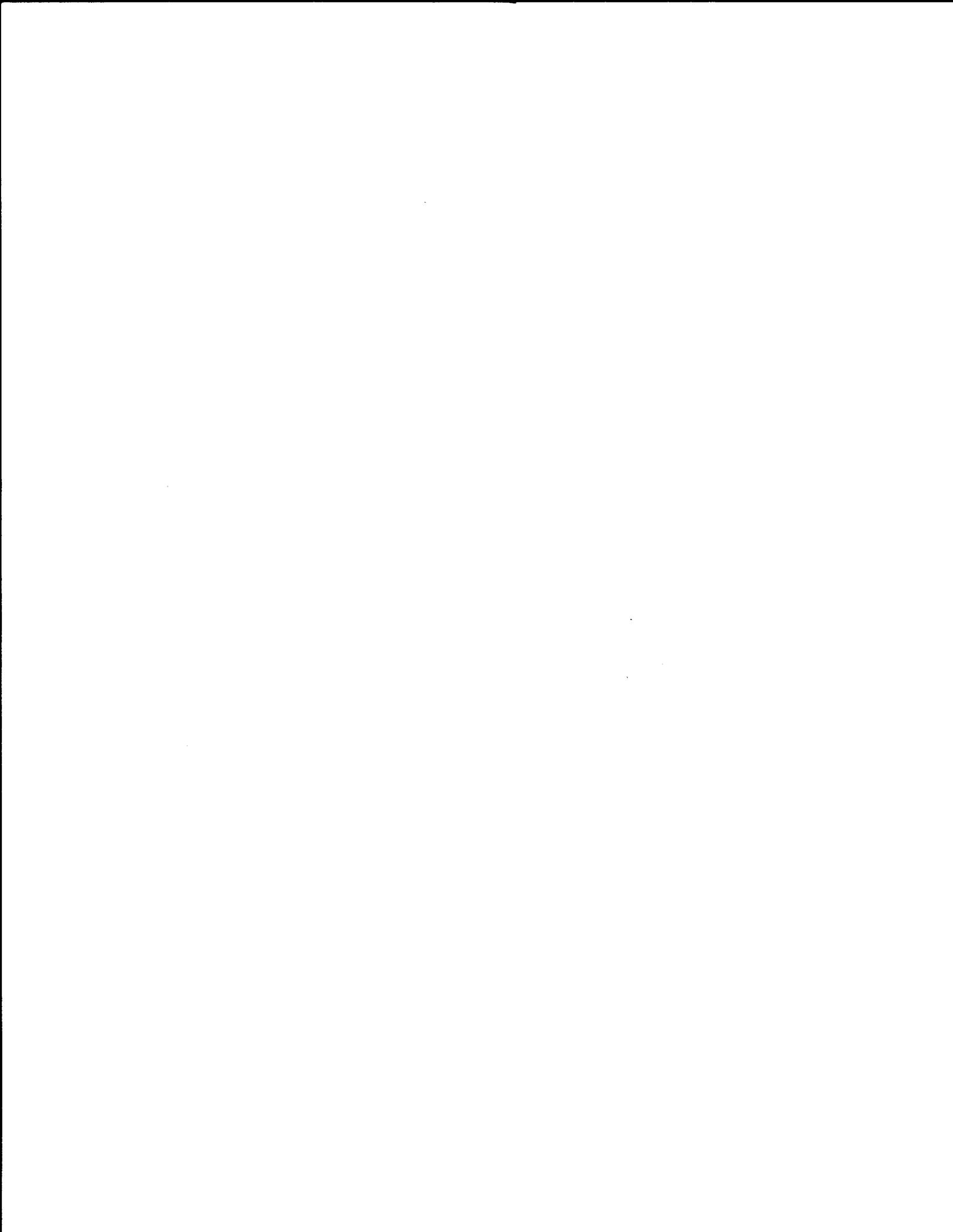


FIGURE 1. Project Site and Vicinity Map

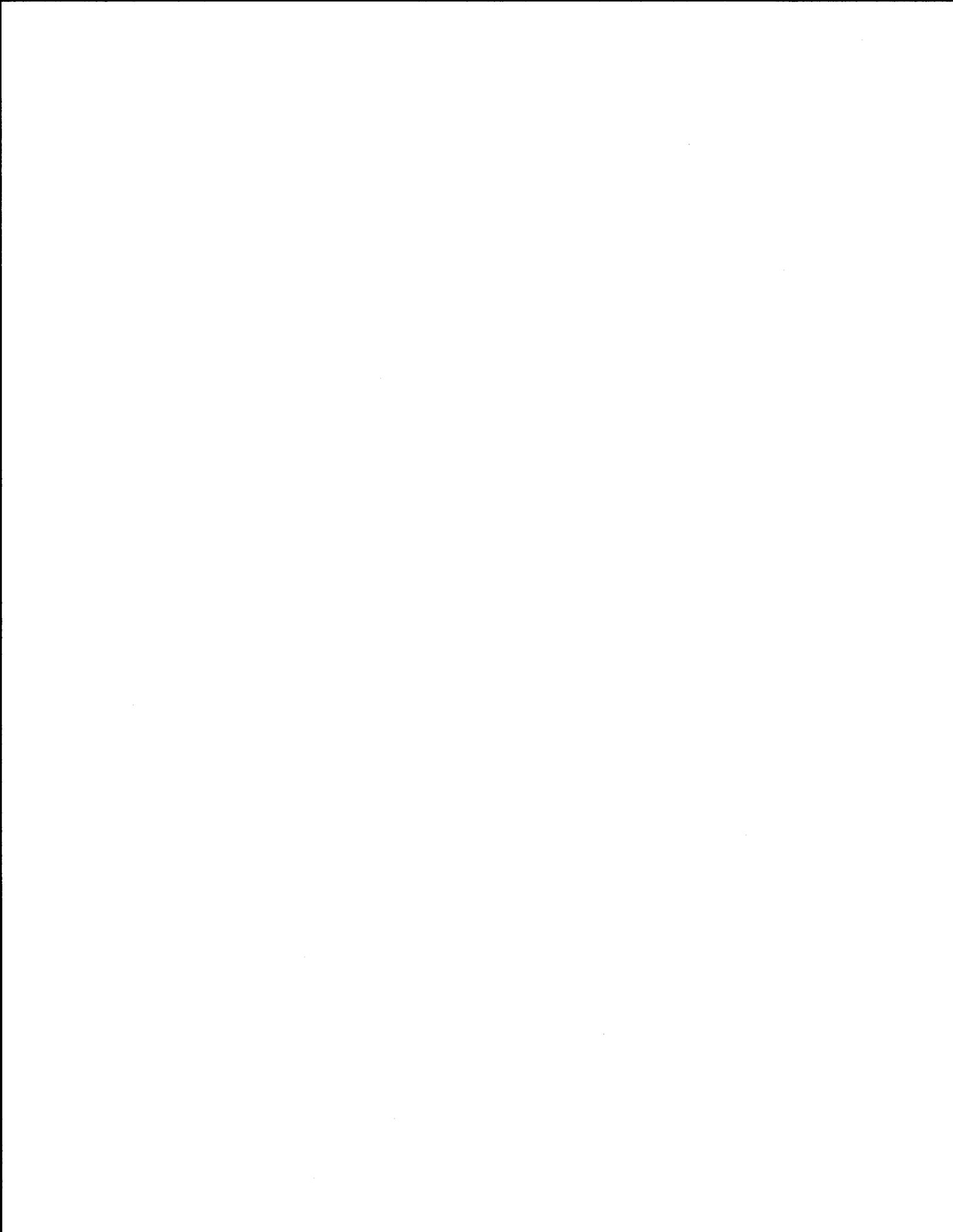


species. Following our field visit, I reviewed locality data (including published and unpublished records) for both species to document both regional (i.e. within a 5-mile radius of the project) as well as local occurrences (i.e. within 1-mile of the site). I also familiarized myself with several environmental documents/correspondences pertaining to the development of the project, including a previously issued Biological Opinion (B.O.) by the U.S. Fish and Wildlife Service (USFWS) (1-1-98-F-78) (USFWS 1998). Information resulting from biological work performed by LSA Associates was also reviewed during this analysis (see citations). I contacted several herpetological researchers as well, in order to obtain additional information regarding life history aspects of the reference species, as well as information pertaining to occurrences in the Half Moon Bay region. Finally, I reviewed the proposed current land use plan (January 5, 2001) for the project as it relates to potential habitat for these species, and have provided recommendations pertaining to land use design and mitigation measures to avoid/minimize potential impacts to these species. Implementation of these measures will protect on-site potential breeding/foraging habitat (including contributing watershed and associated uplands) and allow for dispersal of the reference species through developed and undeveloped portions of the project area.

FINDINGS

DOCUMENTED LOCALITY DATA

The Pacific Ridge Subdivision property is located within the geographic range of both the CRLF and the SFGS (USFWS 1998). In fact, much of San Mateo County (Unit 14; Coast Range Recovery Unit) is currently proposed for designation as critical habitat for the CRLF (USFWS 2000). Queries of the California Department of Fish and Game's (CDFG) Natural Diversity Data Base (CNDDDB) (Rarefind II) for the Half Moon Bay U.S.G.S. 7.5-minute topographic quadrangle and adjacent quadrangles documented regional and local occurrences for both species (attached), but none on the site (U.S.G.S. 1991) (CDFG 2000).

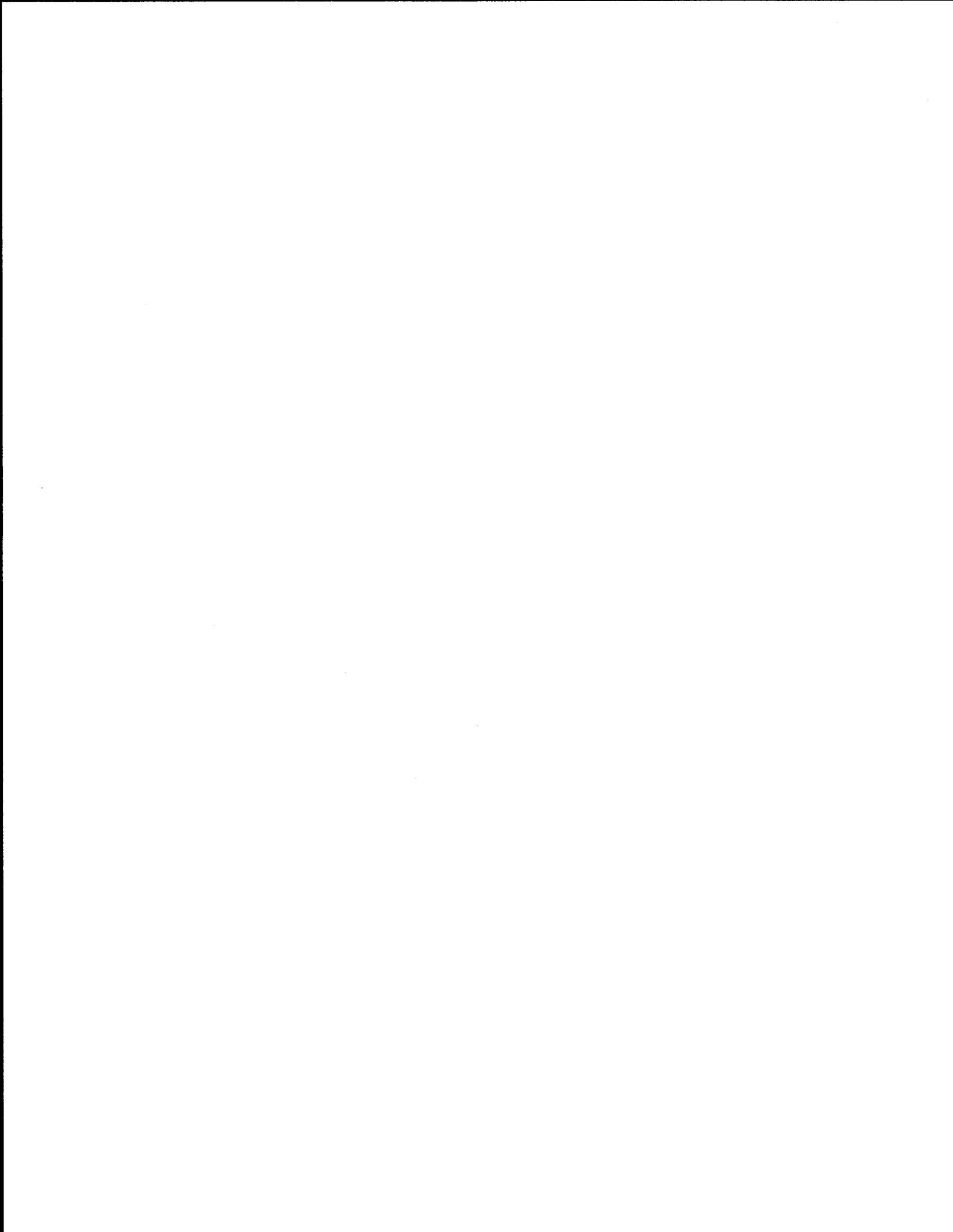


The San Francisco garter snake has been reported from a ponded area near the mouth of Pilarcitos Creek, approximately one mile west of the Pacific Ridge property (observed by Dr. Sam McGinnis 1988) (CDFG 2000). The exact location of this occurrence has been repressed by CDFG given its sensitive nature. Additional CNDDDB sensitive locations for this species are documented on adjacent topographic quadrangles. The current status of the SFGS in the Half Moon Bay area is unknown (USFWS 1998).

Several California red-legged frog records are also documented by the CNDDDB for the Half Moon Bay region. The closest CRLF population documented by the CNDDDB is from Pilarcitos Creek (Rarefind Occurrence #354). Additional unpublished records have also been documented, within nearly ½ mile of the project site (Seymour and Westphal 2000) (Figure 2). These records represent recent "road kills" documented by Michael Westphal and Richard Seymour. The closest record is from the frontage road west of Highway 1, south of the intersection of Highway 1 and Grandview Boulevard. The second record is from Highway 92, west of Apanolio Creek (Digges Canyon) and north of Pilarcitos Creek. Road kill CRLFs were even documented within the city of Half Moon Bay (Richard Seymour pers.com). This is not surprising, given that Pilarcitos Creek and the surrounding area are known to support a significant population of CRLF (Sean Barry pers.com) and that radiotelemetry studies have documented dispersing CRLF to travel distances of up to 2 miles (Richard Seymour pers com).

ON-SITE HABITAT

The Pacific Ridge Subdivision property provides potential habitat for both the CRLF and the SFGS in the form of the site's stock pond, associated drainages, and associated uplands. A wetland delineation map of the property prepared by LSA Associates and an aerial photograph depicting and numbering the site's drainages are provided for reference as Figure 3 and Figure 4, respectively. The most significant perennial wetland feature on the property is the site's stock pond. The pond and its adjacent wetland and upland areas represent potential habitat for the CRLF and, perhaps, the SFGS.



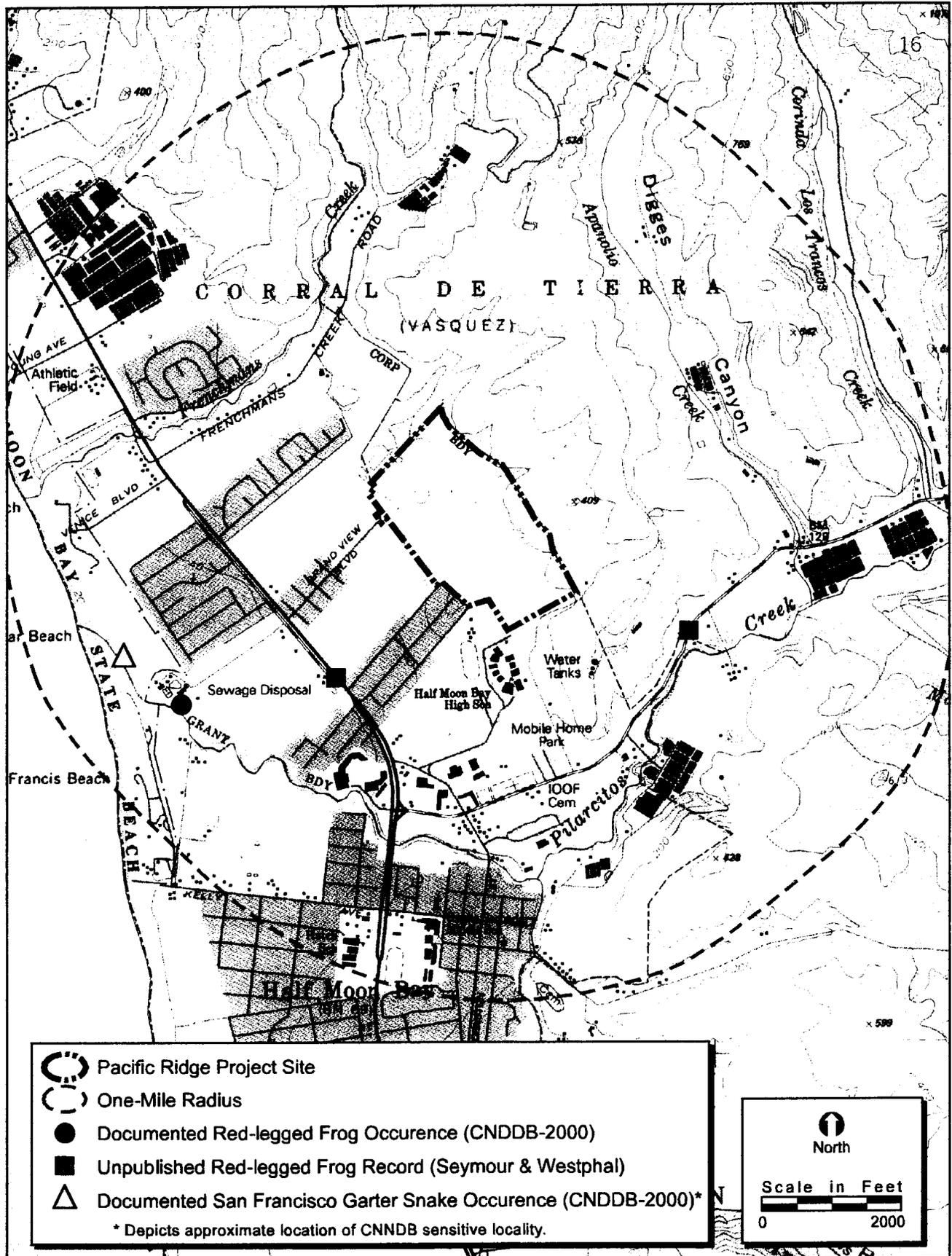
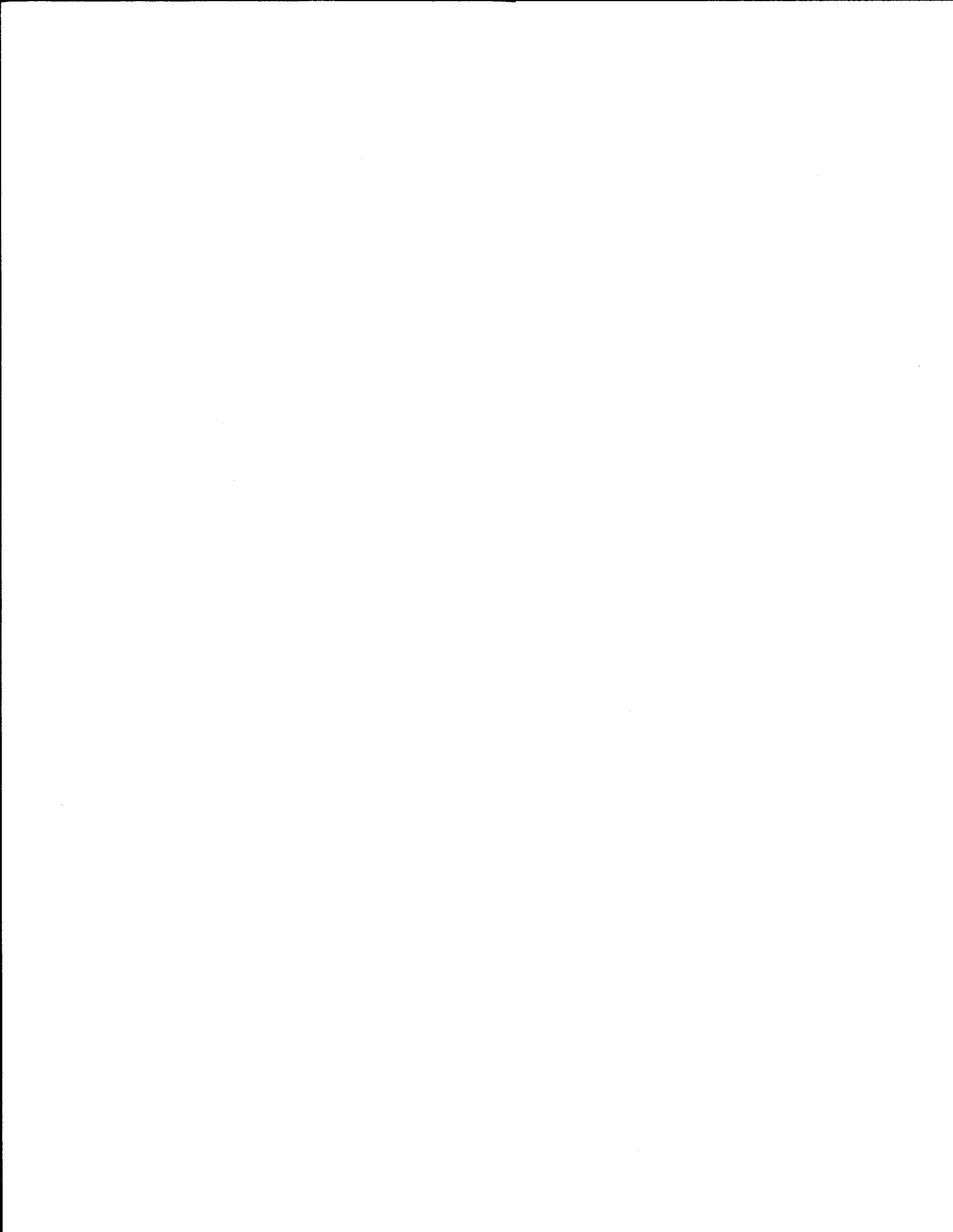
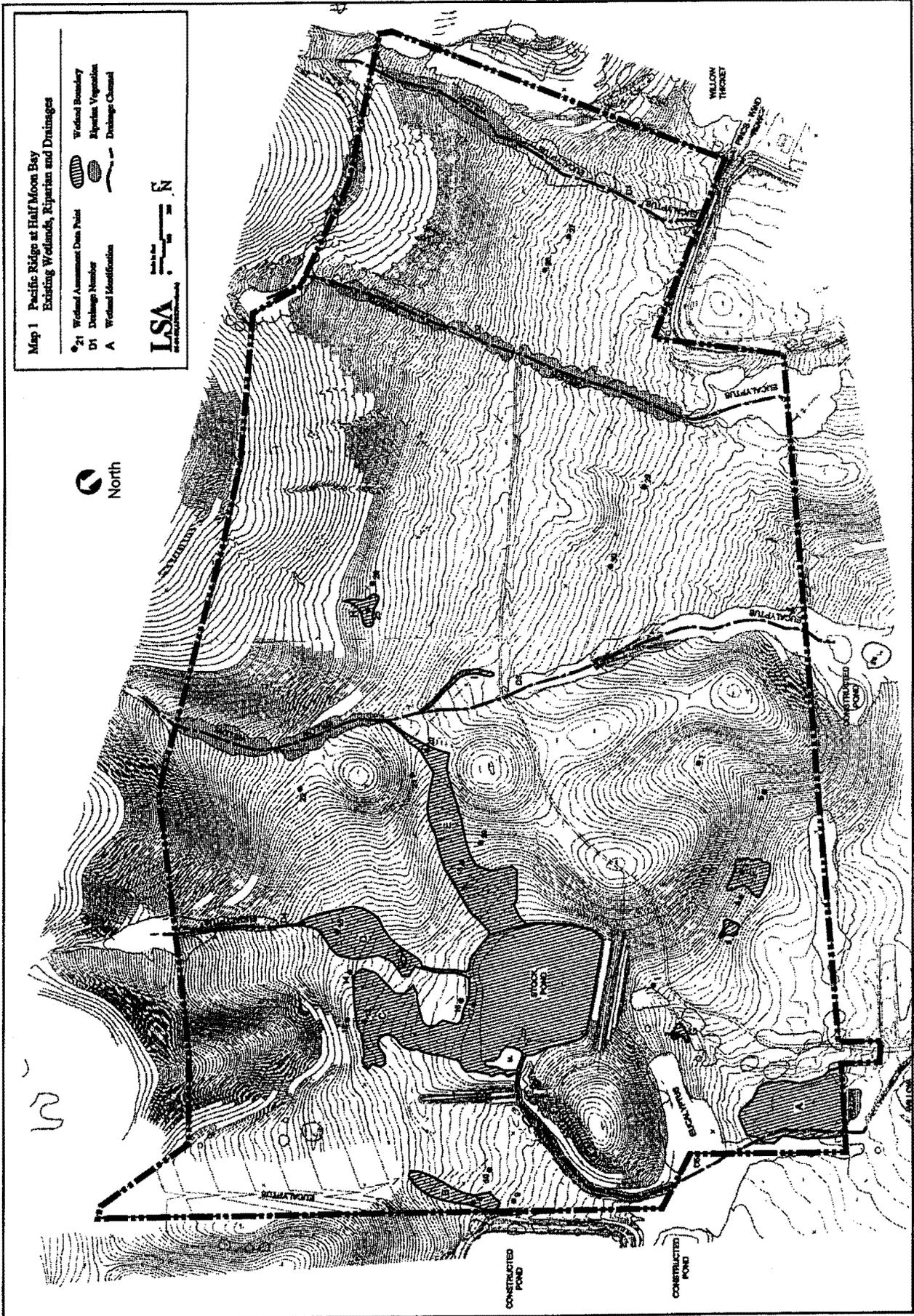


FIGURE 2. Local Special-Status Species Locations





**FIGURE 3. Wetland Delineation Map with Drainage/Vegetation Locations
(LSA, Associates)**

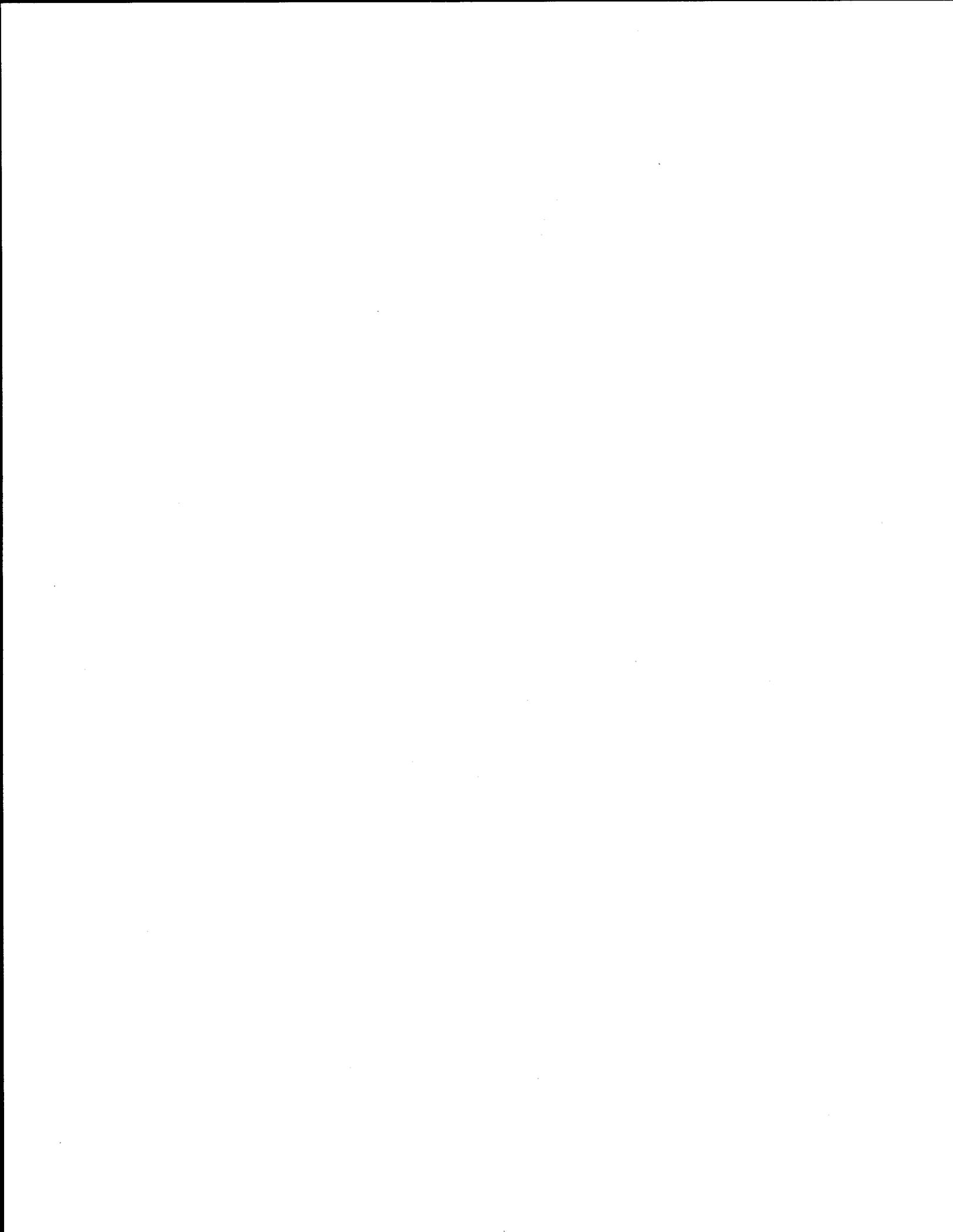
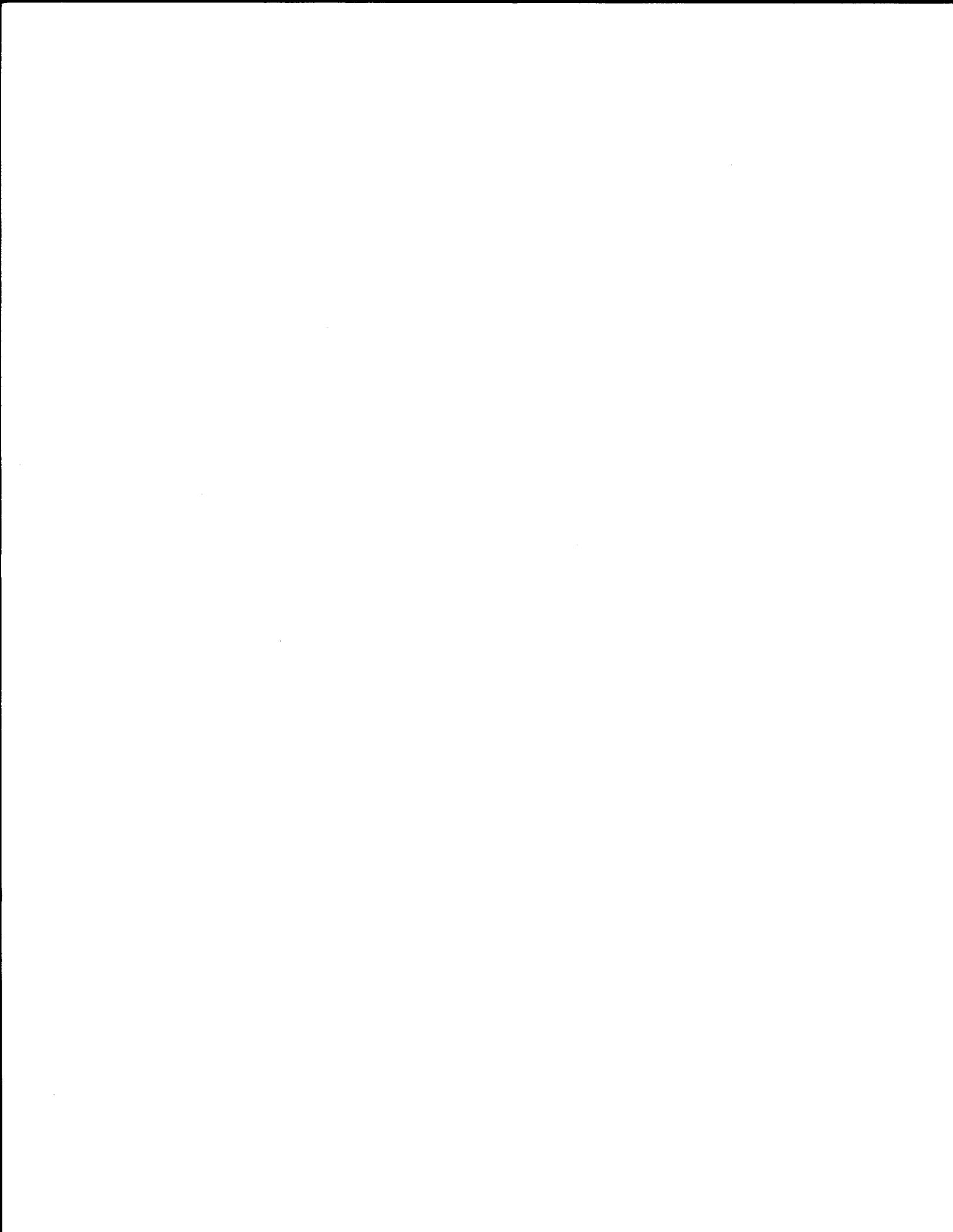


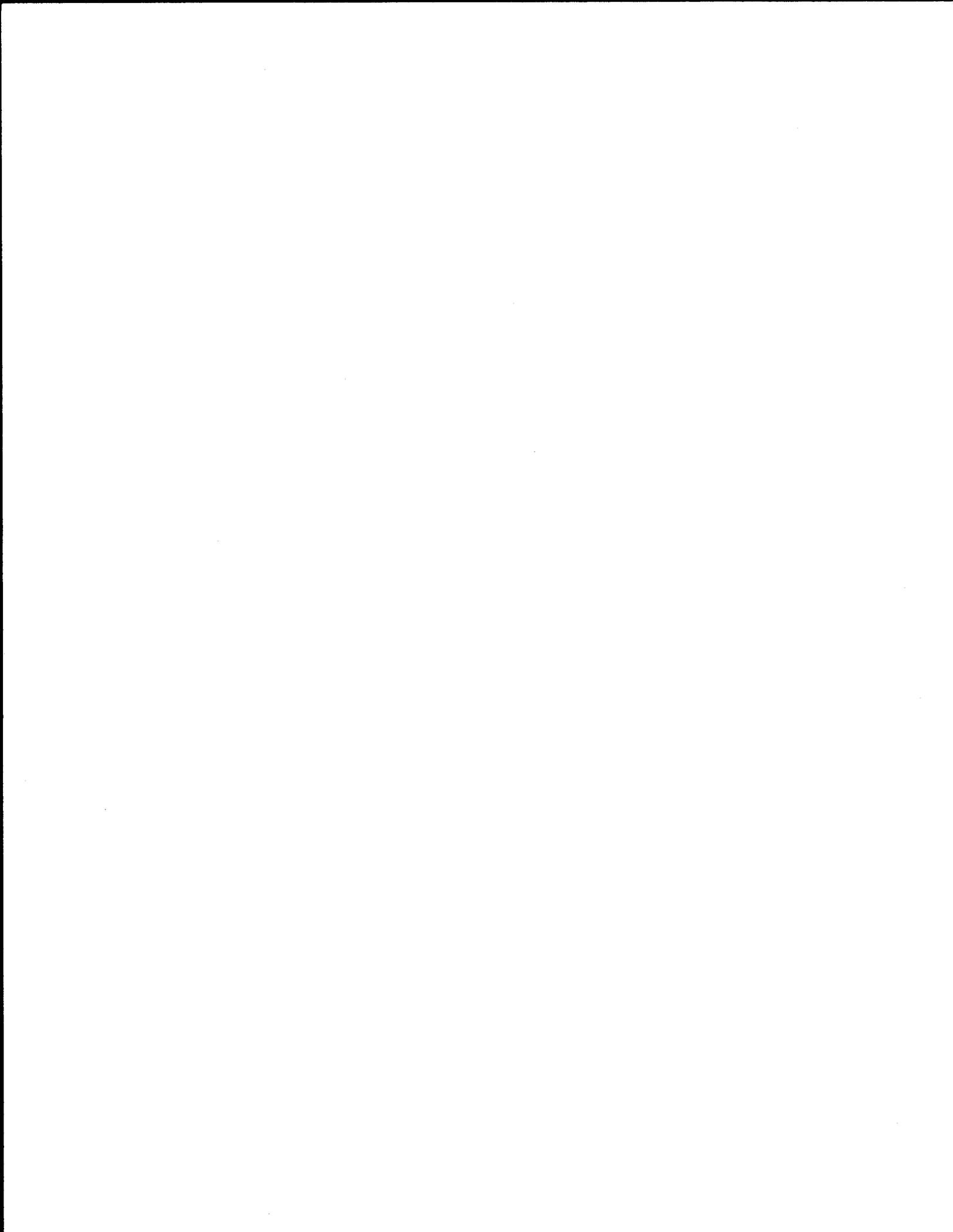


FIGURE 4. Project Site - Aerial View with Drainage Locations



The stock pond represents potential breeding habitat for the CRLF, although no CRLF were observed on the site during surveys conducted by LSA Associates during July and August 1997 and August 2000 (RMI 1997) (Lacy 2000). Bullfrogs (*Rana catesbeiana*) were the only ranid frogs positively identified and were commonly observed during survey investigations. During the August 2000 survey, eleven of the frogs observed were not positively identified. While the presence of bullfrogs at the pond is not favorable for the establishment of CRLF populations, the two species can and often do co-occur in coastal areas (Gary Fellers pers. com). While no CRLF were observed on site, it is possible that they were present in low numbers and not encountered and/or that they may use the pond to breed on occasion. The success of CRLF breeding is further complicated by the reported presence of predatory fishes including bluegill and possibly bass and catfish (LSA 1999a). Irrespective of less than optimal conditions and survey findings, the periodic use of the pond by CRLF is considered likely and as such the pond should be considered to represent potential breeding habitat. Additional ponds representing potential breeding habitat are located to the north of the site. Smaller seasonal ponds to the east and to the west could possibly support frogs. Given descriptions of existing conditions presented in supporting biological documents, the ephemeral pond to the east is not likely to represent breeding habitat. The pond/wetland located on the property to the west, however, supports emergent vegetation and appears to pond water for an extended period of time and, as such, represents potential CRLF breeding habitat. The remaining wetlands and drainages on the property do not provide suitable breeding habitat for CRLF, given their inadequate hydrological regimes, but do represent potential modes of dispersal. Isolated marginal wetlands such as the area mapped as wetland H by LSA Associates, do not represent significant habitat.

The presence of SFGS within the project area is considered less likely, albeit potential, given the apparent lack of recent verified locality records in the area. Nevertheless, the USFWS conservatively considers San Francisco garter snakes to potentially be present "at any water body in the Half Moon Bay area that supports emergent vegetation and amphibians" (USFWS 1998). The stock pond within the property and the off-site ponds to the north all support both emergent vegetation and an established amphibian food base (e.g. small bullfrogs and Pacific tree frogs), and as such meet USFWS criteria for a potential habitat determination. While SFGS

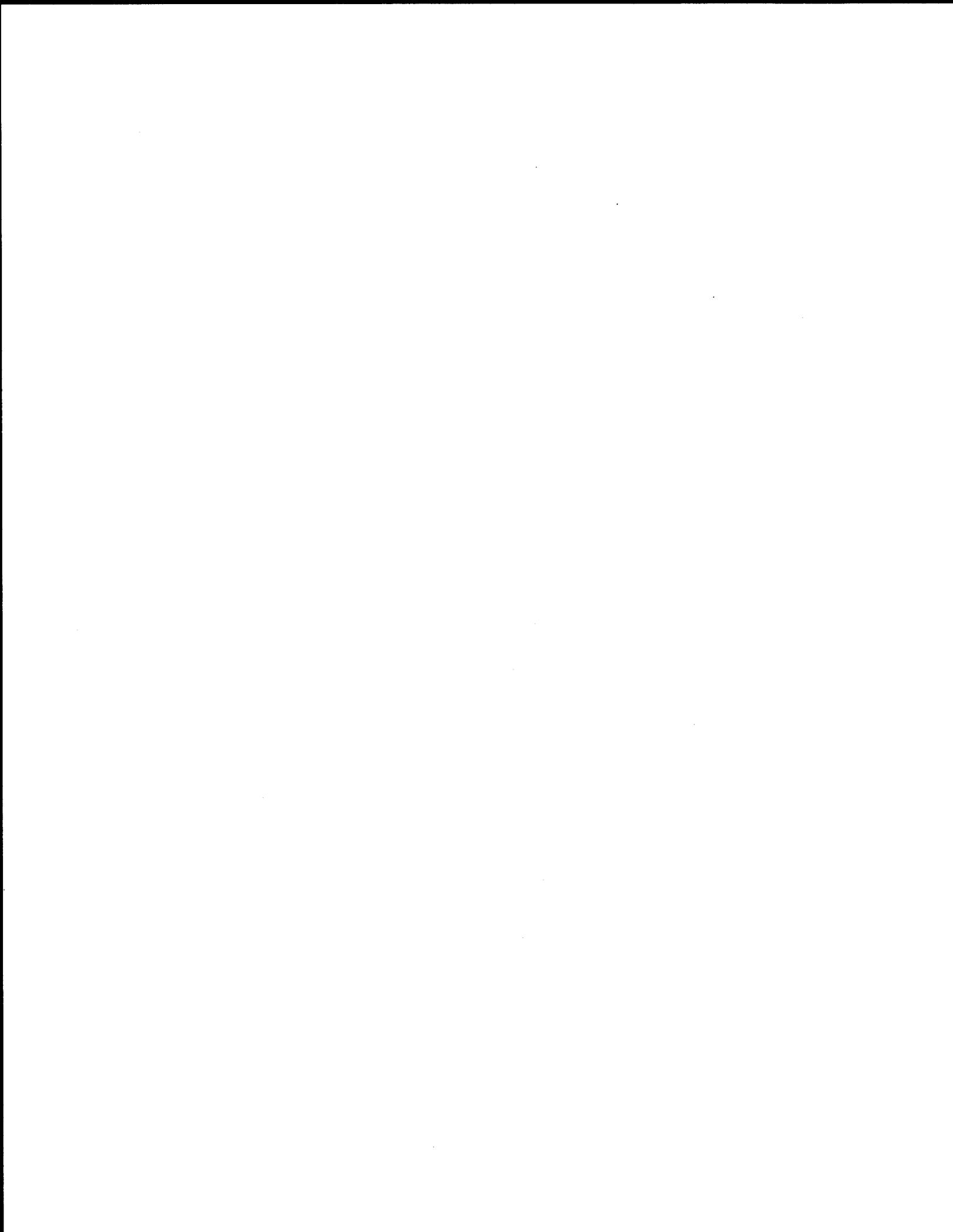


will prey on bullfrogs, the large population of bullfrogs in the area is, conversely, viewed negatively, given that bullfrogs are highly predaceous and are known to prey on juvenile SFGS (WESCO 1988) (USFWS 1998).

RECOMMENDATIONS

The northern portion of the Pacific Ridge property supports important habitat components for the CRLF, and possibly the SFGS, that provide potential foraging habitat, upland refuge areas and breeding opportunities. The stock pond, its associated drainages/wetlands, and contributing watershed mapped on Figure 5 are recommended for complete avoidance of residential development and associated infrastructure. Wetlands A and F and the intervening upland area west of the stock pond are, similarly, recommended for avoidance (Figure 5). This avoidance strategy would maintain the integrity of the stock pond's watershed, and permit unobstructed movements of potentially-occurring listed species (and other wildlife) through the property. It is important that this large corridor be maintained as open space, allowing for connectivity with western lands, as well as potential habitat to the north (e.g. several other stock ponds) and east of the property (e.g., Apanolio Creek and other tributaries to Pilarcitos Creek). The proposed development area southwest of the pond should be situated at least 150-feet away from the mapped pond edge so as not to encroach upon the pond's watershed. It is further recommended that grading in the development area north of the lower drainage #3 be contoured to drain away from the pond, to reduce the potential for siltation and watershed alteration.

Buffers along non-riparian drainages between development zones (i.e. #1, #2, and western portion of #3) are proposed to be 30-feet wide. This width is consistent with guidance provided in the Half Moon Bay Local Coastal Program (LCP) and Land Use Plan (LUP). These widths also were previously deemed acceptable to USFWS (B.O. 1-1-98-F-78), provided that specific mitigation measures, as stated in the B.O. Terms and Conditions were implemented. The primary compensatory mitigation measure for buffer encroachments (as well as fill of approximately 1-acre of wetland, since avoided by the project) stipulated the funding of



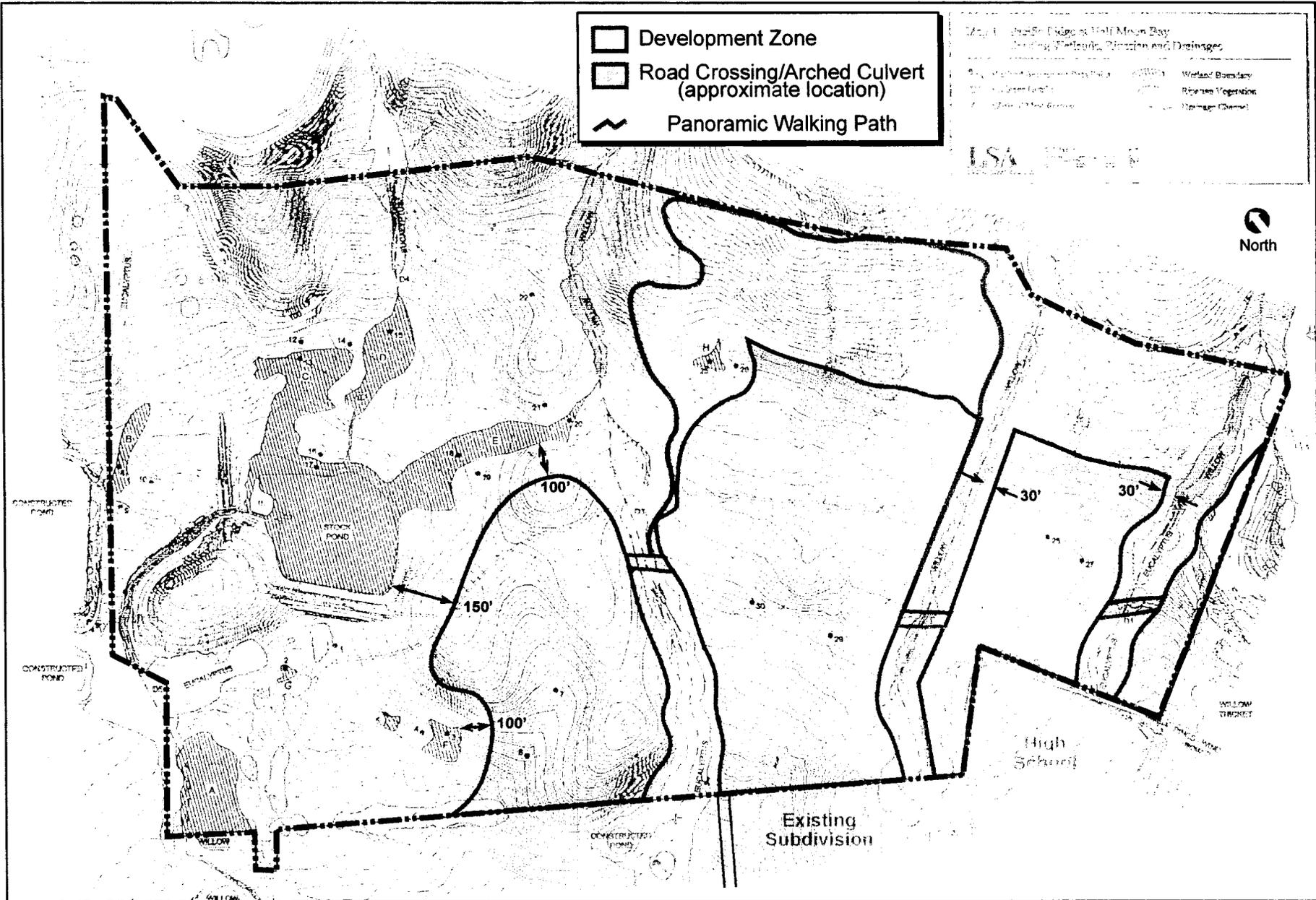
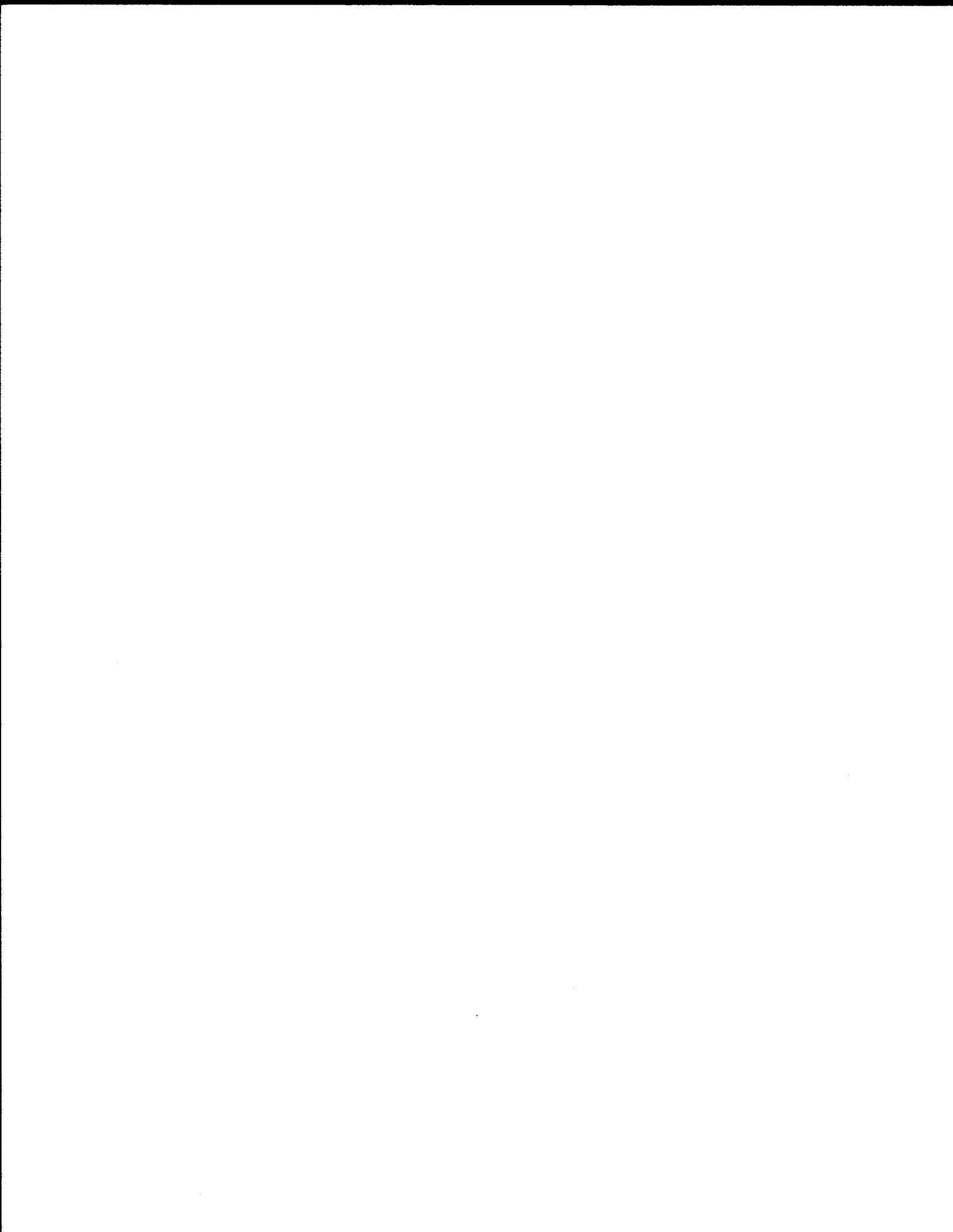


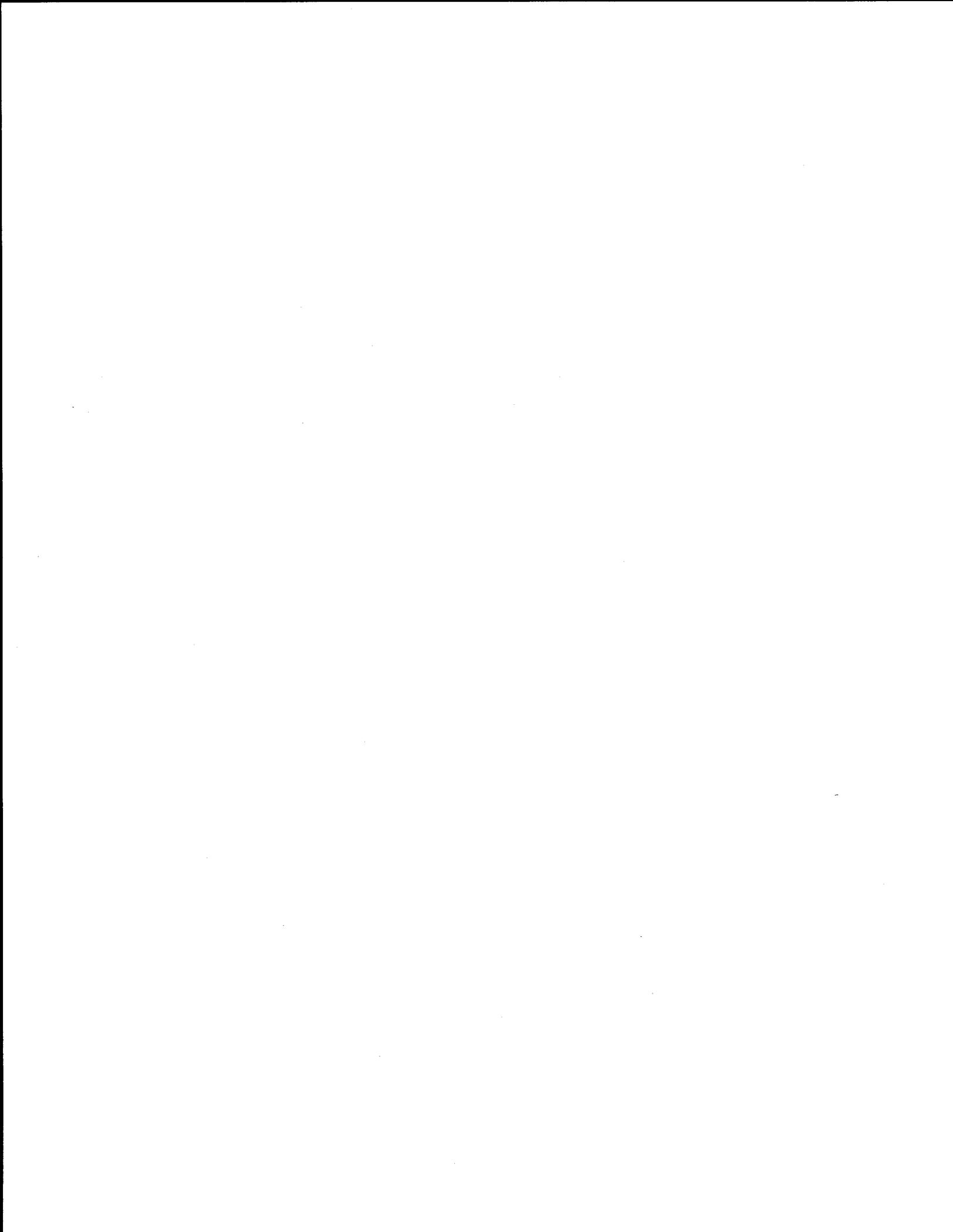
FIGURE 5. Constraints Map / Development Zones



acquisition and enhancement of off-site habitat that is "presently occupied or adjacent to occupied California red-legged frog and San Francisco garter snake habitat within 15-miles of the project site." However, it should be noted that since the issuance of the previous B.O., the residential land use has been greatly reduced in the developed area and currently avoids wetland fill, buffers the pond, and avoids the entire watershed of the pond. This significant on-site avoidance and proposed enhancement mitigation strategy is considered adequate to protect the target species, their potential habitat, and dispersal routes at the site. Two of the drainages (#1 and #2) are of limited value to CRLF and SFGS, given that neither support pools or prolonged water flows and both are ultimately directed into a storm drain system associated with adjacent developments to the west (i.e. a subdivision and Half Moon Bay High School). While these drainages are of lower habitat value to CRLF, their preservation and buffered area will allow for potential CRLF movements through the property. Buffer areas should remain in their existing state, be undisturbed except for the mapped road crossings and the walking path, and not be encroached upon by grading or other development. Arched culverts, or similar structures, with natural substrate bottom will facilitate movements under the road crossings.

The western lower segment of drainage 3, below the diversion to the stock pond, receives little or no water flow from the upper reach of drainage 3 or adjacent areas. At present, although the lower segment of drainage 3 is directed into an off-site storm drain system, the undeveloped land between the project site and Highway 1 may potentially serve as a corridor/connector between habitat areas west of Highway 1 and the Coast Range to the east. Given the relatively lower potential of this portion of Drainage 3's functioning as a migration corridor, when compared to the likely major corridor between and among the drainages and ponds to the north, a 30-foot wide buffer along lower drainage 3 (as measured from the tree drip line) is considered adequate to promote this potential function. It is further recommended that frog walls be provided within the buffer to help direct any frog movement through the corridor. Frog walls are also recommended in the outer buffer south and west of the pond near the northern edge of development in the area north of Drainage 3.

I concur with the Reasonable and Prudent Measures and Terms and Conditions provided in the USFWS Biological Opinion and many of the general recommendations pertaining to open space

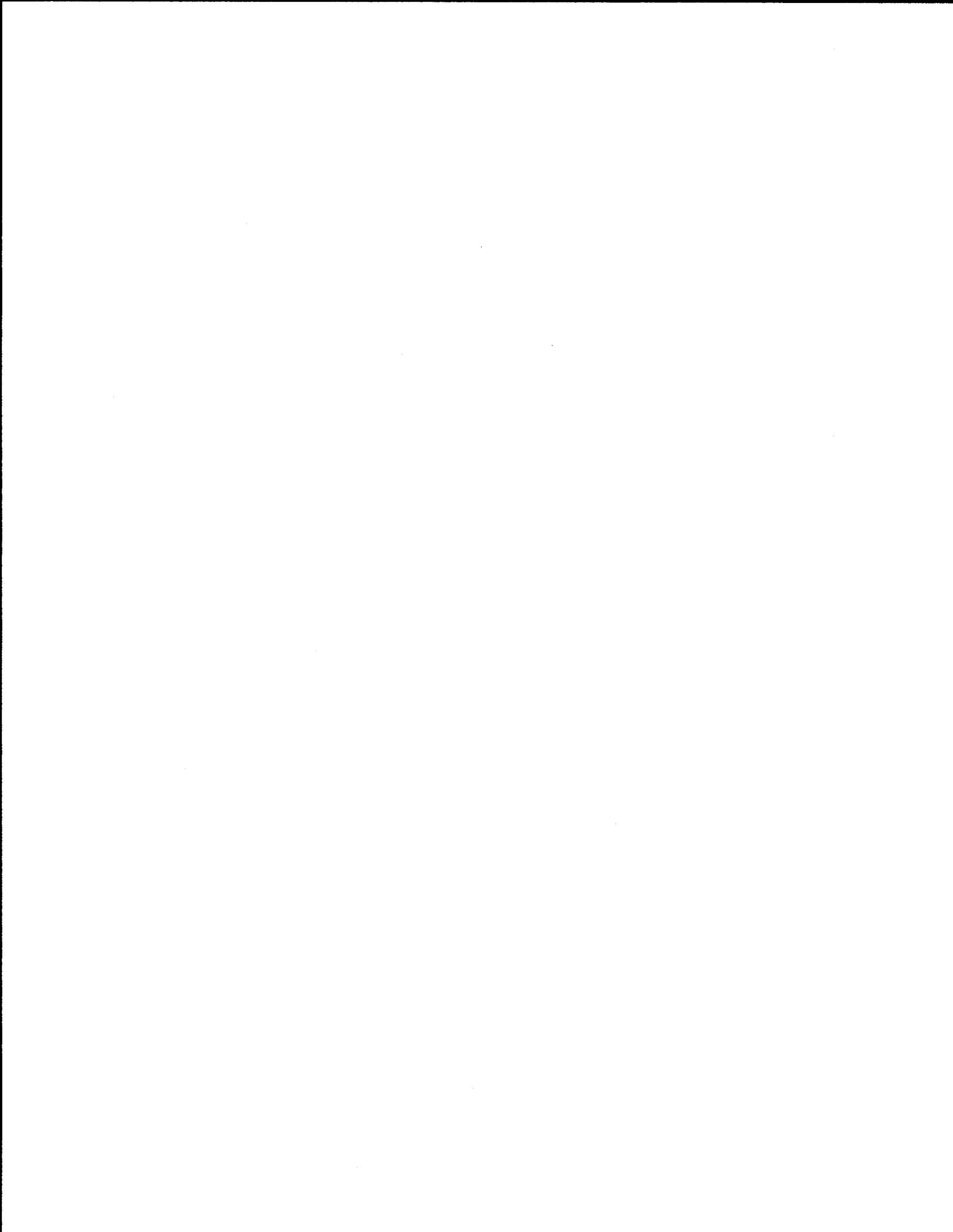


management (LSA 1999b). Most notably, I support an appropriately-timed eradication effort to eliminate introduced fishes from the stock pond. This will ultimately be of benefit to the listed species. I question, however, the ultimate success of the USFWS – recommended bullfrog eradication program, given the site's proximity to a large bullfrog population immediately to the north. Biennial (once every two years) bullfrog eradication, in conjunction with a monitoring and reporting program (for a period of ten years), may, however, increase the likelihood for establishment of a CRLF population and possible CRLF co-habitation with bullfrogs. As stated earlier, relatively long-lived co-occurrences of the two species have been documented in coastal areas to the north (Gary Fellers pers com). Finally, I recommend against the proposed re-establishment of the normal high water level of the pond (LSA 1999b), as it would likely favor the persistence of bullfrogs by increasing the extent of perennial water and increased bullfrog breeding success. Head-cutting erosion at the pond outflow into drainage #5 should be monitored and if deemed to represent a threat to the longevity of the pond, appropriate erosion control measures should be implemented to insure that the pond is not undermined over the course of time. Proposed enhancement through re-vegetation of the pond and an intervening area between the pond and the upper reach of drainage #3, is considered beneficial and will likely be of ultimate benefit to the listed species and wildlife use in general by providing additional shelter and foraging opportunities.



CITATIONS

- CDFG (California Department of Fish and Game). 2000. *Rarefind 2* personal computer program (version dated: 7/19/00). California Department of Fish and Game, Sacramento, California. Queires of Half Moon Bay, Woodside, San Mateo and Montara Mountain U.S.G.S. Topographic Quadrangles.
- Lacy, Tim. 2000. Results of Red-Legged Frog Survey at Pacific Ridge at Half Moon Bay. Memorandum to Steve Foreman (LSA Association) dated August 21, 2000.
- LSA Associates. 1999a. Biological Resources Report for Pacific Ridge at Half Moon Bay. Prepared for Ailanto Properties, Inc. Point Richmond, California. June 15, 1999.
- LSA Associates. 1999b. Pacific Ridge Appeal Number A-1-HMB-99-022; Addendum to Biological Report. Letter addressed to Chris Kern (California Coastal Commission) dated November 2, 1999.
- RMI (Resource Management International, Inc.). 1997. Site Assessment and Survey Results for California Red-Legged Frogs at Dykstra Ranch, Half Moon Bay, San Mateo County. Letter addressed to U. S. Fish and Wildlife Service dated August 20, 1997.
- Seymour, R., and Mike Westphal. 2000. Regional distribution of a declining anuran, *Rana aurora draytonii*, on the San Francisco Peninsula, California, USA. Poster presented at the Annual Joint Meeting for the ASIH, HL, and SSAR. La Paz, Baja California, Mexico.
- USFWS (U.S. Department of Interior, Fish and Wildlife Service). 2000. Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the California Red-Legged Frog (*Rana aurora draytonii*); Proposed Rule. 50 CFR Part 17. September 11, 2000.
- USFWS (U. S. Department of the Interior, Fish and Wildlife Service). 1998. Formal Consultation on the Proposed Pacific Ridge Development Project, Half Moon Bay, San Mateo County, California (1-1-98-F-78). Letter addressed to Mr. Calvin C. Fong (U. S. Army Corps of Engineers) dated November 16, 1998.
- USGS (U. S. Department of the Interior, Geological Survey). 1980a. Montara Mountain, Calif. 7.5 Minute Series. USGS, Denver, Colorado.
- USGS (U. S. Department of the Interior, Geological Survey). 1980b. San Mateo, Calif. 7.5 Minute Series. USGS, Denver, Colorado.
- USGS (U. S. Department of the Interior, Geological Survey). 1991a. Half Moon Bay, Calif. 7.5 Minute Series. USGS, Denver, Colorado.
- USGS (U. S. Department of the Interior, Geological Survey). 1991b. Woodside, Calif. 7.5 Minute Series. USGS, Denver, Colorado.



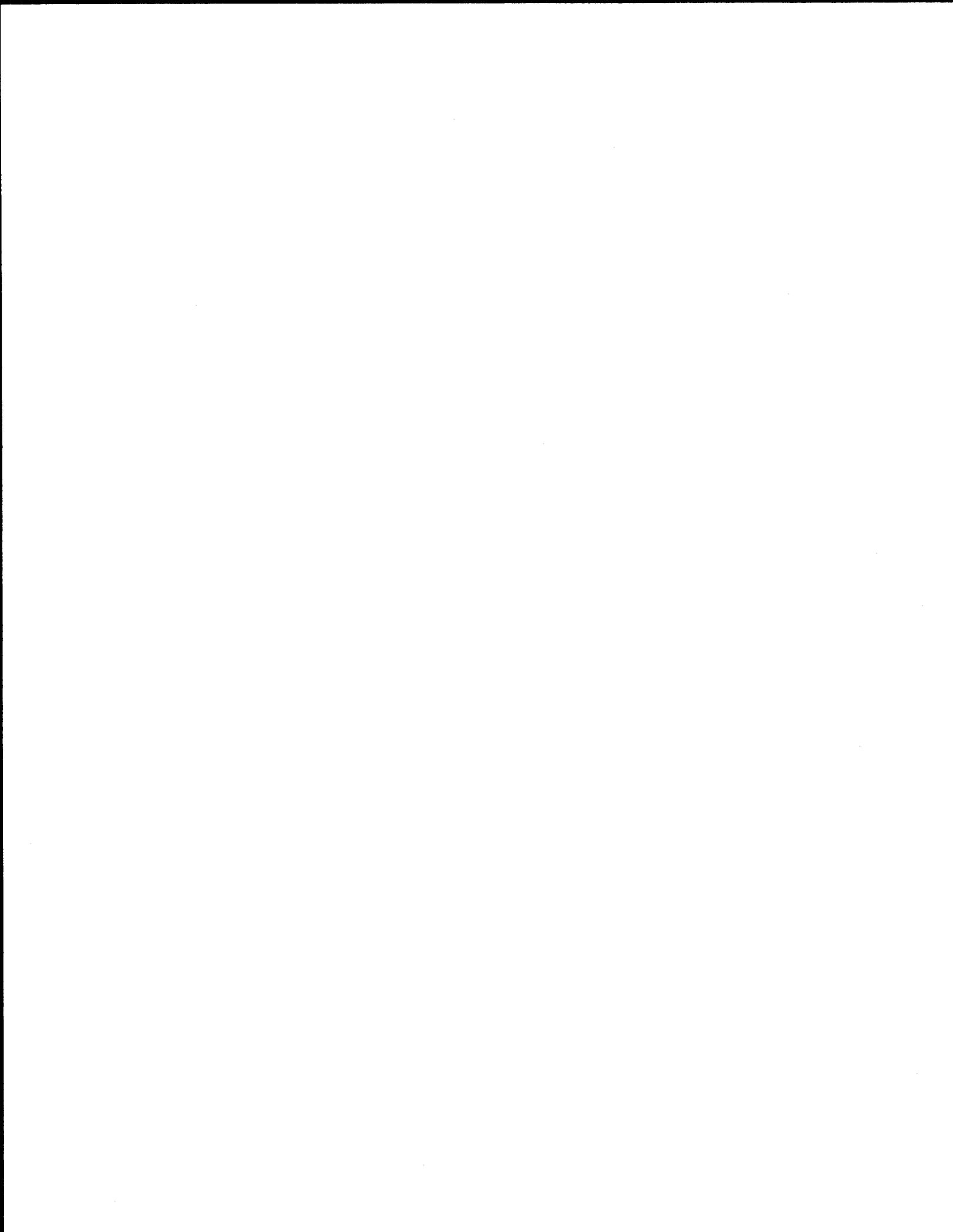
WESCO (Western Ecological Services Company, Inc.). 1988. Dykstra Ranch Development Draft Environmental Impact Report, Half Moon Bay, California. Prepared for the City of Half Moon Bay. Novata, California. April 1988

PERSONAL COMMUNICATIONS

Barry, Sean. 2001. Telephone conversation between Sean Barry (University of California, Davis) and Peter Balfour (ECORP Consulting, Inc.), January 10, 2001.

Fellers, Gary. 2001. Telephone conversation between Gary Fellers (USGS Pt. Reyes National Seashore) and Peter Balfour (ECORP Consulting, Inc.), January 11, 2001.

Seymour, Richard. 2001. Telephone conversation between Richard Seymour (Consulting Biologist) and Peter Balfour (ECORP Consulting, Inc.). January 10, 2001





↑ View of stock pond, facing northwest.

↓ Off-site pond to the north.

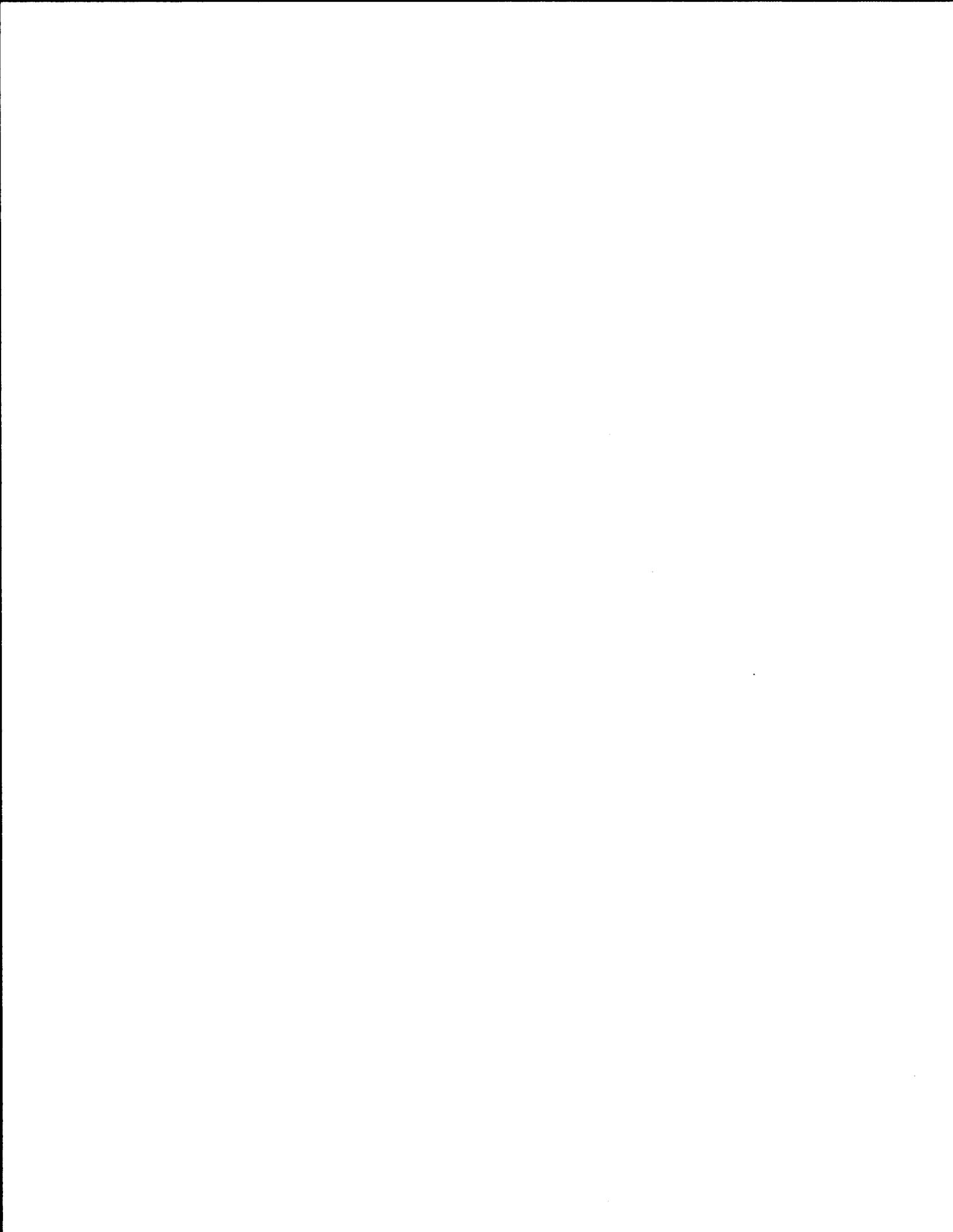


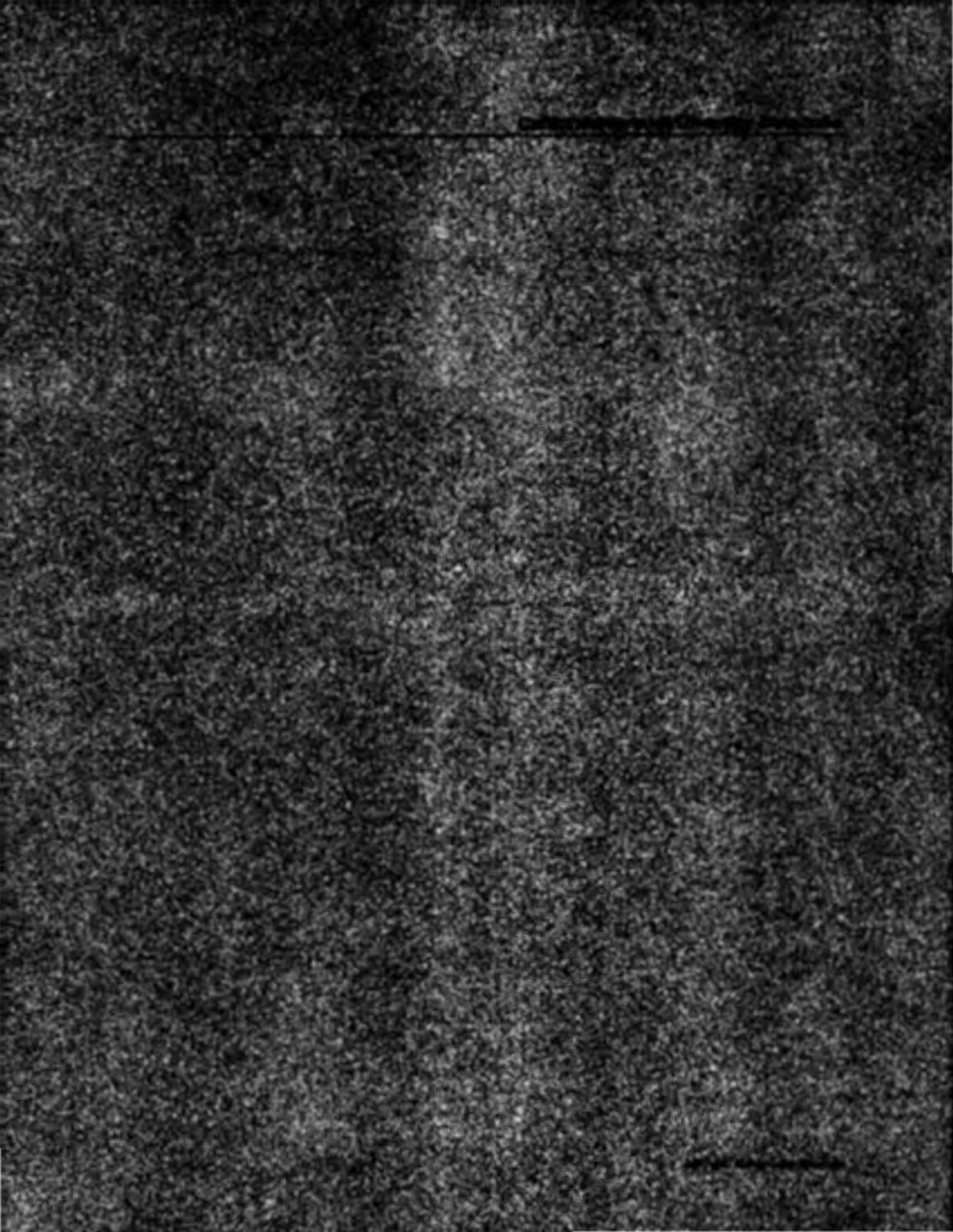
↑ Stock pond watershed.

↓ Emergent vegetation at stock pond.



FIGURE 6. Representative Site Photos





California Department of Fish and Game
Natural Diversity Data Base

Full Condensed Report - Multiple Records per Page
San Francisco garter snake
Half Moon Bay Quad

THAMNOPHIS SIRTALIS TETRATAENIA
SAN FRANCISCO GARTER SNAKE
Element Code: ARADB3613B

List Status	NDDB Element Ranks	Other Lists
Federal: Endangered	Global: GST2	CDFG Status:
State: Endangered	State: S2	

Habitat Associations

General: VICINITY OF FRESHWATER MARSHES, PONDS AND SLOW MOVING STREAMS IN SAN MATEO COUNTY AND EXTREME NORTHERN SANTA CRUZ COUNTY
Micro: PREFERS DENSE COVER & WATER DEPTHS OF AT LEAST ONE FOOT. UPLAND AREAS NEAR WATER ARE ALSO VERY IMPORTANT.

* SENSITIVE *

Occurrence No. 31	Map Index:	—Dates Last Seen—	Lat/Long: /	Township:
Occ Rank: Unknown		Element: 198X-XX-XX	UTM:	Range:
Origin: Natural/Native occurrence		Site: 198X-XX-XX	Precision:	Section: Qtr
Presence: Presumed Extant			Symbol Type:	Meridian:
Trend: Unknown			Radius:	Elevation:
Main Source: MURPHY, M. 1988 (OBS)				
Quad Summary: HALF MOON BAY (3712244/429B)				
County Summary: SAN MATEO				
SNA Summary: Mouth of Pilarcitos Creek				
Location: *SENSITIVE* Location information suppressed.				

Comments

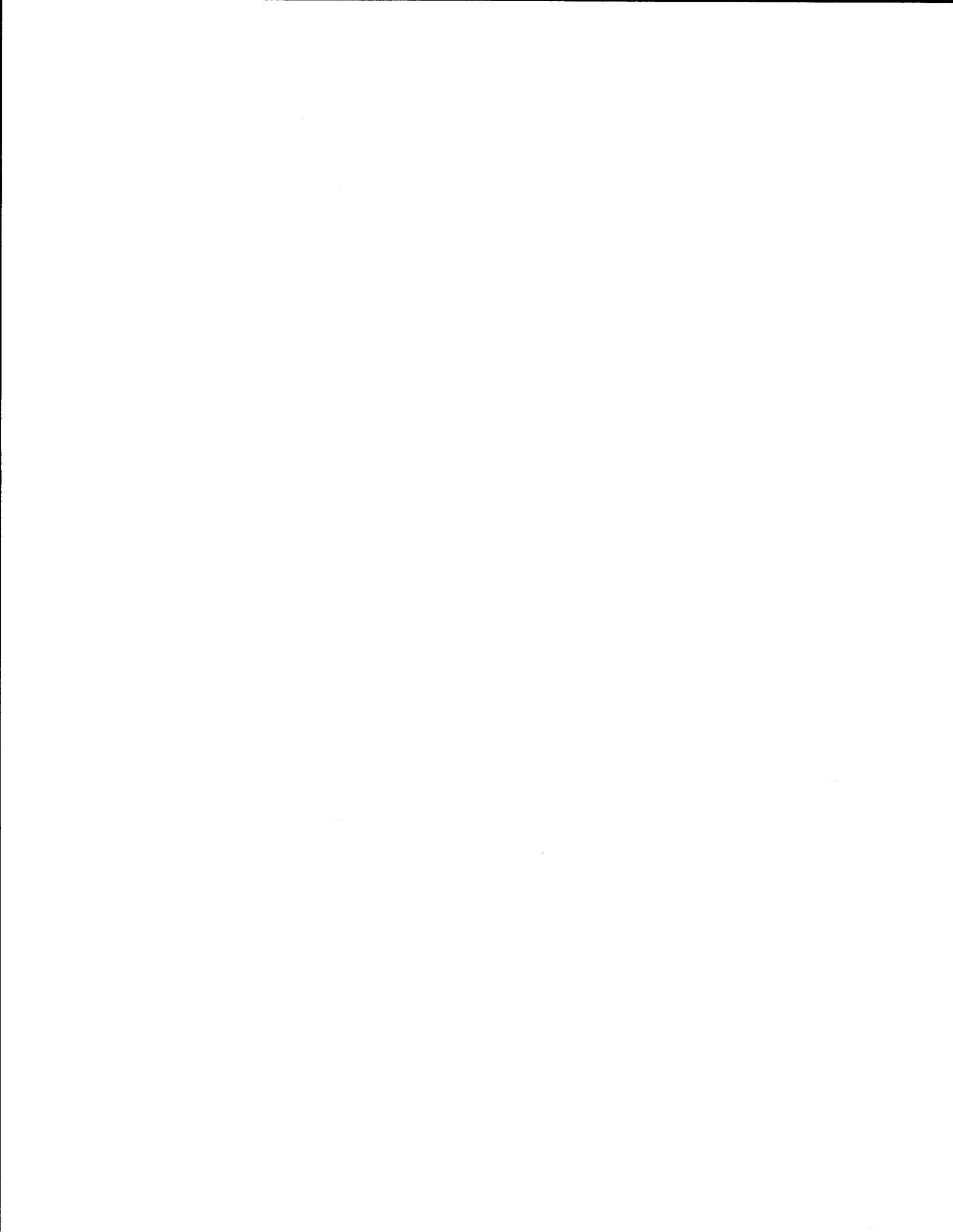
Distribution: Please contact the California Natural Diversity Database, California Department of Fish and Game, for more information: (916) 324-3812.

Ecological: SNAKE FOUND BY SAM MCGINNIS IN AN AREA WHERE PONDING OCCURS DURING WINTER MONTHS.

Threat: MAIN THREATS ARE CONSTRUCTION AND WATER-PUMPING FROM PILARCITOS CREEK.

General:

Owner/Manager:



California Department of Fish and Game
Natural Diversity Data Base

Full Condensed Report - Multiple Records per Page
California red-legged frog
Half Moon Bay, Montara Mtn, San Mateo, Wood

RANA AURORA DRAYTONII
CALIFORNIA RED-LEGGED FROG
Element Code: AABH01022

-----List Status-----NDB Element Ranks-----Other Lists-----
Federal: Threatened Global: G4T2T3 CDFG Status: SC
State: None State: S2S3

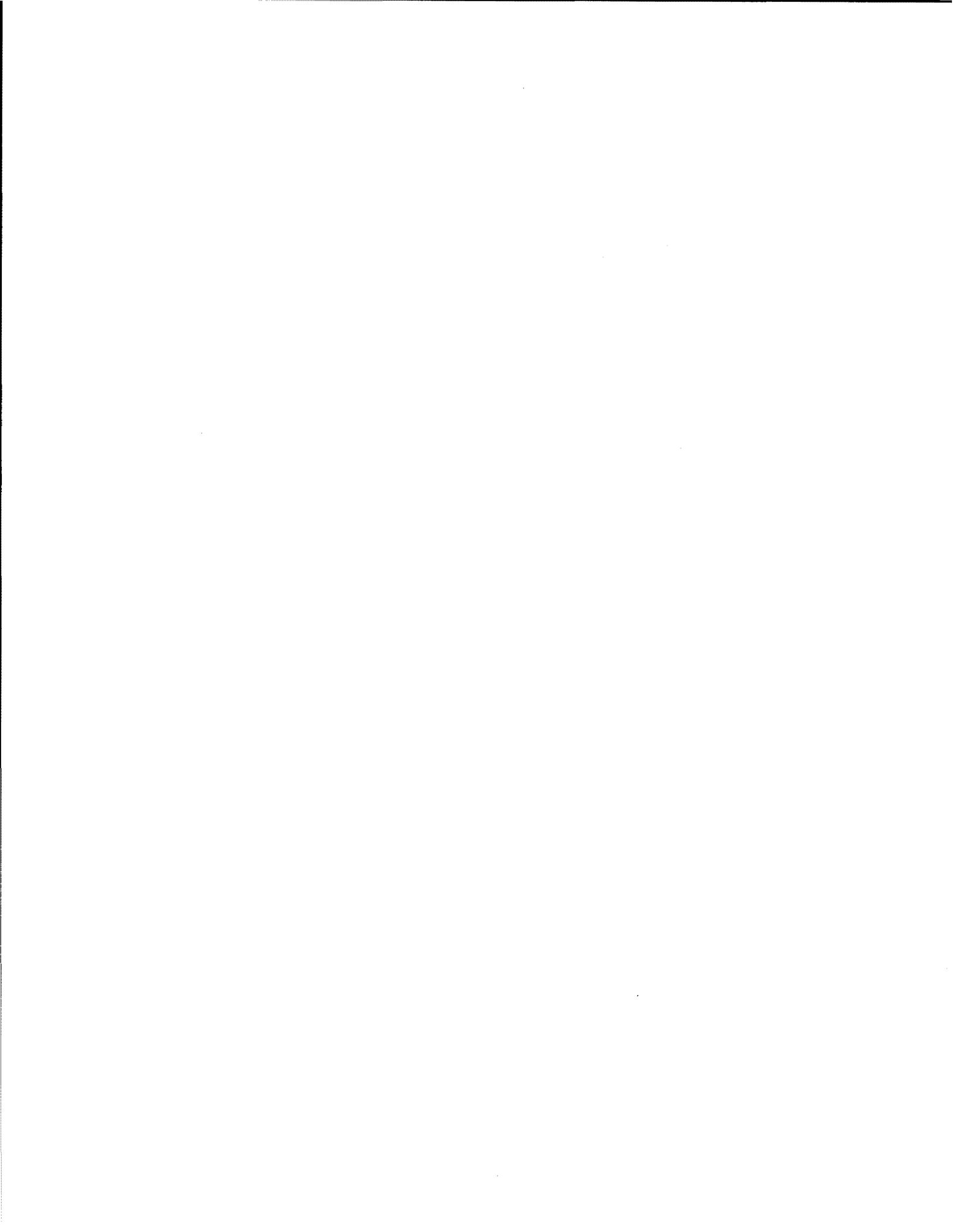
-----Habitat Associations-----

General: LOWLANDS & FOOTHILLS IN OR NEAR PERMANENT SOURCES OF DEEP WATER WITH DENSE, SHRUBBY OR EMERGENT RIPARIAN VEGETATION.
Micro: REQUIRES 11-20 WEEKS OF PERMANENT WATER FOR LARVAL DEVELOPMENT. MUST HAVE ACCESS TO ESTIVATION HABITAT.

Occurrence No. 33 Map Index: 17144 ---Dates Last Seen--- Lat/Long: 37°36'39" / 122°23'45" Township: 04S
Occ Rank: Fair Element: 1990-10-12 UTM: Zone-10 N4162612 E553335 Range: 05W
Origin: Natural/Native occurrence Site: 1990-10-12 Precision: NON-SPECIFIC Section: XX Qtr XX
Presence: Presumed Extant Symbol Type: POINT Meridian: M
Trend: Unknown Radius: 1/5 mile Elevation: 25 ft
Main Source: BRODE, J. 1990 (OBS)
Quad Summary: MONTARA MOUNTAIN (3712254/448C)
County Summary: SAN MATEO
SNA Summary:
Location: SOUTH LOMITA CANAL, WEST OF HWY 101 - BETWEEN HWY 101 AND SOUTHERN PACIFIC RR TRACKS, OPPOSITE SFO ENTRANCE.
-----Comments-----
Distribution: 6 LARVAE FOUND IN 40 FT WIDE DRAINAGE CANAL.
Ecological: CANAL GROWN TO CATTAILS AND OTHER SMALLER AQUATIC PLANTS. SURROUNDING AREA IS GRASS WITH SEVERAL DEPRESSIONS THAT HOLD SEASONAL WATER IN WET YEARS.
Threat: POSSIBLE DEVELOPMENT OF PARKING LOTS OR BART STATION. 1 ADULT & 1 JUVENILE BULLFROG SEEN, FIRST OBS OF BULLFROGS HERE.
General: DFG & USFWS HAVE DENIED SFO PERMISSION TO DREDGE CANAL. HAVE ONLY PERMITTED CUTTING OF CATTAILS UNTIL HCP IN PLACE. SAN FRANCISCO GARTER SNAKE ALSO OCCURS HERE.
Owner/Manager: SFO CITY/COUNTY

Occurrence No. 38 Map Index: 17330 ---Dates Last Seen--- Lat/Long: 37°31'02" / 122°29'16" Township: 05S
Occ Rank: Good Element: 1989-06-09 UTM: Zone-10 N4152157 E545268 Range: 06W
Origin: Natural/Native occurrence Site: 1989-06-09 Precision: SPECIFIC Section: XX Qtr XX
Presence: Presumed Extant Symbol Type: POINT Meridian: M
Trend: Unknown Radius: 80 meters Elevation: 75 ft
Main Source: SUDDJIAN, D. 1989 (OBS)
Quad Summary: MONTARA MOUNTAIN (3712254/448C)
County Summary: SAN MATEO
SNA Summary:
Location: ALONG DENNISTON CREEK, APPROXIMATELY 300 M UPSTREAM FROM BRIDGEPORT DRIVE, EL GRANADA.
-----Comments-----
Distribution: 5+ HEARD CALLING IN POND AT 11:15 AM, ALTHOUGH NONE COULD BE SEEN OR CAPTURED.
Ecological: HABITAT IS A MAN-MADE POND FILLED WITH SCIRPUS SPP AND TYPHA SPP. POND IS ADJACENT TO A WILLOW-RIPARIAN CORRIDOR AND COYOTE BUSH SCRUB.
Threat: POTENTIAL THREAT OF RESIDENTIAL DEVELOPMENT.
General: POND CONTAINED LIMITED SURFACE WATER ON SURVEY DATE.
Owner/Manager: UNKNOWN

Occurrence No. 242 Map Index: 38311 ---Dates Last Seen--- Lat/Long: 37°33'57" / 122°30'41" Township: 04S
Occ Rank: Fair Element: 1997-04-16 UTM: Zone-10 N4157561 E543157 Range: 06W
Origin: Natural/Native occurrence Site: 1997-04-16 Precision: SPECIFIC Section: 22 Qtr SW
Presence: Presumed Extant Symbol Type: POINT Meridian: M
Trend: Unknown Radius: 80 meters Elevation: 100 ft
Main Source: VONARB, R. 1997 (OBS)
Quad Summary: MONTARA MOUNTAIN (3712254/448C)
County Summary: SAN MATEO
SNA Summary:
Location: GREEN VALLEY CREEK, ON THE EAST SIDE OF HWY 1, 1.5 MILES NORTH OF MONTARA
-----Comments-----
Distribution:
Ecological: HABITAT CONSISTS OF A SMALL POND RECEIVING OVERFLOW FROM GREEN VALLEY CREEK; PLANT DOMINANTS INCLUDE WILLOW AND JUNCUS.
Threat:
General: 1 ADULT AND SOME TADPOLES OBSERVED ON 16 APRIL 1997.
Owner/Manager: DPR



California Department of Fish and Game
Natural Diversity Data Base

Full Condensed Report - Multiple Records per Page
California red-legged frog
Half Moon Bay, Montara Mtn, San Mateo, Wood

RANA AURORA DRAYTONII (cont.)
CALIFORNIA RED-LEGGED FROG
Element Code: AAABH01022

-----List Status----- NDDB Element Ranks -----Other Lists-----
Federal: Threatened Global: G4T2T3 CDFG Status: SC
State: None State: S2S3

Occurrence No. 243 Map Index: 38312 ---Dates Last Seen--- Lat/Long: 37°29'30" / 122°22'28" Township: 05S
Occ Rank: Excellent Element: 1997-07-10 UTM: Zone-10 N4149405 E555288 Range: 05W
Origin: Natural/Native occurrence Site: 1997-07-10 Precision: SPECIFIC Section: 14 Qtr SE
Presence: Presumed Extant Symbol Type: POINT Meridian: M
Trend: Unknown Radius: 80 meters Elevation: 350 ft
Main Source: VONARB, R. 1997 (OBS)
Quad Summary: WOODSIDE (3712243/429A)*, HALF MOON BAY (3712244/429B)
County Summary: SAN MATEO
SNA Summary:
Location: ALBERT CANYON CREEK, TRIB TO PILARCITOS CREEK, ON THE NE SIDE OF HWY 92, 1 MILE WEST OF THE INTERSECTION WITH HWY 35.

-----Comments-----
Distribution: DESCRIBED BY SAM MCGINNIS (CSU HAYWARD) AS "RANDOM WANDERING" BY AN ADULT FROG IN AN ATTEMPT TO COLONIZE A NEW SITE.
Ecological: HABITAT CONSISTS OF A DEEPER POOL IN THE CREEK; PLANT DOMINANTS INCLUDE WILLOWS.
Threat: THREATENED BY HWY 92 (LOCATED ABOVE ON FILL EMBANKMENT) CONSTRUCTION ACTIVITIES.
General: 1 ADULT OBSERVED ON 10 JULY 1997.
Owner/Manager: UNKNOWN

Occurrence No. 269 Map Index: 40085 ---Dates Last Seen--- Lat/Long: 37°33'41" / 122°23'12" Township: 04S
Occ Rank: Fair Element: 1998-10-20 UTM: Zone-10 N4157141 E554163 Range: 05W
Origin: Natural/Native occurrence Site: 1998-10-20 Precision: SPECIFIC Section: 27 Qtr XX
Presence: Presumed Extant Symbol Type: POINT Meridian: M
Trend: Unknown Radius: 80 meters Elevation: 600 ft
Main Source: DREIER, J. 1998 (OBS)
Quad Summary: MONTARA MOUNTAIN (3712254/448C)
County Summary: SAN MATEO
SNA Summary:
Location: CRYSTAL SPRINGS GOLF COURSE, 0.4 MILE NE OF THE NORTH END OF LOWER CRYSTAL SPRINGS RESERVOIR, SOUTH OF HILLSBOROUGH.

-----Comments-----
Distribution:
Ecological: HABITAT CONSISTS OF AN IRRIGATION POND, WHICH SUPPORTS CATTAIL GROWTH ALONG THE NORTH MARGIN OF THE POND, SURROUNDED BY GOLF COURSE. POND LEVEL IS MAINTAINED BY PUMPING WATER UP FROM CRYSTAL SPRINGS RESERVOIR.
Threat: POSSIBLE THREATS INCLUDE GOLFER DISTURBANCE AND MORTALITY FROM PUMP OPERATION.
General: GOLF COURSE INTENDS TO MANAGE THE POND FOR RED-LEGGED FROGS. 2 ADULTS AND 3 JUVENILES OBSERVED ON 20 OCT 1998.
Owner/Manager: PVT-CRYSTAL SPRGS GOLF COURSE

Occurrence No. 301 Map Index: 41133 ---Dates Last Seen--- Lat/Long: 37°30'13" / 122°29'41" Township: 05S
Occ Rank: Good Element: 1999-05-07 UTM: Zone-10 N4150657 E544643 Range: 06W
Origin: Natural/Native occurrence Site: 1999-05-07 Precision: SPECIFIC Section: 10 Qtr XX
Presence: Presumed Extant Symbol Type: POINT Meridian: M
Trend: Unknown Radius: 80 meters Elevation: 10 ft
Main Source: COLLINS, P. 1999 (OBS)
Quad Summary: MONTARA MOUNTAIN (3712254/448C)
County Summary: SAN MATEO
SNA Summary:
Location: UPPER END OF PRINCETON MARSH, JUST DOWNSTREAM (SOUTH) OF WEST POINT ROAD, HALF MOON BAY

-----Comments-----
Distribution: POOLS ARELOCATED ON THE DOWNSTREAM SIDE OF THE CULVERTS LOCATED BENEATH WEST POINT ROAD.
Ecological: HABITAT CONSISTS OF RIPARIAN ON THE UPSTREAM SIDE OF WEST POINT ROAD, GRADING INTO CATTAIL MARSH, THEN SALICORNIA MARSH, ON THE DOWNSTREAM SIDE OF THE ROAD. SCOUR POOLS AT THE BASE OF THE ROAD CULVERTS ARE SURROUNDED BY CATTAILS/BULRUSH.
Threat: THREATENED BY HERBICIDE TREATMENT OF ROAD SHOULDERS.
General: 1 ADULT AND 1 SUB-ADULT OBSERVED ON 7 MAY 1999.
Owner/Manager: SMT COUNTY

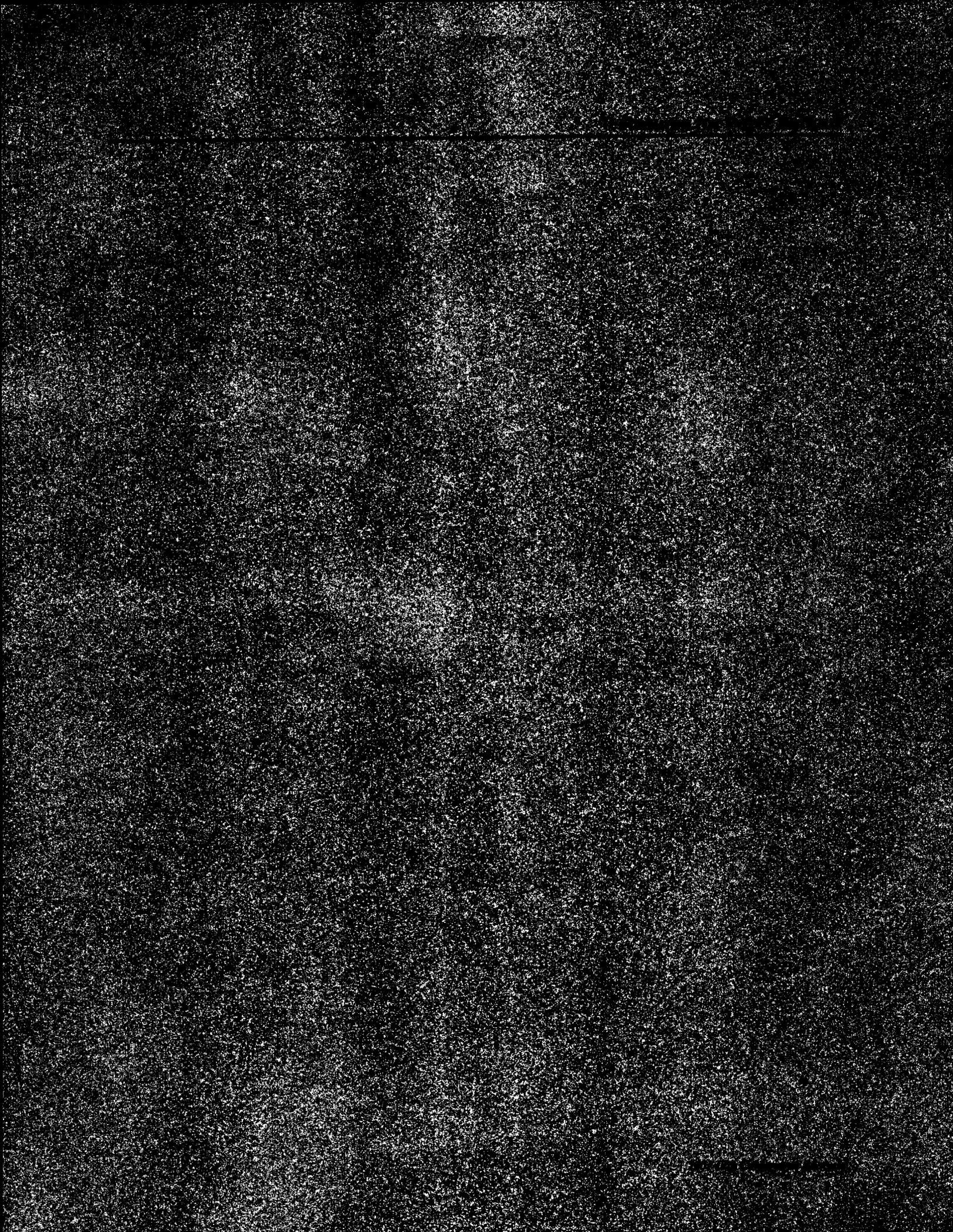
Full Condensed Report - Multiple Records per Page
California red-legged frog
Half Moon Bay, Montara Mtn, San Mateo, Wood

RANA AURORA DRAYTONII (cont.)
CALIFORNIA RED-LEGGED FROG
Element Code: AAABH01022

-----List Status-----NDDB Element Ranks-----Other Lists-----
Federal: Threatened Global: G4T2T3 CDFG Status: SC
State: None State: S2S3

Occurrence No. 354 Map Index:42675 ---Dates Last Seen--- Lat/Long: 37°28'19" / 122°26'33" Township: 05S
Occ Rank: Fair Element: 2000-02-11 UTM: Zone-10 N4147195 E549278 Range: 05W
Origin: Natural/Native occurrence Site: 2000-02-11 Precision: SPECIFIC Section: 29 Qtr XX
Presence: Presumed Extant Symbol Type: POINT Meridian: M
Trend: Unknown Radius: 80 meters Elevation: 20 ft
Main Source: VONARB, R. 2000 (OBS)
Quad Summary: HALF MOON BAY (3712244/429B)
County Summary: SAN MATEO
SNA Summary:
Location: CALTRANS MITIGATION SITE, NEAR PILARCITOS CREEK, HALF MOON BAY.
-----Comments-----
Distribution:
Ecological: HABITAT CONSISTS OF A NEWLY-CREATED SEASONAL POND AT THE CALTRANS MITIGATION SITE. WASTEWATER TREATMENT PLANT
FOUND TO THE NORTH AND AG CROPS TO THE SOUTH.
Threat:
General: RLF EGG MASS OBSERVED ON 11 FEB 2000.
Owner/Manager: CITY OF HALF MOON BAY





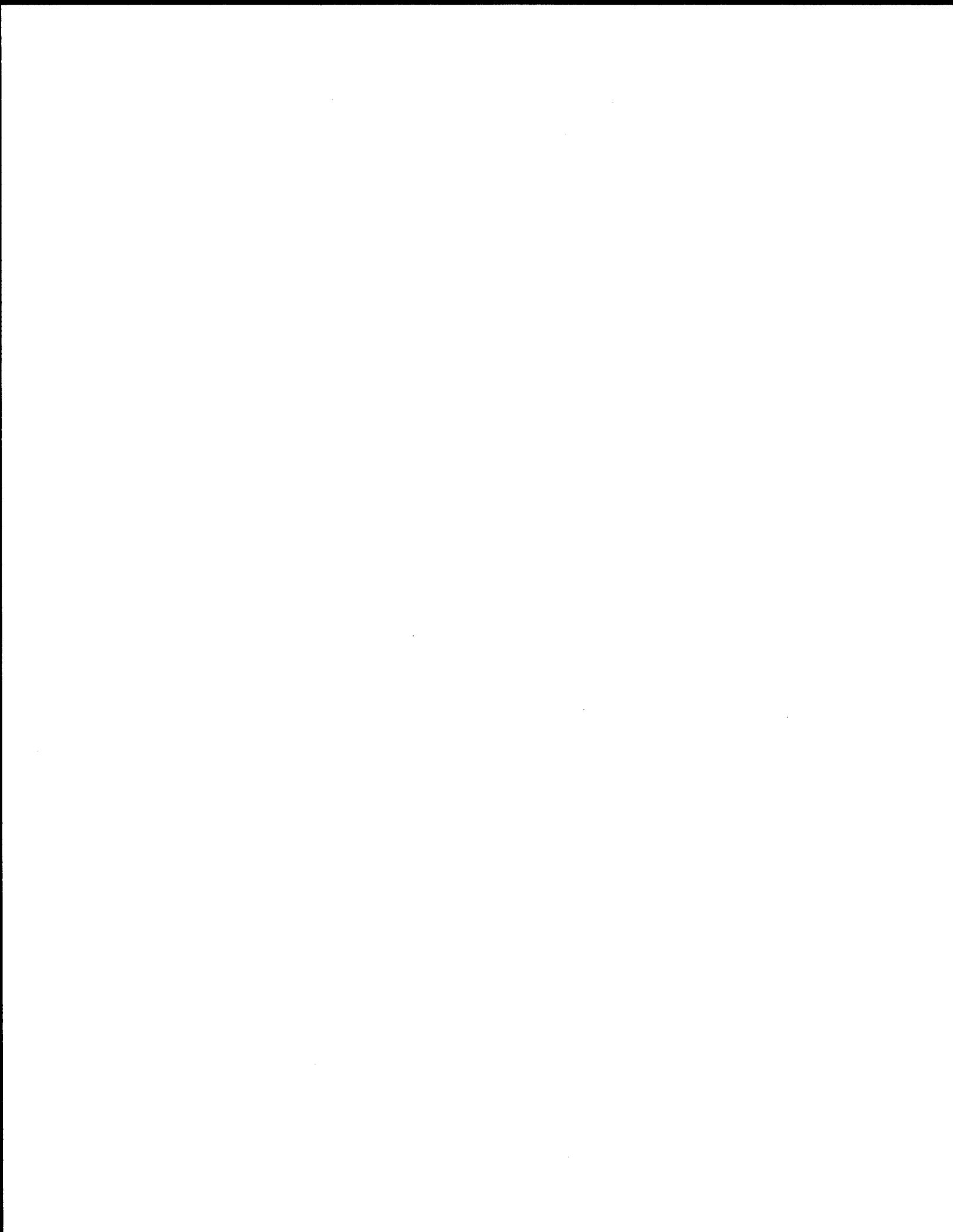
PETER S. BALFOUR, M.S.
Vice President/Principal Biologist

Mr. Balfour has over ten years of professional experience working with fauna and flora of various ecosystems in California. As principal biologist for ECORP Consulting, Inc., his responsibilities include biotic resource assessments, special-status species surveys, wetland delineations, impact assessments, mitigation habitat design, project management, report preparation, invertebrate and floristic identification, state and federal regulatory compliance, agency liaison, and supervision of biological staff. He has conducted and participated in numerous biological resource investigations, jurisdictional wetland delineations and Section 7 Consultations for public and private sector projects throughout much of California. While his areas of particular interest/expertise are entomology and herpetology, he is familiar with numerous special-status plant and wildlife species. He regularly conducts assessments of project requirements pertaining to the federal Endangered Species Act (ESA), and consults with federal agencies (i.e., U. S. Army Corps of Engineers and U. S. Fish and Wildlife Service) in obtaining compliance with Section 7 and Section 10 of the federal Endangered Species Act (ESA).

Mr. Balfour is certified by the Society of Wetland Scientists as a Professional Wetland Scientist (Certificate No. 000426), and by the U.S. Fish and Wildlife Service in Habitat Evaluation Procedure (HEP), and in the identification of California Anostraca (fairy shrimp) and Notostraca (tadpole shrimp). He is authorized under Federal Fish and Wildlife Permit No. TE012973-0 to work with federally-listed vernal pool branchiopod crustacea, as well as the giant garter snake (*Thamnophis gigas*) (federal-threatened).

Professional Experience

- Conducted and participated in numerous biological resource investigations, wetland assessments, and jurisdictional wetland delineations for proposed projects, including: public works projects, industrial and residential developments, due diligence analyses, golf courses, agricultural conversions, community Specific Plan developments, and mitigation sites. Projects have ranged in size from approximately five acres to 5,000 acres located within several California counties including Sacramento, Placer, El Dorado, Nevada, San Joaquin, Yolo, Stanislaus, Butte, Tehama, Merced, Solano, Sonoma, Napa, Contra Costa, Alameda, Yuba, and Calaveras County. Have conducted wetland determinations in the state of Colorado for the Colorado Department of Transportation. Global Positioning System (GPS) technology was used during several wetland delineations/determinations.
- Conducted numerous habitat assessments and determinate surveys for California- and federally-listed special status plant and wildlife species at several locations in California. Plants surveyed for include Orcutt grasses (*Orcuttia* sp.), Bogg's Lake hedge hyssop (*Gratiola heterosepala*), other vernal pool species, and species associated with serpentine-based (e.g. Gabbro) soils and coastal salt marsh habitats. Wildlife survey experience

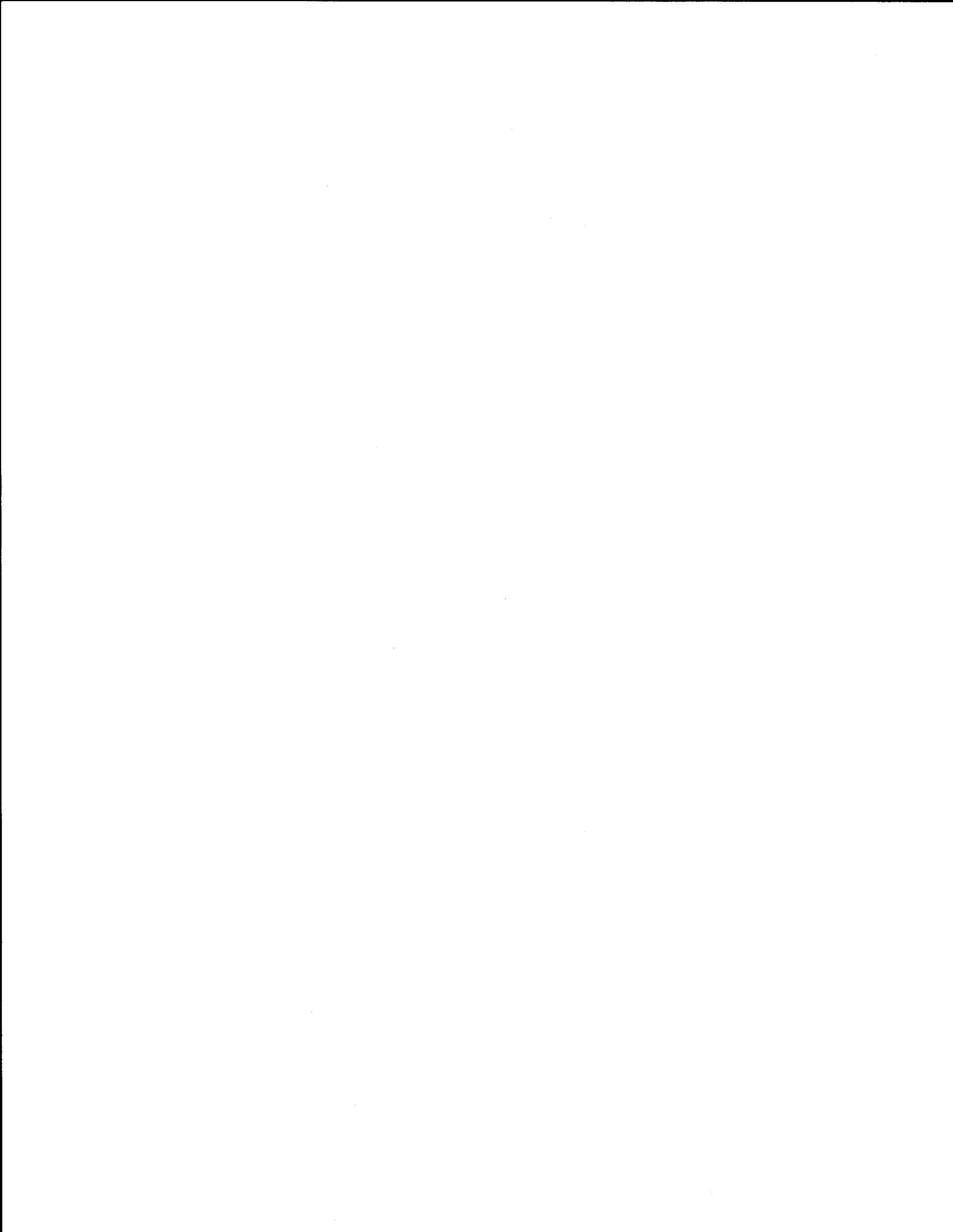


includes several sensitive wildlife species, including various mammals {e.g. Preble's meadow jumping mouse (*Zapus hudsonius preblei*)}, reptiles {e.g., giant garter snake (*Thamnophis gigas*), Alameda whipsnake (*Masticophis lateralis euryxanthus*), and northwestern pond turtle (*Clemmys marmorata marmorata*)}, amphibians {e.g., California red-legged frog (*Rana aurora draytonii*), California tiger salamander (*Ambystoma californiense*) and western spadefoot toad (*Scaphiopus hammondi*)}, and invertebrates {e.g., various species of fairy shrimp (Anostraca), tadpole shrimp (Notostraca), and Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*)}.

- Regularly assist in assessment of project regulatory requirements pertaining to the federal Clean Water Act (Sections 404 and 401) governing wetlands and other Waters of the United States, and prepare necessary permit applications and other documentation. Authored or contributed to the development of Pre-discharge Notification documents and Individual Permits and applications.
- Regularly conduct assessments of project requirements pertaining to the federal Endangered Species Act (ESA) and consult with U. S. Fish and Wildlife Service to obtain compliance with Section 7 of the ESA. Develop necessary mitigation measures including Habitat Conservation Plans (HCP's) (Section 10 of the ESA) pertaining to federally-listed wildlife (i.e., Valley elderberry longhorn beetle). Liaison with agency personnel.
- Served as lead investigator (per Memorandum of Understanding with the California Department of Fish and Game) during a two-year determinate survey for the Alameda whipsnake (*Masticophis lateralis euryxanthus*) at the proposed 1,136+ acre Wiedemann Ranch Community development site, Contra Costa County, California. Coordinated and participated in trapping efforts during 1991 and 1992 totaling over 2,760 logged trap hours. Survey data were compiled and results summarized in annual reports which were submitted to the California Department of Fish and Game.
- Served as the principal investigator during a California Central Valley-wide fairy/tadpole shrimp survey involving nearly three thousand vernal pools and other seasonal water bodies, during 1993. The investigation consisted of literature review, compilation of survey efforts undertaken by others, and both locally intensive and regionally extensive field surveys conducted throughout portions of the Central Valley of California. The results of the study were published in *Documented distribution of California fairy shrimp and tadpole shrimp federally listed during 1994*. (Balfour and Freeman 1996).
- Conducted California red-legged frog site assessment investigations for several projects in California's Coast Range, Central Valley, and Sierra Nevada. Assessments have involved a comprehensive review of frog distributive data for the surrounding region and characterizations of the nature and extent of potential habitat areas in and around project areas. Designated as lead investigator for determinate survey efforts of potential habitat areas (when required by U. S. Fish and Wildlife Service).



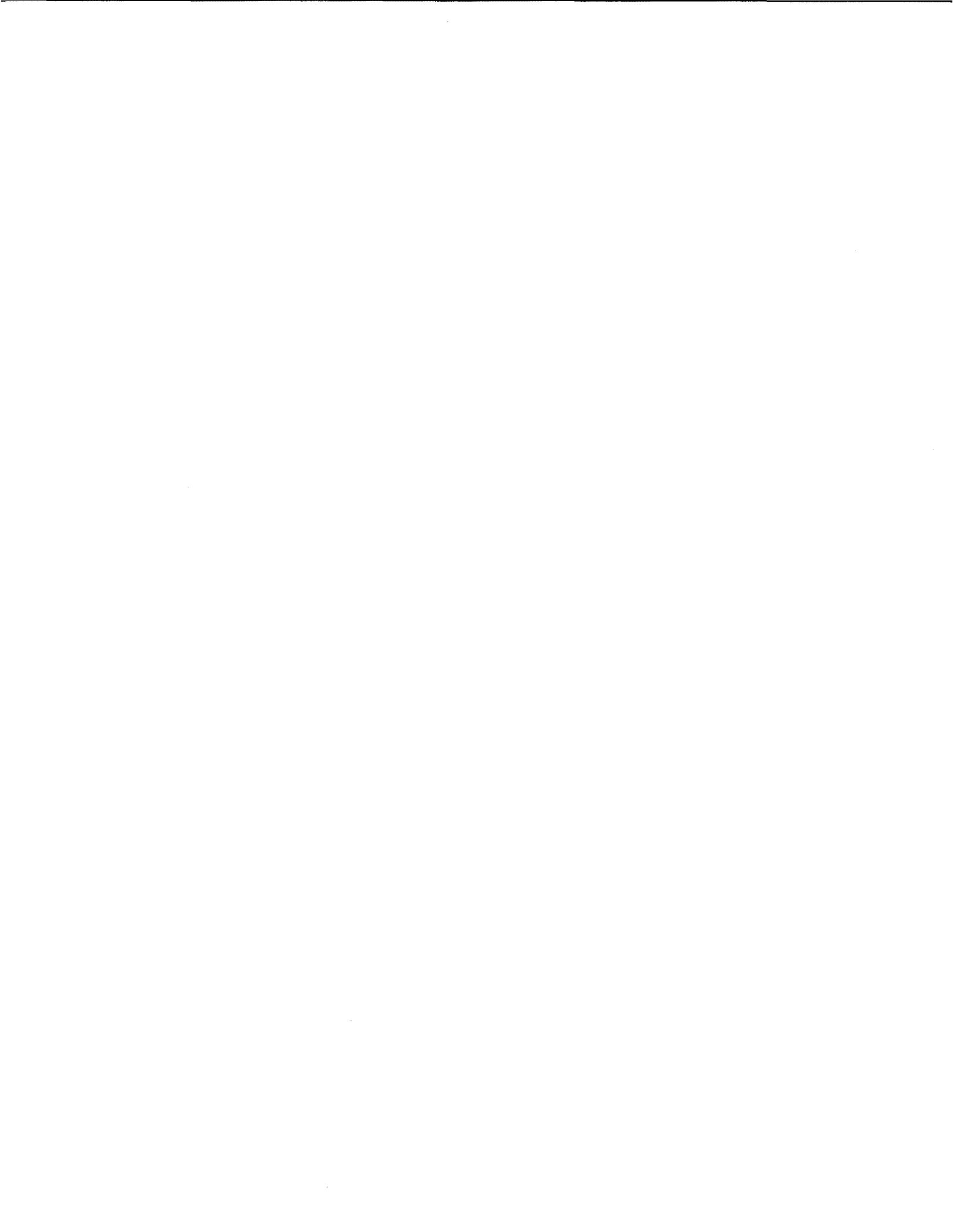
- Managed and participated in herpetofauna/fish surveys within the Plumas National Forest. Surveys targeted California red-legged frog, mountain yellow-legged frog, foothill yellow-legged frog, western pond turtle, and hardhead minnow. Over 100 miles of stream were evaluated. Species locations were documented using Global Positioning System (GPS).
- Participated in the coordination and implementation of various special status species surveys conducted for fourteen participating project parcels within the 5,422 acre Sunrise-Douglas Specific Plan Area, Sacramento County, California. The survey, covering an estimated 3,334 acres of the Plan Area, involved a review of historical locality data and various reconnaissance surveys. Determinate field surveys for special-status invertebrates, amphibians, mammals, and plants were conducted over a period of several months between April 1992 and June 1993.
- Served as designated non-federal representative biologist for the Interstate Commerce Commission during Section 7 consultation proceedings associated with the proposed abandonment, by Southern Pacific Railroad, of approximately 19 miles of railway right-of-way (ROW), extending from Los Banos to Oxalis, California. Participated in a biological assessment of the ROW area, evaluating existing adjacent biotic resources and the extent of potential habitat for various special-status plant and wildlife species (including giant garter snake) known from the region. The assessment involved both photographic and field scoping reconnaissance of the project area, necessary for liaison with the U. S. Fish and Wildlife Service.
- Conducted special-status species surveys at Naval Communication Station (NCS) Stockton, located on Rough and Ready Island, Stockton, California. Ten field surveys for federally-listed giant garter snake (*Thamnophis gigas*) and Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) were conducted on the 1, 459-acre Rough & Ready Island property. The investigation included mapping of special-status species habitat, the characterization of onsite plant communities, and an inventory of all wildlife species encountered.
- Conducted revegetation monitoring, vegetation community mapping, and special-status species surveys at Naval Weapons Support Facility Seal Beach, Detachment, Concord, California, California between July and October, 1997, August and October, 1998, and July and October 1999. The investigations involved numerous field surveys to monitor remediated/revegetated pickleweed marsh, brackish marsh, and upland habitats. Four species of special-status coastal salt marsh plants were identified and their locations mapped. Special-status plant species included Suisun marsh aster (*Aster lentus*), Soft bird's beak (*Cordylanthus mollis* ssp. *mollis*), Delta tule pea (*Lathyrus jepsonii* var. *jepsonii*), and Mason's lilaepsis (*Lilaeopsis masonii*). The investigation involved the mapping of over fifty (50) vegetation associations and use of Global Positioning System (GPS) technology to map special status species locations. Monitoring efforts included assessments of several vegetative parameters, soil chemical analyses, and soil moisture analyses.



- Assessed five separate properties in Sacramento, Placer, Sutter and Yuba Counties for potential to support a 20,000 person capacity amphitheater site for Bill Graham Presents. Wetland and special status species assessments were conducted for all five properties. Wetland boundary data at some sites were collected using Global Positioning System (GPS) technology. Interfaced with U.S. Army Corps of Engineers and Natural Resource Conservation Service in compliance with Section 404 of the Clean Water Act to obtain development clearance at 90 acre Yuba County site.
- Provided review/critique of impact assessments and collected and contributed biotic resource data for National Environmental Policy Act (NEPA) documentation (e.g., Environmental Assessments) and California Environmental Quality Act (CEQA) documentation (e.g., Environmental Impact Reports and Negative Declarations) for several projects throughout California.
- Coordinate project regulatory compliance specifically pertaining to California Fish and Game Code Sections 1600-1607 governing activities that may affect fish and wildlife habitats associated with streams, and have participated in the coordination and implementation of necessary mitigation measures.
- Participated in the implementation of mitigation wetland habitats for various projects within the North Central Roseville Specific Plan, Northwest Roseville Specific Plan and Southeast Roseville Specific Plan areas in Placer County, California. Field activities included supervision of habitat construction, and subsequent monitoring of vegetation and wildlife resources.
- Served as designated primary biologist for an on-call snake relocation service for the Intel Corporation and City of Folsom, California. Services included the capture and relocation of rattlesnakes and other species migrating away from construction activities at the Intel Corporation project site.
- Coordinated general invertebrate monitoring activities at numerous wetland mitigation monitoring sites since 1991. Coordinated and participated in the production of "90 Day/Annual Reports" specifically related to findings regarding the presence of listed branchiopods, in compliance with Federal Fish and Wildlife Permit.

Related Experience

- Have served as biologist guide for various state and federal regulatory agency personnel (e.g., California Department of Fish and Game, U. S. Fish and Wildlife Service, U.S. Army Corps of Engineers, and U. S. Environmental Protection Agency), leading tours at many Sacramento and Placer County wetland mitigation sites. Have served as biologist guide/educator for various educational events (e.g. City of Roseville and Sacramento County Creek Week events, USFWS-sponsored Duck Days and Stone Lake Refuge tours). Regularly train docents of the U. S. Fish and Wildlife Stone Lakes Wildlife Refuge in the identification of local amphibian and reptile species, and serve as a board member for the Stone lakes Wildlife Refuge. Member of the Roseville Creek Week Committee since inception (1997).



- Have assisted during small mammal trapping efforts on various occasions within the Mojave desert and other locations in California. Various rodents captured have included squirrels (*Citellus* sp.), western harvest mouse (*Reithrodontomys megalotis*), salt marsh harvest mouse (*Reithrodontomys raviventris*), deer mice (*Peromyscus maniculatus*), voles (*Microtus* sp.), woodrats (*Neotoma* sp.), and various heteromyids {e.g. pocket mice (*Perognathus* sp.), kangaroo mice (*Microdipodops* sp.) and various kangaroo rats (*Dipodomys* sp.)}.
- Employed as Entomology Museum Assistant by California State University, Sacramento during 1988 and 1989. Duties included the collection, identification and cataloguing of various entomological specimens for California State University, Sacramento.
- Have conducted sampling of aquatic macro-invertebrates using Rapid Bioassessment Protocols to document invertebrate composition.
- Served as volunteer for curation/organization of specimens for the Museum of Vertebrate Zoology, University of California, Berkeley.
- Assisted with herpetological field collections for the University of California, Berkeley.
- Assisted with fisheries surveys at California State University, Sacramento. Survey methods included electro-shocking, seining, and gillnetting.
- Have taught/lectured at several schools in Sacramento, Yolo, and Alameda Counties. Lectured, displayed various wildlife, and led discussions relating to various biological topics.

Education

- Master of Science, Biology, California State University, Sacramento, California.
- Bachelor of Science, Zoology, University of California, Davis, California.
- California Single Subject Teaching Credential (Clear) Biological/Life Sciences, California State University, Sacramento, California.

Publications/Presentations

- 2000, Balfour, P. S. and Eric W. Stitt. Documented Occurrence of an Introduced Population of the Southern Water Snake (*Nerodia fasciata*) in Northern California. (In Progress).
- 2000, Balfour, P. S. and Eric W. Stitt. Species Note: Predation by Bullfrog (*Rana catesbeiana*) on Larval California Tiger Salamander (*Ambystoma californiense*). (In Progress).
- 2000, Balfour, P. S. *Mitigation Banking Opportunities in the Greater San Francisco Bay Area*, CLE International Conference: "California Wetlands", San Francisco, California, August 15, 2000.



- 1999, Balfour, P. S. and Steven R. Morey. *Prey Selection by Juvenile Bullfrogs in a Constructed Vernal Pool Complex*. Transactions of the Western Section of the Wildlife Society, Volume 35:1999, pp. 35-40.
- 1999, Balfour, P. S. *Threatened and Endangered Species Mitigation through Programmatic Consultation*, CLE International Conference: "California Wetlands", Sacramento, California, August 13, 1999.
- 1996, Balfour, P. S. -- *Life history aspects of Edward's water penny beetle (Eubrianax edwardsii) (Le Conte) (Coleoptera: Psephenidae)*, Society of Wetland Scientists, 17th Annual Meeting, Kansas City, Missouri, June 9-14, 1996.
- 1996, Balfour, P. S. and Hal V. Freeman. *Documented distribution of California fairy shrimp and tadpole shrimp federally listed during 1994*. In Kent et. al 1996 *Western Wetlands, Selected Proceedings of the 1994 Conference of the Society of Wetland Scientists, Western Chapter*, at the University of California at Berkeley, September 18-20, 1994.
- 1995, Balfour, P. S. -- *Life history aspects of Edward's water penny beetle (Eubrianax edwardsii) (Le Conte) (Coleoptera: Psephenidae)*. Fall 1995, California State University, Sacramento. M. S. Thesis.

Technical Review Panels

Vernal Pool Ecosystem Recovery Team.

Served as a panel member on the Vernal Pool Ecosystem Recovery Team, an advisory team to the U. S. Fish and Wildlife Service charged with the responsibility of developing a Recovery Plan, the ultimate goal of which is the recovery of federally-listed plant and wildlife species associated with vernal pools and similar ephemeral ecosystems in California.

California Inland Invertebrate Working Group.

Currently a member of the California Inland Invertebrate Working Group, an apolitical organization comprised of individuals from the public and private sector. A policy of the group is the dissemination of information related to non-marine invertebrates in the state of California. The group collectively provided the U.S. Fish and Wildlife Service with technical comments/advice during the early development of vernal pool branchiopod survey protocols.

Certifications

- Society of Wetland Scientists, Professional Wetland Scientist (No. 000426).
- U. S. Fish and Wildlife Service, Habitat Evaluation Procedure (HEP).
- U. S. Fish and Wildlife Service, Identification/Collection of California Anostraca, Notostraca, and Giant garter snake (*Thamnophis gigas*) (Permit No. TE012973-0)
- International Society of Arboriculture, Certified Arborist (No. WC. 3289).
- Occupational Safety and Health Administration, "40-Hour HAZWOPER" training.
- Red Cross Cardiopulmonary Resuscitation (CPR) and First Aid Certification.

