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Staff: SLB – SF
Staff Report: June 18, 2001
Hearing Date: July 13, 2001

STAFF REPORT – APPEAL
SUBSTANTIAL ISSUE

APPEAL NO.:	**A-2-SMC-01-008**
APPLICANTS:	**Michael and Joanne Mahon**
LOCAL GOVERNMENT:	**San Mateo County**
ACTION:	**Approved with Conditions**
PROJECT LOCATION:	863 San Ramon Avenue, Moss Beach, San Mateo County. APN 037-259-170
PROJECT DESCRIPTION:	Construction of a 27-foot-high, 2-story 2,629-square-foot, 4-bedroom, 2.5-bath single-family residence, an attached 440-square-foot garage, and domestic well.
APPELLANTS:	Jan Didur; Jeff Tate Ellen Zeff; Jeff Blaney
SUBSTANTIVE FILE DOCUMENTS:	See Appendix A & B.

1.0 EXECUTIVE SUMMARY

The approved development is a 2,629-square-foot, 27-foot tall single-family residence and domestic well on a vacant 5,147-square-foot parcel. The Commission received two appeals of the County's approval of the proposed development contending that the approved development: (1) may significantly adversely impact sensitive habitats in the Upper Seal Cove area; (2) may deprive floriculture of adequate water resources; (3) failed to conduct a safe yield test, inconsistent with the groundwater proposal policies of the LCP; (4) does not conform to the timing of new development policies of the LCP; (5) does not constitute infill development in an urban area because it is not served by water utility; and (6) requires an EIR to be completed to determine the longevity of wells in the Upper Sea Cove area.

Staff recommends that the Commission find that the appeals of the development approved by San Mateo County raise substantial issues regarding the conformity of the approved development to the sensitive habitat, the priority land use, and groundwater proposal policies of the San Mateo Local Coastal Program. Staff also recommends that the Commission further find that the appeals do not raise substantial issues concerning the timing of new development policies, and the urban and infill policies of the San Mateo Local Coastal Program. Furthermore, staff recommends that the Commission find that the contention regarding the need for an EIR to be completed is an invalid ground for appeal.

2.0 STAFF RECOMMENDATION

Substantial Issue

The staff recommends that the Commission determine that substantial issue exists with respect to the grounds on which the appeal has been filed.

Motion

I move that the Commission determine that Appeal No. A-2-SMC-01-008 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

Staff Recommendation

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

Resolution to Find Substantial Issue

The Commission hereby finds that Appeal No. A-2-SMC-00-008 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

3.0 PROJECT SETTING AND DESCRIPTION

3.1 Project Location and Site Description

The approved development is located on a 5,147-square-foot lot located at 863 San Ramon Avenue, in the Upper Seal Cove area of unincorporated Moss Beach, San Mateo County. The property is zoned R-1/S-17 (Single Family/ Residential/5,000 square-foot minimum parcel size), DR (Design Review), CD (Coastal Development), and GH (Geologic Hazards). The site is located approximately one-eighth of a mile east of Fitzgerald Marine Reserve in an existing residential neighborhood (Exhibits 1 and 2). The parcels on both sides of and across from the project site are developed with single-family residences. The house on the west side of the approved development is built at a diagonal angle due to geologic hazards in the southwest corner of the property. A geotechnical consultant hired by the applicant, a certified engineering geologists from Earth Investigations Consultants, and the County's reviewing geologist, did not

find traces of the geologic hazard on the applicant's parcel when excavating an exploratory trench on the property. The site is level and there are no trees or shrubs on the parcel.

Upper Seal Cove is located on a coastal bluff west of Half Moon Bay Airport. An EIR, completed in 1989 to study the potential effects of 58 proposed wells in Montara and Moss Beach, examined the geology and hydrology of the terrain. The Montara and Moss Beach areas contain six hydrologic sub-units. The 1989 EIR described the Upper Seal Cove sub-unit as a small, 40-acre block along the Seal Cove fault line that is uplifted and isolated from the other five sub-units. According to the report, marine terrace deposits overlay granite bedrock and Purisima Formation.[1] These marine terrace deposits act as a shallow upper aquifer and the Purisima Formation and granite bedrock act as a deeper aquifer. Water from the shallow aquifer is less likely to meet County quality and quantity standards than water drawn from the deep aquifer. The aquifers are naturally replenished and if pumping does not exceed replenishment (recharge), will remain viable. The sources of recharge include the percolation of rainfall on the surface above the aquifer, stream flow, and contributions from sub-surface inflow. Percolation from precipitation recharges the Upper Seal Cove aquifers. However, sub-surface inflow also recharges the deeper aquifer.

Upper Seal Cove is within the Citizens Utilities Company's service area, which brings water service to the Montara and Moss Beach areas. In the 1980s the Public Utilities Commission imposed a moratorium on new water connections to Citizens Utilities. Citizens Utilities will operate under this moratorium until it increases its water supply capacity to 550 gallons per minute (gpm). Presently, its water supply capacity is at 350 gpm. It obtains its water from ten wells and the Alta Vista Treatment Plant. Due to the moratorium, new development in Upper Seal Cove is unable to obtain water connections. For this reason, landowners seeking to develop their property in the area must rely on domestic wells. Currently, five permitted wells draw their water from one of the two aquifers in Upper Seal Cove.

3.2 Project Description

The approved development consists of a 2,629-square-foot, 27-foot-high single-family residence with four bedrooms and 2.5 bathrooms, and construction of a domestic well in the north corner of the parcel (Exhibit 3). As a condition of its approval, the County required that in the event that a public water supply becomes available, the applicant shall switch to this alternative. The County also required the applicant to obtain a well permit and construct a well meeting quality and quantity standards of the Environmental Health Division prior to submitting any building permit application (Exhibit 4).

4.0 APPEAL PROCESS

4.1 Local Government Action

On March 2, 2000, the San Mateo Zoning Hearing Officer conditionally approved with modifications a coastal development permit for the construction of a single-family residence with

[1] Purisima Formation is a fractured, well-indurated, soft to hard mudstone, siltstone and sandstone. The granite bedrock in the Upper Seal Cove is composed of Montara Quartz Diorite, which is a pervasively fractured, medium to coarsely crystalline granite rock; largely composed of quartz diorite but may grade locally to granite and granodiorite. Within the bedrock groundwater will move through a series of cracks within the rock mass (Kleinfelder 1989a).

four bedrooms, 2.5 bathrooms, and attached garage, and domestic well, requiring the applicants to switch the proposed 5-and 10-foot side yard setbacks.

On March 15, 2000, Jeff Tate and Jan Didor on behalf of themselves and Judith Macias on behalf of herself supported by neighboring property owners each filed an appeal of this approval with the San Mateo County Planning Commission.

On July 12, 2000, the Planning Commission denied the appeals and approved the proposed project, with revised conditions requiring 7.5-foot side yard setbacks on both the north and south sides of the property.

On July 26, 2000, Lennie Roberts on the behalf of the Committee for Green Foothills, Jeff Tate and Jan Didor on behalf of themselves and Judith Macias on behalf of herself supported by neighboring property owners each appealed the Planning Commission approval to the San Mateo County Board of Supervisors.

On March 6, 2001, the Board of Supervisors denied the appeals, upheld the decision of the Planning Commission, and approved the Coastal Development Permit.

4.2 Filing of Appeal

On March 15, 2001, the Commission received notice of the County's final action approving a coastal development permit for the project. The Commission's appeal period commenced the following working day and ran for ten working days thereafter (March 16 through May 29, 2001). On March 16, 2001 the Commission received an appeal from Jeff Tate and Jan Didur, and on March 28, 2001 the Commission received a second appeal from appellants Ellen Zeff and Jeff Blaney. Following receipt of each of these appeals, the Commission mailed a notification of appeal to the County and the applicant.

Pursuant to Section 30621 of the Coastal Act, an appeal hearing must be set within 49 days from the date an appeal of a locally issued coastal development permit is filed. The appeal on the above-described decision was filed on March 16, 2001. The 49th day was on May 4, 2001. The only meeting within the 49-day period was, April 10-13, 2001.

In accordance with the California Code of Regulations, on March 16, 2001, staff requested all relevant documents and materials regarding the subject permit from the County, to enable staff to analyze the appeal and prepare a recommendation as to whether a substantial issue exists. The regulations provide that a local government has five working days from receipt of such a request from the Commission to provide the relevant documents and materials. The Commission received the local record from the County on April 9, 2001. Consequently, the County permit file information had not been received as of March 24, 2001, the day of the mailing of staff reports to the Commission and interested parties on items on the Commission's April 2001 meeting agenda. Therefore, the requested information was not received in time for the staff to review the information for completeness or prepare a recommendation on the substantial issue question. Consistent with Section 13112 of the California Code of Regulations, since the Commission did not receive the requested documents and materials, the Commission opened and continued the hearing on Thursday, April 12, 2001.

4.3 Appeals Under the Coastal Act

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

Coastal Act Section 30603 provides, in applicable part, that an action taken by a local government on a coastal development permit application may be appealed to the Coastal Commission for certain kinds of developments, including the approval of developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within 300 feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff; or in a sensitive coastal resource area; or located within 100 feet of any wetland, estuary, or stream. Developments approved by counties may be appealed if they are not designated as the "principal permitted use" under the certified LCP. Developments that constitute a major public works or a major energy facility may also be appealed, whether they are approved or denied by the local government.

The approved development is located between the sea and the first public road paralleling the sea, and thus meets the Commission's appeal criteria in Section 30603 of the Coastal Act. Pursuant to Section 30603 of the Coastal Act, an appeal for development in this location is limited to the allegation that the development does not conform to the standards set forth in the certified LCP or the public access policies set forth in the Coastal Act.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only persons eligible to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding the substantial issue question must be submitted to the Commission or the Executive Director in writing.

It takes a majority of the Commissioners present to find that no substantial issue is raised. Unless it is determined that the project raises no substantial issue, the Commission will conduct a full de novo public hearing on the merits of the project at the same or subsequent hearing. If the Commission conducts a de novo hearing on the appeal, the applicable test under Coastal Act Section 30604 would be whether the development is in conformance with the certified Local Coastal Program and the public access and recreation policies of the Coastal Act.

4.4 Standard of Review

Public Resources Code Section 30625(b) states that the Commission shall hear an appeal unless it determines:

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

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

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

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

5.0 SUBSTANTIAL ISSUE ANALYSIS

5.1 Appellant's Contentions

The Coastal Commission received two separate appeals on the approved development. The full text of the contentions submitted by the appellants are included in Exhibits 5 and 6. Below is a summary of the contentions.

The appeal filed by Jeff Tate and Jan Didur includes the following contention (Exhibit 5):

- A full EIR should be completed to determine if wells in the area [Upper Seal Cove] will have any *"longevity, particularly during drought years"* before any construction of the approved development is carried out.

The appeal filed by Ellen Zeff and Jeff Blaney includes the following contentions (Exhibit 6):

- The approved development may cause significant adverse impacts on sensitive habitat areas.
- The approved development may deprive nearby commercial flower fields, a priority land use, of water.
- The approved development does not conform to the ground water proposal policies of the LCP because the County or the applicant did not conduct a safe yield study.
- The approved development does not conform to the timing of new development in the mid-coast polices of the LCP.
- The approved development does not qualify as infill development in an urban area under the LCP.

5.2 Appellants Contentions that Raise Substantial Issue

5.2.1 Impacts on Sensitive Habitats

Contention

The appellants Zeff and Blaney contend that the approved development may cause significant adverse impacts to sensitive habitats on and adjacent to the Upper Seal Cove area. They base their claim on information from a 1989 EIR, which assessed the potential impacts of 58 proposed wells in the Montara and Moss Beach area. This report looked specifically at the hydrologic

sub-units in the area, including the Upper Seal Cove sub-unit and the five proposed wells for that area. The appellants cite information from the report in support of their contention:

- *"The EIR identifies the Upper Seal Cove, an area which at that time apparently had no known wells, as having insufficient grounds water to support any wells." (DEIR page 56; FEIR page 31)*
- *"[The DEIR states] '[L]ittle or no surplus water is available in the [Upper Seal Cove] aquifer.' "(DEIR 79-81)*
- *"The DEIR explained that this area was subject to 'difficult well drilling, low yields, and low reliability of yields.'"(DEIR, page 127)*
- *"...according to the FEIR, the demand posed by the wells proposed for Upper Seal Cove in 1989 alone would likely cause 'environmental impacts upon the individual owners, other community members, and habitat values in the pond area immediately to the east.'"(FEIR, pages 31-32)*

Based on the information cited above from the 1989 EIR, the appellants contend that the approved development may harm sensitive habitats, inconsistent with LUP Policy 7.3.

Applicable Policies

LUP Section 7.3 states:

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

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

Discussion

As discussed in Section 3.1, Upper Seal Cove contains two different aquifers, a shallow aquifer in the marine terrace layers and a deeper aquifer in the granite bedrock and Purisima Formations. The impacts of drawing water from the upper and lower aquifers on sensitive habitats in and adjacent to Upper Seal Cove are unknown. Thus far, two potential areas of sensitive habitat have been identified near the approved well. Two ponds are located to the east of the Upper Seal Cove, which according to the 1989 EIR could be in part fed by the outflow of the Upper Seal Cove aquifers. Wetlands may be present in an area with a high water table and a history of poor drainage 1.5 blocks southwest of the approved development. The County did not assess the potential impacts of the approved well to these areas prior to its action approving the project. Consequently, the local record does not contain sufficient evidence to support the local government's decision that the development will not significantly adversely affect sensitive habitats.

If these areas constitute sensitive habitats, it is important to understand which, if either, aquifer supplies the habitats with water and how the approved domestic well could significantly adversely impact their water supply. Since, wetlands and ponds are significant coastal resources, it is important to assess the risk the approved domestic well poses to these sensitive habitats. Wetlands and ponds are essential habitats for many flora and fauna. The sensitive habitats in this area are within the critical habitat range of both the California red-legged frog, federally listed as

threatened, and the San Francisco garter snake, federally and state listed as endangered. San Mateo County is part of the California red-legged frog critical habitat Unit 14, San Mateo-Northern Santa Cruz Unit (50 CFR Part 17, March 13, 2001). Both the red-legged frog and the San Francisco garter snake are found near aquatic habitats, such as wetlands and ponds. In the past, the San Francisco garter snake has been observed in the pond area to the east of the approved development (Kleinfelder 1989a). Protecting the habitats for the California red-legged frog and San Francisco garter snake is a matter of statewide importance. The potential wetland, 1.5 blocks southwest of the approved development and the ponds to the east could be suitable habitats for both federally listed species. It is important to understand what supplies the two habitats with water. If the approved domestic well draws from the same water source, what, if any, effect will it have on the habitats? Without understanding what potential impact the domestic well could have on important sensitive habitats in and adjacent to the area prior to approval of the proposed development, there is a substantial issue whether the approved development is consistent with LUP Policy 7.3.

Conclusion

Since wetlands and ponds are important sensitive habitats, and it is not known if the approved development will significantly adversely impact these habitats, the Commission finds that the appeal raises a substantial issue regarding the conformity of the approved project with the sensitive habitat protection policies of the San Mateo County LCP.

5.2.2 Priority Water Resources

Contention

Appellants Zeff and Blaney contend that the approved development is inconsistent with LUP Policy 2.25. They state:

> *"The Upper Seal Cove area also abuts commercial flower fields which are entitled to priority [water supplies] under LCP Policy 2.25. Since these fields are undoubtedly irrigated with groundwater from wells, additional domestic wells in the area may deprive them of adequate water resources."*

The appellants contend that additional wells in the Upper Seal Cove area may impact the water supply used for irrigation of commercial floriculture operations abutting Upper Seal Cove, inconsistent with Policy 2.25.

Applicable Policies

LUP Section 2.8(a) states:

> *Reserve public works capacity for land uses given priority by the Local Coastal Program as shown on Table 2.7 and Table 2.17. All priority land uses shall exclusively rely on public sewer and water services.*

LUP Section 2.25 states:

> *Require that Phase I capacity not exceed the water supply which: (1) serves the development which can be sewered by the Phase 1 2.0 mgd adwf sewer capacity allocated for Mid-Coast areas within the urban boundary and (2) meets the documented needs of floriculturalists within the existing Coastside County Water District Service*

> *Area. Use recent data on the amount of water consumed by land use to determine the actual water supply capacity allowed.*

LUP Section 2.29(a) states:

> *Reserve water supplies for each land use given priority by the Coastal Act or the Local Coastal Program. These priority uses are shown on Table 2.17. Amend this table to reflect all changes in the Land Use Plan which affect these land uses.*

Policy 2.8(a) requires the reservation of public works capacity for land uses considered priority under the LCP. LUP Policy 2.29(a) reserves water supplies specifically for each priority land use listed in the Coastal Act or the LCP. Table 2.17 specifies the priority land uses and the amount of water to be reserved for each. Under table 2.17, 13,800 gallons per day capacity shall be reserved for floriculture in the Moss Beach and Montara area during LCP Development Phase I. The complete table is contained in Appendix B. LUP Policy 2.25 requires that during Phase I, CCWD reserve the proper mount of water supplies to meet the needs of the floriculturists.

Discussion

LUP Policy 2.25 is not applicable in the case of the approved development. Policy 2.25 only allocates water resources for priority land uses in the Coastside County Water District service area. The commercial flower fields that the appellants reference are located in Citizens Utilities water service area. Therefore, LUP Policy 2.25(2) does not address reservation of water supplies for the floriculture operation identified in the appeal.

However, the Commission must examine whether the appellants' contention raises a substantial issue under LCP Policies 2.8(a) and 2.29(a). Under LUP Policy 2.8(a), water supplies must be reserved for priority land uses listed in the LCP. LUP Policy 2.29 determines specifically that water supplies must be reserved for each priority land use listed in the Coastal Act or the LCP, including commercial floriculturists.

The fields in question are located a quarter mile north of the approved development on 19 acres of land at 333 Cypress Avenue, Moss Beach. The grower cultivates all flowers on open fields, with the exception of one greenhouse on the property. Currently, the owner is irrigating eight to nine of the acres with water from the two wells that exist on the property. The County has not examined the capacity of the aquifer to support both continued agricultural uses and new domestic wells. This information is necessary to fully assess the potential impacts, both individually and cumulatively, of the approved well on the continued ability of the available water supply to support priority land uses. Thus, a significant question exists as to whether the approved development may impact the availability of adequate water resources for the commercial flower fields. Further support for this finding of substantial issue regarding the potential impacts domestic wells could have on priority land uses is a request by the Board of Supervisors to look more closely at the water supply situation of the Mid-Coast. After ruling on the Mahon Project, the Board expressed that if the County is to continue to approve wells as a residential water supply in the Mid-Coast in the future, staff should consider getting more information about groundwater supplies.

The approved well will be the sixth domestic well to draw water from the Upper Seal Cove. If in fact the wells located on Upper Seal Cove and the water irrigating the commercial fields come from the same aquifer, the cumulative impact of all six wells on the water supply of the aquifer must be considered for conformity to priority water policies 2.8(a) and 2.29(a).

Conclusion

The approved development does not demonstrate that it will not have a significant adverse impact on the water resources of the floriculturist adjacent to the Upper Seal Cove area. Therefore, the Commission finds that the appeal raises a substantial issue regarding the conformity of the approved project with the priority water use policies of the San Mateo County LCP.

5.2.3 Safe Yield Test

Contention

The appellants Zeff and Blaney contend that the approved development is inconsistent with LUP Policy 2.32(d) because neither the County nor the applicant examined the geologic or hydrologic conditions of the site to determine the safe yield for the domestic well. Safe yield is the amount of water that can be withdrawn without significantly adversely impacting water dependent sensitive habitats. The appellants further contend that the County has failed to conduct any safe yield studies when it has *"permitted hundreds of new domestic wells to be installed on small residential lots in Montara and Moss Beach."*

Applicable Policies

LUP Policy 2.32 in relevant part:

> *Require, if new or increased well production is proposed to increase supply, that:*
>
> > *(d) Base the safe yield and pumping restriction on studies conducted by a person agreed upon by the County and the applicant which shall: (1) prior to the granting of the permit, examine the geologic and hydrologic conditions of the site to determine a preliminary safe yield which will not adversely affect a water dependent sensitive habitat; and (2) during the first year, monitor the impact of the well on groundwater and surface water levels and quality and plant species and animals of water dependent sensitive habitats to determine if the preliminary safe yields adequately protect the sensitive habitats and what measures should be taken if and when adverse effects occur.*

Coastal Act Section 30114 states in relevant part:

> *"Public Works" means the following:*
>
> > *(a) All production, storage, transmission, and recovery facilities for water sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.*

Discussion

The County interprets LUP Policy 2.32(d) as only applicable to utility wells. The appellants argue that the impact of hundreds of domestic wells would be equivalent to one utility well, and therefore, argue that the applicant or the County must conduct safe yield studies. It is unclear from the language of LUP Policy 2.32 whether it applies to the approved development. Policy 2.32 does not explicitly state that it is applicable to only wells installed by water utilities. However, Policy 2.32 is contained under the Public Works heading in the LUP along with other policies addressing sewer, water, roads, solid waste and transit. Public Works is defined to

include any facility which is owned or operated by a public agency or any utility under the jurisdiction of the Public Utilities Commission. This suggests that Policy 2.32 is only applicable to public agencies or utilities because it is in the Public Works section of the LUP. Nevertheless, the applicability of this policy to private wells is unclear. The interpretation of LUP Policy 2.32 affects all wells permitted under the LCP in the Mid-Coast region and is therefore of regional importance requiring careful consideration.

Conclusion

Because a significant question remains whether a safe yield test is required for the approved development, the Commission finds that the appeal raises a substantial issue regarding the conformity of the approved project with LUP Policy 2.32(d).

5.3 Appellants Contentions that Raise No Substantial Issue

5.3.1 Timing of New Development

Contention

Appellants Zeff and Blaney contend that the approved development is inconsistent with LUP Policy 1.22, which requires the County to prohibit additional growth if public works capacity is insufficient to protect sensitive habitats. The appellants support their contention on the basis that:

- the area has been under a water hookup moratorium since the 1980s because inadequate water supplies exist to support additional customers, thus, demonstrating inadequate water supply; and
- the 1989 EIR predicted potential significant adverse impacts in the Upper Seal Cove area if wells draw water from the aquifer, thus, demonstrating how a lack of water utilities could impact sensitive habitats.

The appellants maintain that together this information supports the contention that new development in this area lacks access to water utilities, and thus, by turning to domestic wells as a source of water, they will potentially impact sensitive habitat, inconsistent with Policy 1.22. Therefore, according to the appellants, new development should be prohibited.

The appellants also contend that the San Mateo County LCP was intended to:

> *"prohibit further residential construction in Montara and Moss Beach until the water utility had developed new water supplies which permitted it to offer new water connections."*

To support their view of the intention, the appellants cite sections of the Commission's findings for certification of the San Mateo LCP. The appellants argue that the Commission intended only to allow 237 permits to be issued after January 1980 until new public works, including water utilities, became available. The appellants maintain that the County exceeded the 237 permit limitation, and that by approving the Mahon project, the County's action is inconsistent with the Commission's intent in certifying the San Mateo County LCP and the LCP policies guiding residential growth in the Montara and Moss Beach areas.

Applicable Policies

LUP Policy 1.22:

> *In order to insure that schools and other public works are not overburdened by rapid residential growth, require that the following limitation on building permits granted in the Mid-Coast for the construction of residences, other than affordable housing, be applied beginning the first calendar year after LCP certification.*
>
> > *(a) 125 per year until Phase I sewer and significant new water facilities have both been provided, unless the County Board of Supervisors makes the finding that water or other public works have insufficient capacity, consistent with the protection of sensitive habitats, to accommodate additional growth (see Policy 7.20).*

Discussion

LUP Policy 1.22(a) limits the number of building permits during Phase I that the County may grant to 125 per year until after the provision of Phase I sewer and significant new water facilities. Since LCP certification, the County has made significant improvements regarding sewer and water facilities. In May of 1999, the Montara Sanitary District lifted a sewer moratorium because it completed the expansion of the Sewer Authority Mid-Coastside treatment plant for additional capacity. With the completion of the Crystal Springs project in 1994, the County also has adequate water service to serve development of priority land uses. Accordingly, the 125 building permits per year limit under LUP Policy 1.22 no longer applies. In addition, even if LUP Policy 1.22 was applicable to the approved development, it is likely the approved development is still consistent with the LUP because the approved development would likely fall within the 125 building permit per year limit.

Conclusion

The County has made improvements to the sewer and water facilities rendering LUP Policy 1.22 inapplicable to the approved development. In addition, even if LUP Policy 1.22 was applicable to the approved development, the approved development would likely fall within the125 limit of building permit per year limit for 2001. Therefore, the Commission finds that the appeal raises no substantial issue regarding the conformity of the approved development project with the LCP policies governing timing of new development in the Mid-Coast of San Mateo.

5.3.2 Urban and Infill Development

Contention

Appellants Zeff and Blaney contend that the approved development is inconsistent with LUP Policies 1.3(a) and 1.19. They assert that since the approved development does not have water utility service, it does not meet the LUP's definition of "urban", inconsistent with Policy 1.3(a). The appellant state:

> *"because the proposed project would not be served by a water utility, it does not qualify for treatment as an infill development in an "urban" portion of the Mid-Coast."*

Applicable Policies

LUP Section 1.3(a) defines urban areas as:

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

LUP Section 1.19 defines infill as:

> *... the development of vacant land in urban areas and rural service centers which is: (1) subdivided and zoned for development at densities greater than one dwelling unit per 5 acres, and/or (2) served by sewer and water utilities.*

Discussion

LUP Policy 1.3(a) outlines four criteria by which an area can be defined as "urban." A development being served by sewer and water utilities is only one way in which an area can meet the definition of "urban."

The site of the approved development meets the definition of urban under the LCP because it is subdivided and zoned for development at densities greater than one dwelling unit per five acres. The approved development is zoned R-1/S-17/DR/CD/GH (Single Family/ Residential/Design Review /Coastal Development/Geologic Hazards). The zoning regulation 6300.2 for S-17 districts requires that the minimum lot area per dwelling unit is 5,000-square-feet. Thus, S-17 areas are zoned to allow residential development at densities greater than one unit per five acres.

The approved development is located in an urban area as defined by Policy 1.3(a).2, and therefore qualifies as infill development in an urban area consistent with Policy 1.19. Therefore, the appeal does not raise a substantial issue concerning conformity of the approved development with Sections 1.3(a).2 and 1.19 of the LCP.

Conclusion

The approved development meets the LCP definition of urban infill under LUP policies 1.3(a).2 and 1.19. Therefore, the Commission finds that the appeal raises no substantial issue regarding the conformity of the approved development project with the urban and infill policies of the San Mateo LCP.

5.4 Appellants Contentions that are Not a Valid Ground for Appeal

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

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

As discussed below, one of the contentions raised in the appeal does not present potentially valid grounds for appeal in that it does not allege the project's inconsistency with policies and standards of the LCP.

5.4.1 CEQA Review

Contention

The appellants Didur and Tate contend an EIR is required for the approved development.

Discussion

The appellants' contention does not include an allegation that the approved development is inconsistent with the policies of the certified LCP or the Coastal Act public access policies. The adequacy of the County's review of the approved development under the California Environmental Quality Act (CEQA) is not governed by the policies of the certified LCP or by the public access policies of the Coastal Act. Therefore, the Commission finds that this contention is not a valid ground for appeal under Section 30603 of the Coastal Act because it does not contain an allegation that the approved development does not conform to the certified LCP or the public access policies of the Coastal Act.

6.0 INFORMATION NEEDED FOR DE NOVO REVIEW

As stated above, Section 60625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed. Section 30621 of the Coastal Act instructs the Commission to provide for a de novo hearing on all appeals where it has determined that a substantial issue exists with respect to the grounds on which an appeal has been filed. If the Commission finds substantial issue as recommended above, staff also recommends that the Commission continue the de novo hearing to a subsequent date. The de novo portion of the appeal must be continued because the Commission does not have sufficient information to determine what, if any, development can be approved, consistent with the certified LCP.

Given that the project the Commission will be considering de novo has come to the Commission after an appeal of a local government action, the Commission has not previously been in the position to request information from the applicant needed to determine if the project can be found to be consistent with the certified LCP.

6.1 Impact of Approved Well on Sensitive Habitat Areas & Priority Land Uses

In order for the Commission to approve a coastal development permit through any de novo review of the project, analysis of the impacts of the domestic well to environmentally sensitive habitat areas and priority land uses must be evaluated. Without the above information, the Commission cannot reach a final determination concerning the approved development's consistency with the sensitive habitat and priority land use policies of the LCP.

Exhibits:

1. Location map
2. Project site location
3. Site plan and elevations
4. San Mateo County's Conditions of Approval
5. Appeal by Jeff Tate and Jan Didur
6. Appeal by Ellen Zeff and Jeff Blaney
7. Elliot 2001. Letter to Honorable California Coastal Commissioners and Staff from Jim Elliot, March 5, 2001.
8. Mahon 2001. Letter to Commissioners from Joanne M. Mahon with attachments, 2001.
9. Tate 2001. Letter to Commissioners from Jeff Tate with attachments, March 31, 2001.

Appendix A:
Substantive File Documents

References

Kleinfelder, INC 1989a. "Draft Montara-Moss Beach Water Well EIR," prepared for the County of San Mateo, Department of Environmental Management, Planning and Development Division.

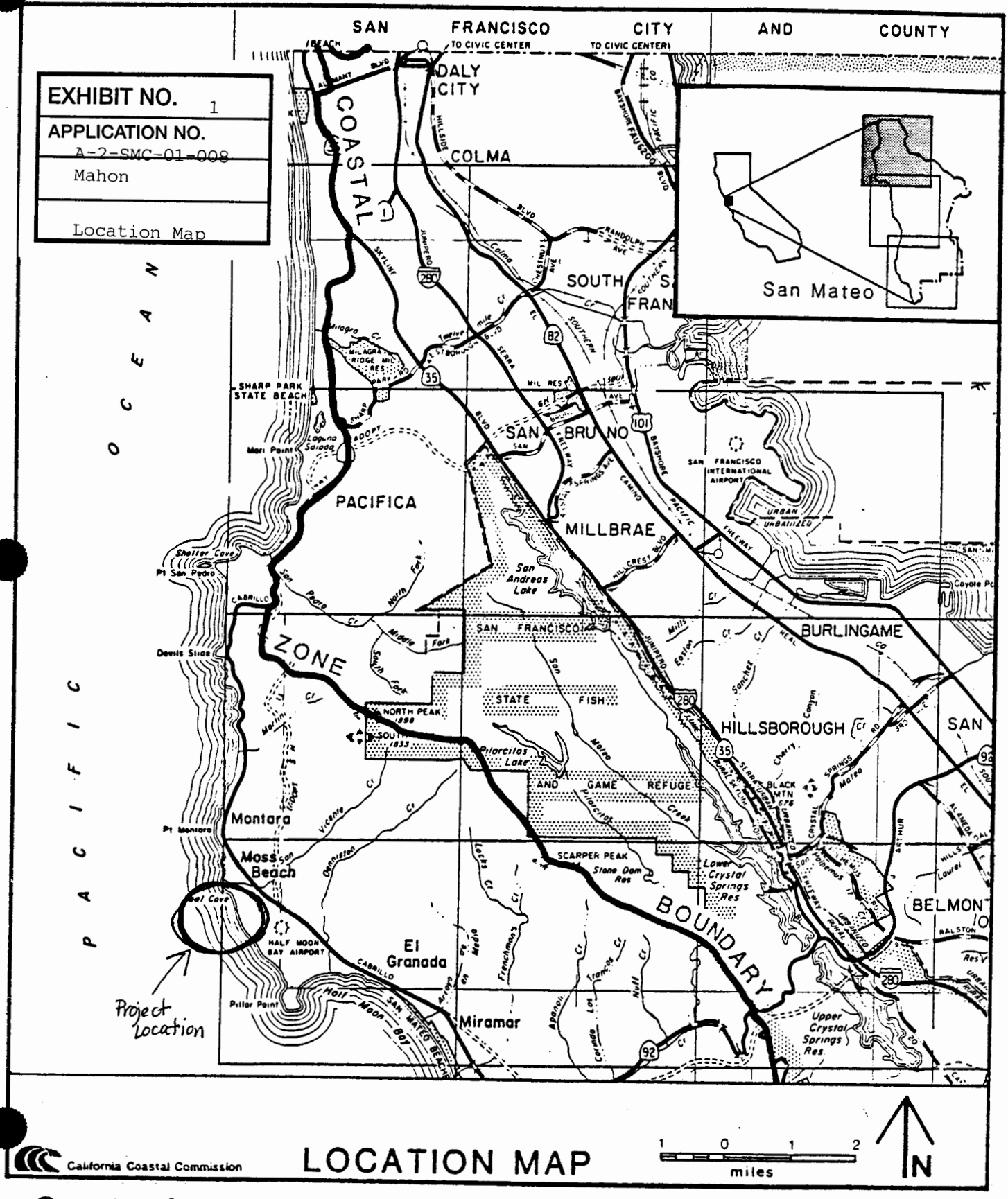
Kleinfelder, INC 1989b. "Final Montara-Moss Beach Water Well EIR," prepared for the County of San Mateo, Department of Environmental Management, Planning and Development Division.

Appe. ix B:
Table of Water to be reserved for Priority Land Uses
Citizens Utility District (Montara/Moss Beach)

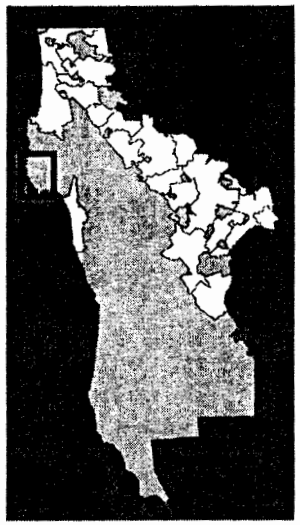
TABLE 2.17

AMOUNT OF WATER CAPACITY TO BE RESERVED FOR PRIORITY LAND USES[1]
CITIZENS UTILITY DISTRICT (MONTARA/MOSS BEACH)

ALLOCATION OF RESERVED CAPACITY TO PRIORITY LAND USES	PHASE I		BUILDOUT	
	Units	Gallons/Day	Units	Gallons/Day
Coastal Act Priorities				
Marine Related Industrial	--	--	--	--
Commercial Recreation	.57 acres	1,100	.82 acres	1,230
Public Recreation	282 persons	3,200	408 persons	4,080
Floriculture		13,800		20,000
Local Coastal Program Priorities				
Specific Developments on Designated Sites Containing Affordable Housing (1) North Moss Beach Site (11 acres)	148	64,380	148	35,816 to 51,504
Total Water Capacity for Priority Land Uses		82,480		61,126 to 76,814
Percent of Total Water Capacity for Priority Land Uses		10.6%		5.4 to 9.2%
Percent of Buildout Allowed by Phase		50 to 69%		100%
Total Water Capacity		778,800		836,300 to 1,128,700



County of San Mateo



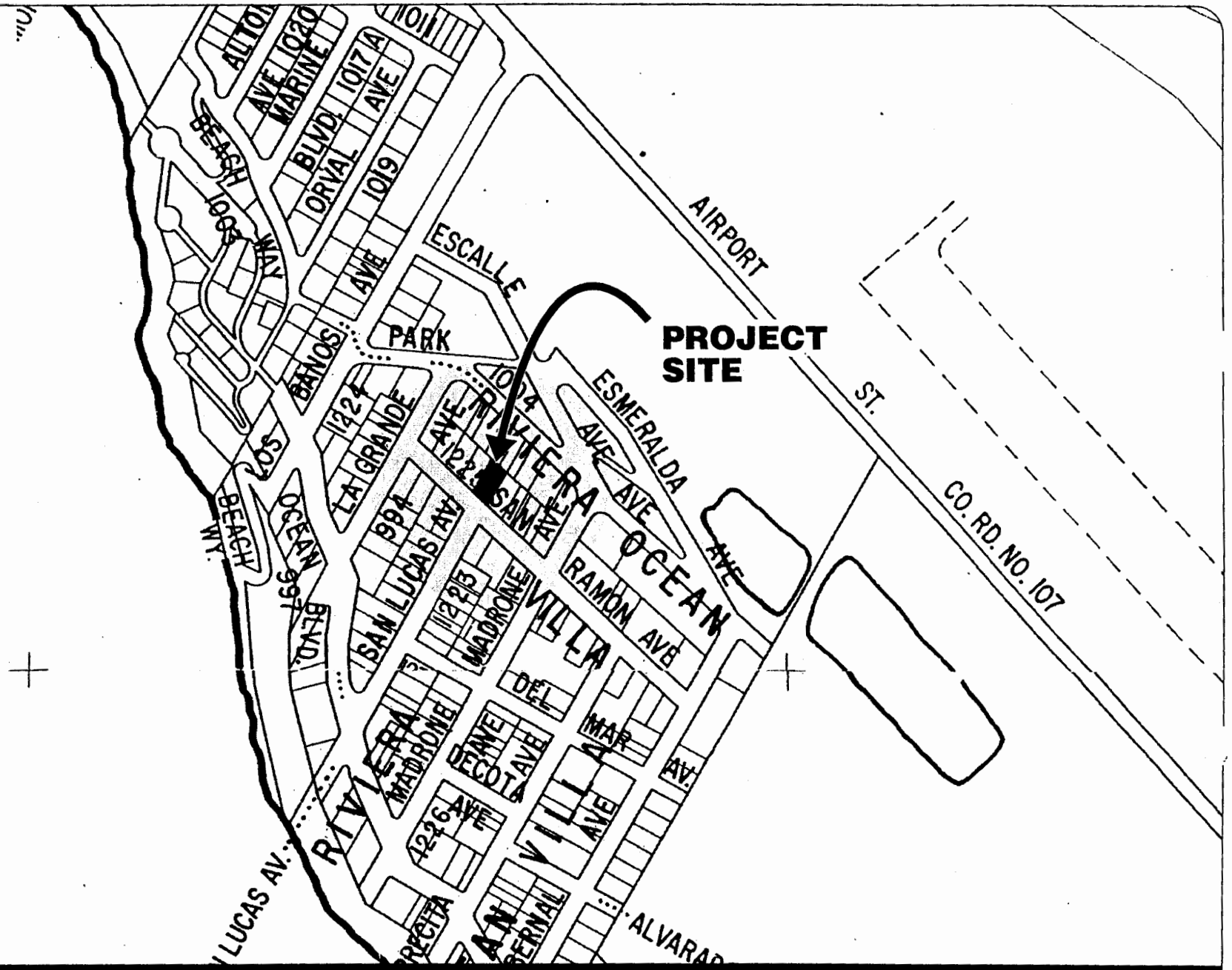


EXHIBIT NO. 2
APPLICATION NO. A-2-SMC-01-008
Mahon
Project Site
Location

San Mateo County Zoning Hearing Officer Meeting

Applicant: Joanne & Michael Mahon

Attachment: B

File Numbers: PLN 1999-00244

N

CDR8\plan 2-08-00 rp

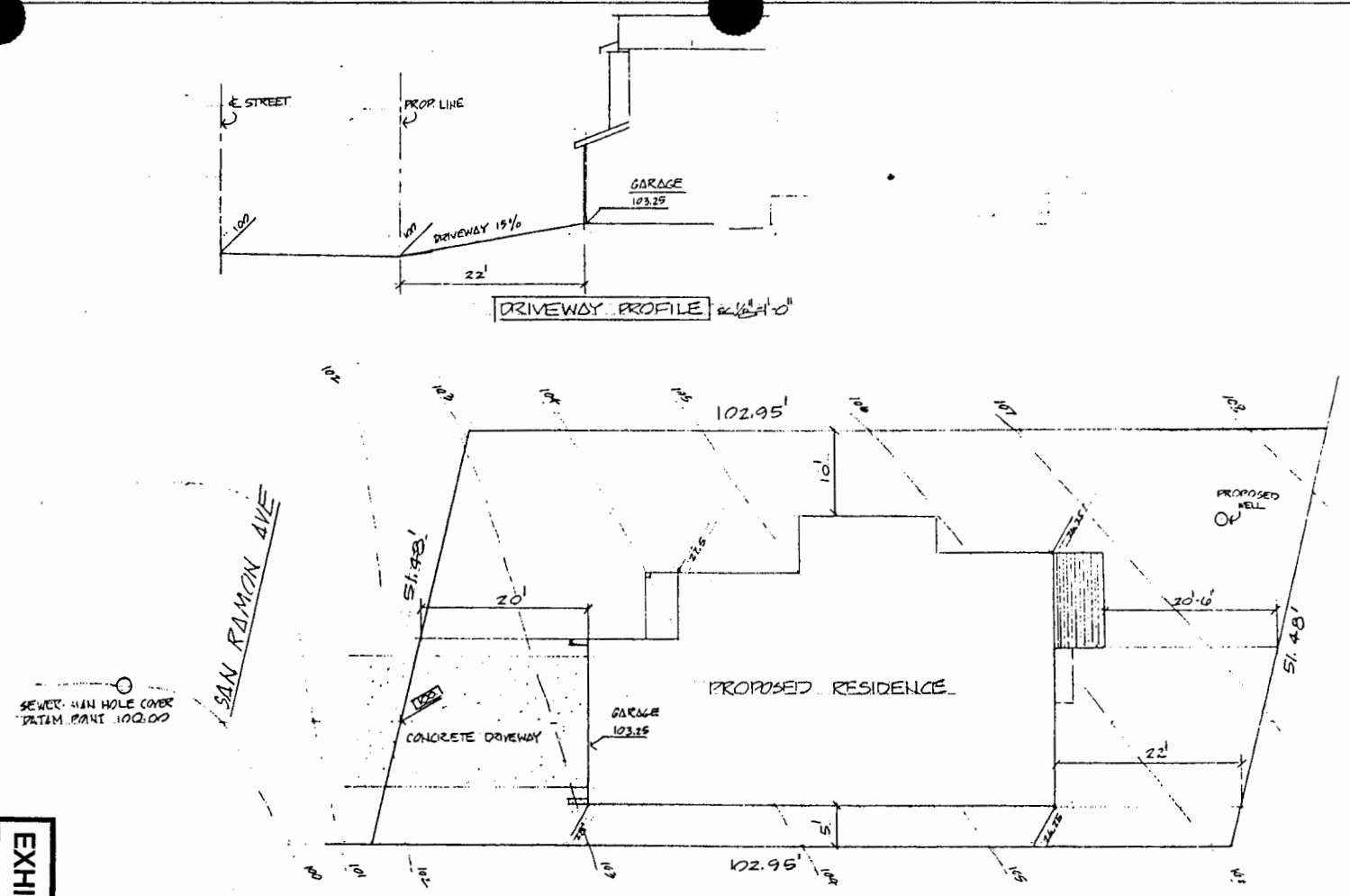


EXHIBIT NO. 3

APPLICATION NO. A-2-SMC-01-008

Mahon

Site Plan & Elevation

MIKE MAHON

A.P.N. 037-259-170

SAN RAMON AVE. MOSS BEACH, CA.

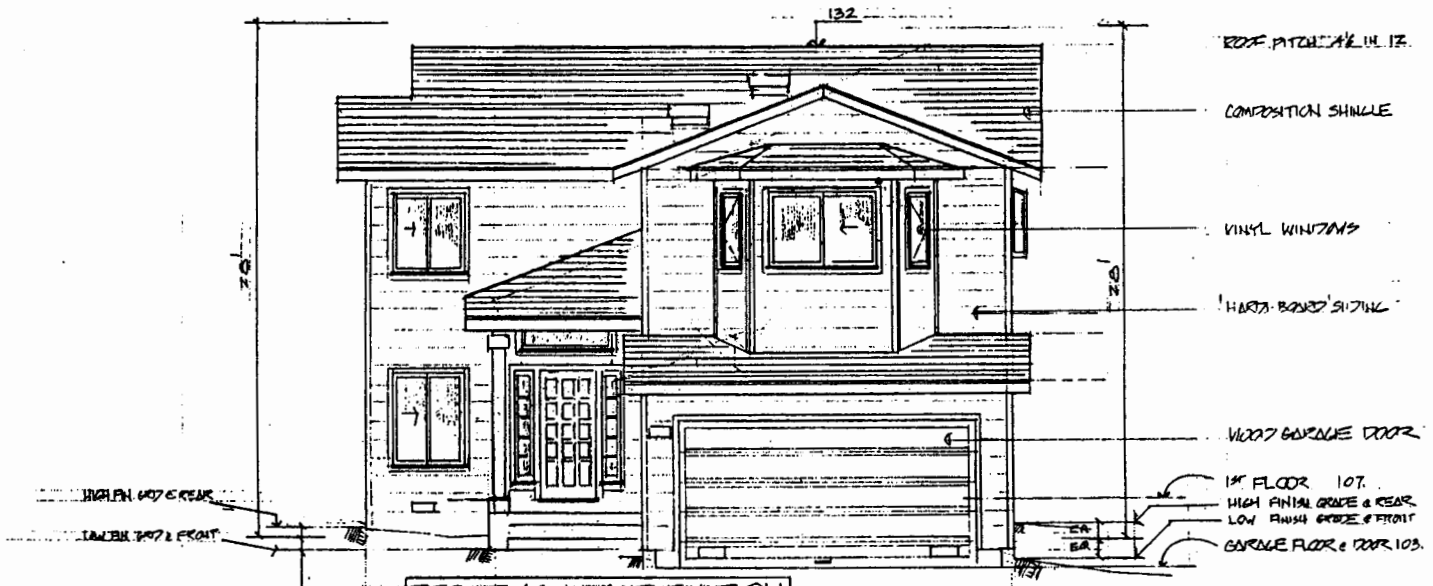
SITE PLAN

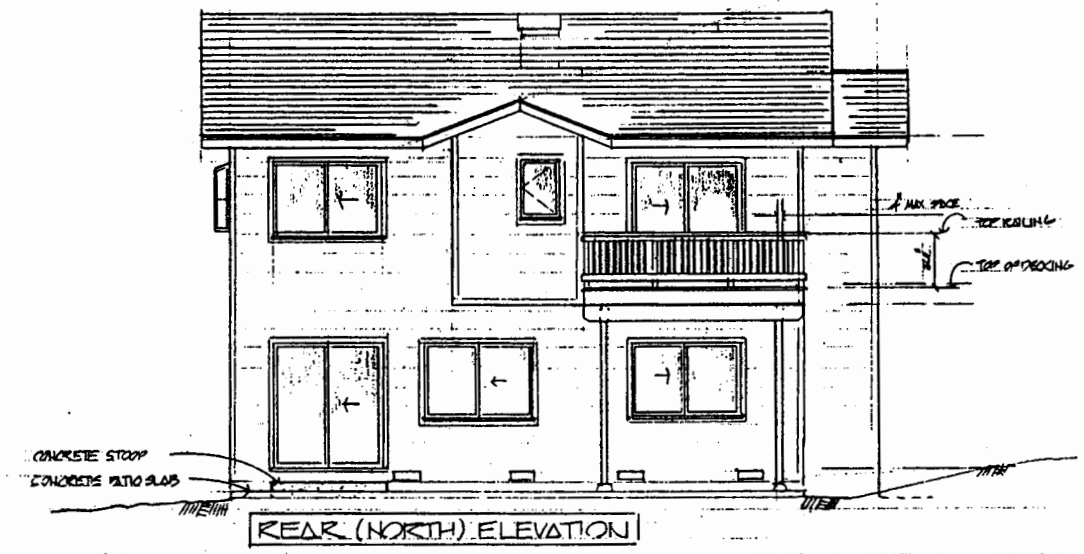
San Mateo County Zoning Hearing Officer Meeting

Applicant: Joanne & Michael Mahon

Attachment: C

File Numbers: PLN 1999-00244





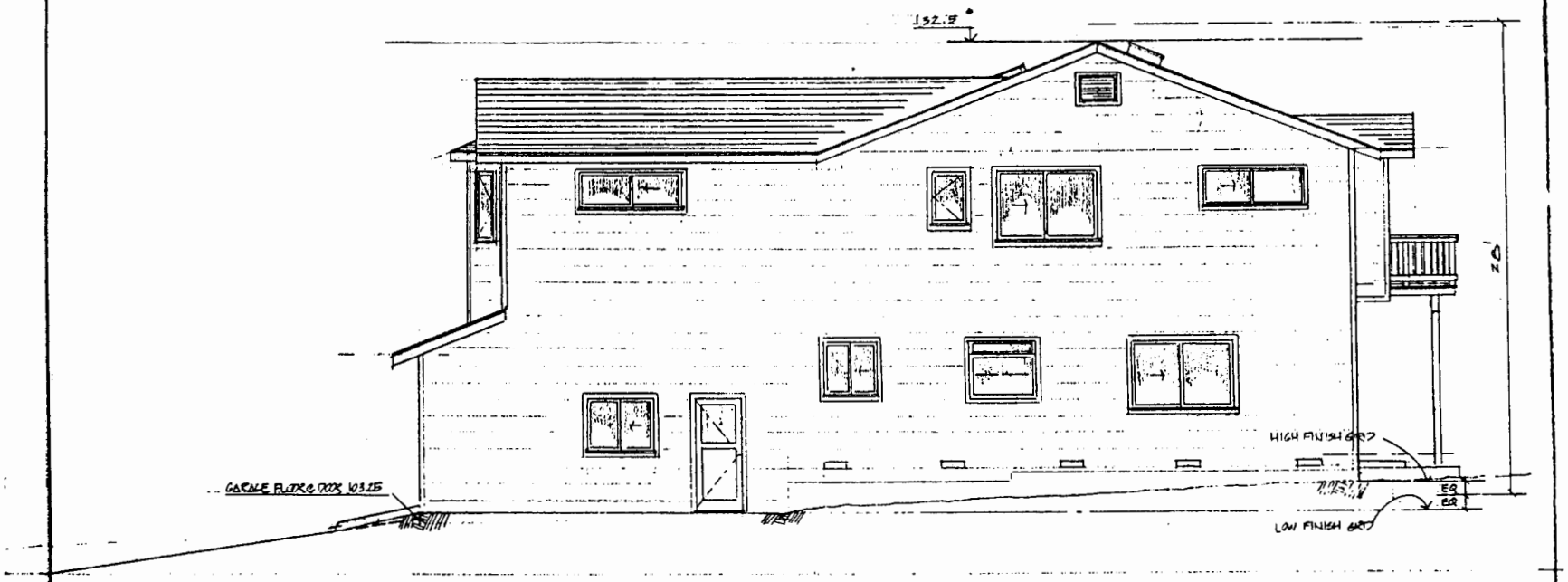
OWNER: MIKE MAHON | A.P.N. 037-259-170 SAN RAMON AVE. MOSS BEACH, CA | EXTERIOR ELEVATION | SCALE 1/4"=1'-0" | SHEET 7

San Mateo County Zoning Hearing Officer Meeting

Applicant: Joanne & Michael Mahon

Attachment: E

File Numbers: PLN 1999-00244



RIGHT SIDE (EAST) ELEVATION

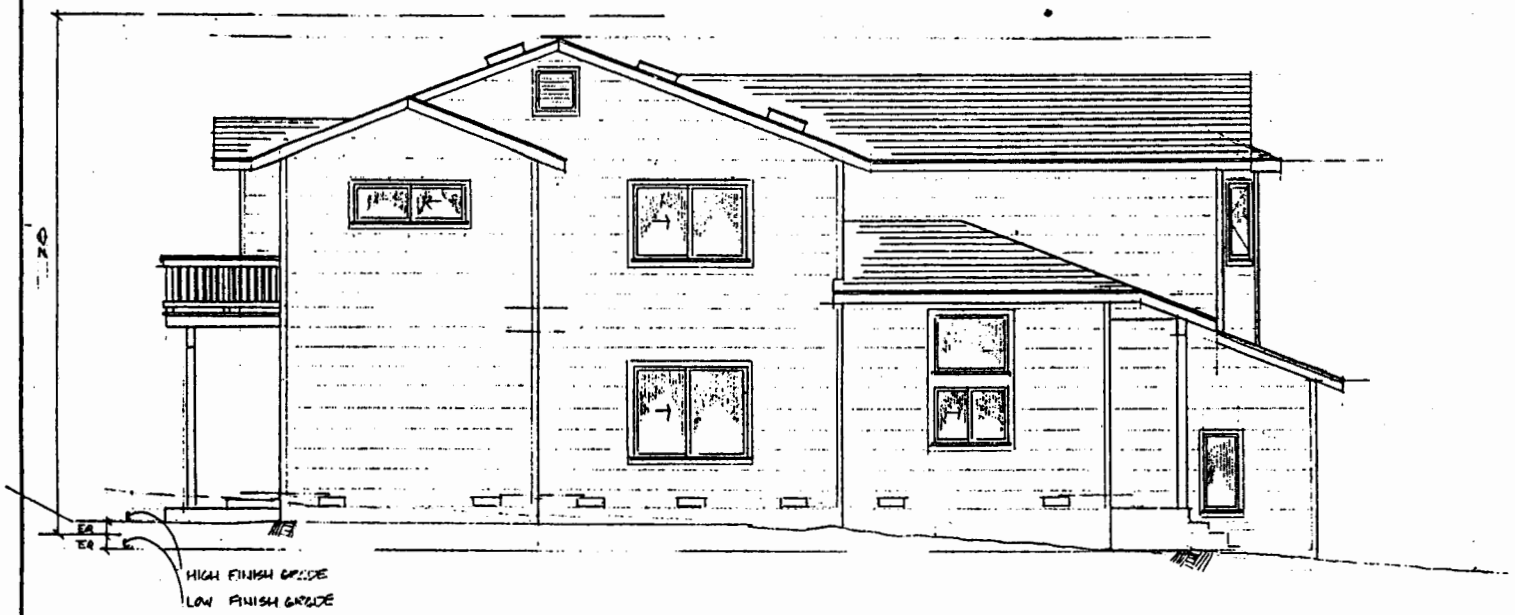
OWNER: BDX MIKE MAHON | APN 037-259-170 SAN RAMON AVE. MOSS BEACH, CA. | EXTERIOR ELEVATION | SCALE 1/4"=1'-0" | SHEET {3}

San Mateo County Zoning Hearing Officer Meeting

Applicant: Joanne & Michael Mahon

Attachment: E

File Numbers: PLN 1999-00244



LEFT SIDE (WEST) ELEVATION

OWNER: MIKE. MAHON	A.P.N 037-259-170 SAN RAMON AVE. MOSS BEACH, CA	EXTERIOR ELEVATION	SCALE 1/4" = 1'-0"	SHEET 9

San Mateo County Zoning Hearing Officer Meeting

Applicant: Joanne & Michael Mahon

Attachment: E

File Numbers: PLN 1999-00244

...nmental Services Agency

Planning and Building Division

County of San Mateo

Mail Drop PLN 122 • 455 County Center • 2nd Floor • Redwood City
California 94063 • www.co.sanmateo.ca.us/planning • plngbldg@co.sanmateo.ca.us

Board of Supervisors
Mark Church
Richard S. Gordon
Jerry Hill
Rose Jacobs Gibson
Michael D. Nevin

Marcia Raines
Director

Terry Burnes
Planning Administrator

650/363-4161
Fax 650/363-4849

Please reply to: **Sara Bortolussi**
(670) 363-1839

PROJECT FILE

March 6, 2001

Lennie Roberts
339 La Cuesta Drive
Portola Valley, CA 94028

Judith Macias
871 San Ramon Avenue
Moss Beach, CA 9438

Jeff Tate and Jan Didur
855 San Ramon Avenue
Moss Beach, CA 94038

EXHIBIT NO. 4
APPLICATION NO. A-2-SMC-01-008
San Mateo County's Conditions of Approval

Notice of Final Local Decision

Subject: **File Number PLN1999-00244**
Location: **863 San Ramon Avenue, Moss Beach**

On March 6, 2001, the San Mateo County Board of Supervisors considered your appeal of the Planning Commission's decision to approve a Coastal Development Permit, pursuant to Section 6328.4 of the San Mateo County Zoning regulations, to construct a new 2,629 sq. ft. single-family residence and drill a domestic well in the Seal Cove area of unincorporated Moss Beach.

Based on the information provided by staff and evidence presented at the hearing, the Board of Supervisors denied the appeal, upheld the decision of the Planning Commission, approved the Coastal Development Permit, made the findings and adopted the conditions of approval as follows:

Regarding the Coastal Development Permit, Found:

1. That the project, as described in the application and accompanying materials required by Zoning Regulations Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms with the plans, policies, requirements and standards of the San Mateo County Local Coastal Program, as stated in the staff report.

2. That the project conforms to the specific findings required by the policies of the San Mateo County Local Coastal Program, as stated in the staff report.

3. That the number of building permits for construction of single-family residences other than for affordable housing issued in the calendar year does not exceed the limitations of Policies 1.22 and 1.23 as stated in Section 6328.19 of the Zoning Regulations.

Regarding the Design Review, Found:

4. That the project conforms with the guidelines and standards in Section 6565.7 and the other provisions of Chapter 28.1 of the San Mateo County Zoning Regulations and the Community Design Manual for the reasons stated in the staff report.

Regarding the Environmental Review, Found:

5. That the Negative Declaration is complete, correct, adequate, and prepared in accordance with the California Environmental Quality Act and applicable State and County Guidelines.

6. That, on the basis of the Initial Study, comments received hereto, and testimony presented and considered at the public hearing, that there is no substantial evidence that the project if subject to the mitigation measures contained in the negative declaration, will have a significant effect on the environment.

7. That the Negative Declaration reflects the independent judgement of San Mateo County.

8. That the mitigation measures identified in the Negative Declaration, agreed to by the applicants, placed as conditions on the project, and identified as part of this public hearing, have been incorporated into the Mitigation Monitoring and Reporting Plan in conformance with California Public Resources Code Section 21081.6.

CONDITIONS OF APPROVAL

Planning Division

1. This approval applies only to the proposal, documents and plans described in this report and submitted to the Planning Division on April 14, 1999, and approved by the Board of Supervisors on March 6, 2001. Minor revisions or modifications to the project may be approved by the Planning Director if they are consistent with the intent of and in substantial conformance with this approval.

2. The Coastal Development Permit shall be valid for one year from the date of approval. Any extensions of this permit shall require submittal of a request for permit extension and payment of applicable extension fees, no less than thirty (30) days prior to expiration.

3. In the event that a public water supply becomes available, the applicants shall switch to this alternative.

4. Prior to the issuance of a building permit, the applicants shall submit color and material samples of the proposed project, for approval by the Planning Director, and verified prior to a final inspection for a building permit.

5. During project construction, the applicants shall, pursuant to Section 5022 of the San Mateo County Ordinance Code, minimize the transport and discharge of stormwater runoff from the construction site into storm drain systems and water bodies by:

   a. Using filtration materials on storm drain covers to remove sediment from dewatering effluent.

   b. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 15 and April 15.

   c. Removing spoils promptly, and avoiding stockpiling of fill materials, when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.

   d. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to the storm drain system or water body.

   e. Avoiding cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff.

   f. Limiting and timing applications of pesticides and fertilizers to avoid polluting runoff.

6. All new utility lines to the proposed project shall be installed underground.

7. At the building permit application stage, the applicants shall submit the geotechnical report, prepared by David Buckley, dated September 22, 1999, as well as any additional reports prepared by David Buckley regarding investigations on this property in accordance with the standards of the San Mateo County Geotechnical Section to the Building Inspection Section with the mitigation recommended in the geotechnical report adhered to, including all requirements of the Geotechnical Section of San Mateo County.

8. At the time of application for a building permit, an erosion and sediment control and stormwater management plan shall be submitted for review and approval by the Planning Division.

9. The applicants are required to monitor the noise levels at the site so that the proposed construction activity will not exceed 80 dBA level at any one moment. In addition, all

construction activities shall be limited to the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. Construction operations shall be prohibited on Sunday and any national holiday.

10. The applicants are required to submit a stormwater management plan prepared by a civil engineer, which delineates permanent stormwater controls to be in place throughout the grading, building and life of the project.

11. The applicants shall ensure that if during construction or grading, archaeological traces (human remains, concentrations of shell, bone, rock or ash) are uncovered, all excavations within a 30-foot radius shall be halted, the Planning Division shall be notified, and a qualified archaeologist shall assess the situation and propose appropriate measures.

12. Height verification shall be required at various stages during construction and confirmed in writing at each stage by the project engineer. The site plan shall show:

    a. The baseline elevation datum point as established by a licensed land surveyor or engineer. This datum point must be located so that it will not be disturbed by construction activities. This datum point shall be used during construction to verify the elevation of the finished floors relative to the site's existing natural grade.

    b. The natural grade elevations at a minimum of four significant corners of the structure's footprint.

    c. The elevations of the proposed finished grades, where applicable.

    d. The ridgeline elevation of the highest point on the roof.

13. The applicants shall submit a landscape plan in accordance with the "Landscape Plan Guidelines – Minimum Standards " for review and approval by the Planning Director following consultation with the appellants. Areas in front of the property that do not contain trees or shrubs shall be planted with groundcover. An irrigation plan for the front area and sides shall be submitted with the planting plan. Upon submittal of the landscape plan, the applicants shall pay a review fee based on the fee schedule in effect at that time.

14. The applicants shall record the following deed restriction with the County Recorder, which binds the applicants and any successors in interest on the parcel deed prior to application for a building permit. The applicants shall submit a copy to the Planning Division:

    "This property is located in Zone 3 of the Seal Cove Geologic Hazards District established by Section 6296 of the San Mateo County Ordinance Code, Zoning Annex. Maps of this district

are on file with the County Geologist and the Planning Division, Environmental Services Agency, San Mateo County."

15. The applicants shall revise the site plan prior to building permit application to reflect side yard setbacks of 7.5 feet on each side.

Building Inspection Section

16. At the time of application for a building permit, a boundary survey will be required.

17. An automatic fire sprinkler system will be required. This permit must be issued prior to or in conjunction with the building permit.

18. A site drainage plan will be required which will demonstrate how roof drainage and surface runoff will be handled.

Department of Public Works

19. Prior to the issuance of the building permit, the applicants will be required to provide payment of "roadway mitigation fees" based on the square footage (assessable space) of the proposed residence per Ordinance #3277.

20. The applicants shall submit, for review by the Department of Public Works, a plan and profile of the existing roadway, including adequate topography to confirm centerline elevations at the driveway and existing roadway drainage.

21. The applicants shall submit a "revised" driveway "plan and profile" that includes "vertical curves" at both the property line and at the garage, to the Department of Public Works, showing the driveway access to the parcel (garage slab) complying with County standards for driveway slopes (not to exceed 20%) and to County standards for driveways (at the property line) being the same elevation as the center of the access roadway. The driveway plan shall also include and show specific provisions and details for handling both the existing and the proposed drainage.

22. The applicants shall not place a concrete driveway within the road right-of-way. Within the right-of-way, the driveway shall consist of a minimum of six inches of Class 2 aggregate base and two inches of asphalt.

23. No construction work within the County right-of-way shall begin until Public Works requirements for the issuance of an encroachment permit, including review of applicable plans, have been met and an encroachment permit issued by the Department of Public Works.

Environmental Health Division

24. Prior to the building permit application stage, the applicants shall obtain a well permit and construct a well meeting quality and quantity standards.

Point Montara Fire Protection District

25. Municipal water supplies shall be used to supply sprinkler systems. In areas without a municipal water supply, an approved water tank large enough to accommodate domestic demand and the sprinkler system design flow for at least 15 minutes is required.

26. The Uniform Building Code Section 903.3, Appendix III-A Section 5.1, states that "The minimum fire flow and flow duration requirements for one- and two-family dwellings having a fire area which does not exceed 3,600 sq. ft. shall be **1,000 gallons per minute**."

27. Fire hydrants must be "Clow 960" or equivalent, alternate hydrants must be approved by the District. Fire hydrants for normal fire flow (1,000 GPM or less) must be no more than 500 feet apart with no part of a building greater than 250 feet from a hydrant. Hydrants will meet all specifications of the District including color and markings. Curbs in front of fire hydrants and fire equipment will be pained red.

28. The Uniform Building Code requires smoke detectors on every level of a building, in every bedroom and at a point centrally located in the corridor or area giving access to each separate sleeping area. This requirement is for new construction and requires detectors to be interconnected, hardwired into the building power with battery backup.

29. Sprinkler systems shall be installed per San Mateo County and Half Moon Bay Fire District Ordinance. Overhead installation and hydrostatic test will be inspected as well as final operating test. In addition to the external alarm flow bell, an internal audible device will be required in a normally occupied area. Underground fire sprinkler supply lines will be inspected and flushed prior to connection. Underground fire sprinkler or hydrant service shall be left uncovered in the area of the thrust blocks for inspection.

30. The County of San Mateo and Half Moon Bay Fire District Ordinance requires a Class "B" or better roof covering or roof covering assembly.

31. Building identification shall be conspicuously posted and visible from the street. **Temporary address numbers shall be posted prior to combustibles being placed on the site.** The letters and numerals for permanent address numbers shall be a minimum of 4-inch stroke for residential. Such letters and numbers shall be internally illuminated and facing the direction of access.

32. The applicants must have a maintained all-weather surface road for ingress and egress of fire apparatus. **This road shall be in place before combustibles are brought onto the project site and maintained throughout construction.** The Half Moon Bay Fire District and the Uniform Fire Code requires a 20-foot minimum width for access roads to structures. Dead-end roads greater than 150 feet in length also require a turnaround for fire apparatus. Contact the Fire Prevention Bureau for the full standard detail and specification. Roads leading to a single-family residence may be 16 feet wide with approval of the District.

33. The all-weather surfaces shall be a minimum of six inches of compacted Class II base rock for grades up to and including 5%, oil and screened for grades up to and including 15%, and asphaltic concrete for grades exceeding 15%.

34. Plans submitted will be checked upon receipt of fees required by the District.

Montara Sanitary District

35. The project will require a sewer connection permit.

This item is appealable to the California Coastal Commission. The Coastal Commission will begin its appeal period upon receipt of the Notice of Final Local Decision. For questions or concerns regarding the Coastal Commission's appeal period and its process, please call 415/904-5260.

In addition to the above, and as a separate matter, the Board directed staff to report back at a future date on the feasibility of : (1) providing proof of water in advance of an application for a Coastal Development Permit for a new residence or other use which would utilize a well as its water source, and (2) a groundwater study of all or a portion of the Midcoast.

Sincerely,

Terry Burnes
Planning Administrator
Bosdec0306L.mahonkr

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

The plan in question involves a well. The only EIR done by SMC in Seal Cove, in 1989, stated that "Upper Seal Cove ... was thought to have insufficient ground-water to support any wells". Planning passed over this & issued a negative environmental impact assessment. We assert that no building should occur until a full E.I.R. has been done to determine whether or not wells can be expected to have any longevity, particularly during drought years.

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

SECTION V. Certification

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

EXHIBIT NO. 5
APPLICATION NO. A-2-SMC-01-008
Mahon
Appeal by Tate & Didur

Signature of Appellant(s) or Authorized Agent

Date 3/3/2001

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date _____

Fax #: 650 728 2205
Voice #: 650 728 1639
Cell #: 415 606 7621

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

See attached

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

SECTION V. Certification

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

EXHIBIT NO. 6
APPLICATION NO. A-2-SMC-01-008
Mahon
Appeal by Zeff & Blaney

Signature of Appellant(s) or Authorized Agent

Date March 26, 2001

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date _____

Grounds For Coastal Commission Appeal

I. Introduction

The only significant source of potable water in Montara and Moss Beach is groundwater. The local water utility services its existing connections with groundwater extracted from local wells. This water utility has been under a PUC-imposed moratorium on new connections since before San Mateo County's 1980 adoption of its LCP. Hence, when the LCP was adopted, it was understood that no further development would be permitted in these communities until additional water sources had been developed which permitted the water utility to offer new connections. This has never happened. In fact, the water utility has never even developed adequate sources to serve its existing connections and has imposed rationing and other restrictions even in non-drought years.

In 1989, San Mateo County commissioned an EIR addressing the environmental impact of adding 58 new individual domestic wells on small lots in Montara and Moss Beach. This EIR ultimately concluded that the proposed wells, on the whole, would probably not have a significant environmental impact, but that any additional wells could have a significant environmental impact and that no further wells should be drilled in the absence of further environmental impact assessment.

This EIR took special note of the lack of groundwater in Upper Seal Cove and the potential harm to sensitive habitats in that area. Upper Seal Cove is an area of Moss Beach which is adjacent to the Fitzgerald Marine Reserve at the southwestern end of Moss Beach. Five of the proposed wells studied in the 1989 EIR were to be installed in Upper Seal Cove. The EIR projected that groundwater draws by these proposed wells would exceed prudent levels and likely cause harm to nearby sensitive habitats.

Between the 1989 EIR and now, five new domestic wells have been installed in Upper Seal Cove to support new residences. Other domestic wells have also been drilled on vacant lots in Upper Seal Cove. The County has not undertaken or required any applicant to undertake a groundwater study or a new EIR addressing the availability of groundwater in Upper Seal Cove or the impact that the drilling of new domestic wells will have on the sensitive habitats that exist in and around Upper Seal Cove.

Instead, the Board of Supervisors has approved Michael Mahon's application for a permit to drill a new domestic well on a small vacant lot in Upper Seal Cove and his application for design review approval of a new well-dependent residence for this lot. This is the approval decision which we appeal. The LCP was intended to protect the sensitive habitats on the Coast. The Board's decision threatens these habitats by

permitting increased groundwater withdrawals which have already been shown to threaten the sensitive habitats in and around Upper Seal Cove. Consequently, the Board's decision violates the LCP and must be overturned.

II. The 1989 EIR

At the time of the 1989 EIR, there were only 32 existing wells in Montara and Moss Beach, and the vast majority of these wells had been drilled between 1985 and 1988. (1989 Kleinfelder Draft EIR (hereafter DEIR), pages 44-45.) The proposal studied in the 1989 EIR was to add 58 additional wells. Five of the proposed wells were to be installed in the Upper Seal Cove area of Moss Beach.[1] (DEIR, Appendix B, page 17.) The EIR identified Upper Seal Cove, an area which at that time apparently had no known wells, as having insufficient ground water to support ***any*** wells. (DEIR, page 56; Final EIR (hereafter FEIR), page 31.).) "[L]ittle or no surplus water is available in the [Upper Seal Cove] aquifer." (DEIR, pages 79-81.) The DEIR projected that installation of the five proposed wells would cause groundwater draws in Upper Seal Cove to "exceed prudent levels." The DEIR explained that this area was subject to "difficult well drilling, low yields, and low reliability of yields" and wells could be expected to go dry prompting homeowners to seek an unavailable connection to the water utility. (DEIR, page 127.) In fact, according to the FEIR, the demand posed by the wells proposed for Upper Seal Cove in 1989 alone would likely cause "environmental impacts upon the individual owners, other community members, and habitat values in the pond area immediately to the east." (FEIR, pages 31-32.) The DEIR also mentioned that potential habitat for the San Francisco garter snake was nearby. (DEIR, Appendix B, p. 22.)

The DEIR noted that the LCP required the County to implement a "water monitoring program" to determine water availability for resource protection, but the County had never complied with this requirement. (DEIR, page 15.) The DEIR stated that the proposed 1989 project (the 58 new wells) would comply with the LCP *only* if

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[1] Obviously, the County is incorrect in claiming that the 1989 EIR contemplated and approved of seven new wells in this area. The EIR contemplated only five new wells. Thus, the County's claim that Michael Mahon's proposed well is merely the sixth of seven allowable wells is unsupported. Furthermore, Michael Mahon's proposed well would not be the sixth or even the seventh well in Upper Seal Cove. In addition to the five wells identified by the County, there are two more recently installed wells on San Ramon Avenue just a few lots down from Michael Mahon's lot in Upper Seal Cove. Therefore, Michael Mahon's proposed well would be at least the eighth well in Upper Seal Cove. Even if the EIR approved of seven wells, which it does not, Michael Mahon's proposed well could not be justified on that basis. This is just another example of the County's shoddy record with regard to monitoring wells.

the County implemented the monitoring program. (DEIR, page 16.) This monitoring program was necessary because "much" of the information necessary to adequately assess the impact of additional wells was unavailable. The DEIR project team lacked information on (1) seasonal and year-to-year variations in ground water levels in the project area's six sub-units, (2) ground water quality, (3) health and sensitive habitat areas, (4) aquatic habitat and (5) special-status plants and the San Francisco Garter Snake. (DEIR, page 140.) The DEIR recommended that the County begin a monitoring program to obtain these types of data. (DEIR, page 140-141.) The County has never implemented a monitoring program.

Ominously, the DEIR projected that the 58 proposed wells themselves might affect riparian habitats by reducing stream flows and causing water stress to riparian vegetation. Aquatic habitat would suffer detrimental impact even before riparian habitats were damaged. Although the DEIR downplayed these potential impacts as to the proposed wells because "this impact is incremental and cumulative," it warned that the impact "could become significant *at a future, more intensive level of development.*" (DEIR, page 121.) The DEIR projected that additional wells could cause the safe threshold to be exceeded with the result being "increased risk of well failure" and "potential impacts upon sensitive-area biota." (DEIR, page 138.) The FEIR "strongly discouraged" any further wells beyond the 58 proposed "pending collection and interpretation of sufficient information to support a quantitative assessment of a potentially significant set of environmental impacts. This **vital point** should be emphasized in discussion of the EIR's findings." (FEIR, page 70.)

The 1989 EIR lacked adequate information to even assess all of the environmental impacts of the then-proposed 58 wells. The FEIR made assumptions based on the ***absence*** of data, instead of making inferences based on known facts. The FEIR acknowledged that "no data" had been amassed on "aquatic biota" in the streams in the project area, but it "is assumed" by the FEIR that impacts "are not significant at the scale of this project." (FEIR, page 38.) The FEIR insisted that monitoring implemented in conjunction with the installation of the proposed 58 wells "will develop the information needed" to assess whether adequate groundwater supplies are available. (FEIR, page 65.) However, more than a decade has passed. No monitoring has ever been implemented, and no data has been acquired. In other words, with ***no facts*** whatsoever, the FEIR ***assumed*** in 1989 that any environmental impact on streams caused by the installation and use of **58** new domestic wells would not be significant. Although the FEIR believed that the County would institute monitoring which would capture the data necessary to assess the adequacy of groundwater supplies, we still have no data. Whether the FEIR's 1989 assumptions were valid then is unverifiable, since they were based on no facts, and surely these assumptions cannot be relied upon today after the installation of many more wells and in the absence of any additional data.

21

III. LCP Violations

Impermissible Land Use

The "urban" areas of the Midcoast are defined in the LCP as those which are "served by sewer and water utilities." (LCP Policy 1.3(a).) Michael Mahon's vacant lot in Upper Seal Cove is not served by the water utility because the water utility is under a moratorium which prohibits it from providing service to any new residence. Because the proposed project would ***not*** be served by a water utility, it does not qualify for treatment as an infill development in an "urban" portion of the Midcoast. (LCP Policy 1.19.)

At the time that the LCP was approved, the Coastal Commission's Executive Director's recommendation on the LCP proposal stated that, under the proposed LCP, "[r]esidential construction ***will not be proceeding*** without water and sewer capacity to serve them" and additional development would only be permitted to be phased in ***after*** public works facilities, including new water supplies, had been provided to serve them. (October 14, 1980 Executive Director's Recommendation on San Mateo County's LCP, Public Works section.) This recommendation also stated that no more than 237 permits would be issued after January 1980 for new residences in Montara and Moss Beach until new public works facilities had been developed including a new water supply. (October 14, 1980 Executive Director's Recommendation on San Mateo County's LCP, Housing section.) Of course, this limitation was long ago exceeded.

These comments by the Coastal Commission Executive Director clarify that the LCP was intended to prohibit further residential construction in Montara and Moss Beach until the water utility had developed new water supplies which permitted it to offer new water connections. The Board's decision to permit Michael Mahon to construct a new residence in the absence of any development of new water supplies by the water utility would subvert the Coastal Commission's intent when it approved San Mateo's County's LCP in 1980.

Failure to Require Study of Impact on Sensitive Habitats

LCP Policy 2.32 requires that any new well drilling by the water utility be preceded by a consideration of the "safe yield factor which will not impact water dependent sensitive habitats, riparian habitats and marshes." The "safe yield factor" must be be based on "studies conducted . . . which shall . . . prior to the granting of the permit, examine the geologic and hydrologic conditions of the site to determine a preliminary safe yield which will not adversely affect a water dependent sensitive habitat." The LCP only discusses individual domestic wells for residences in rural

areas. (LCP Policy 1.25.) Clearly this is because the LCP did not intend to permit any residences in the urban area to be supported by individual domestic wells.

The County has not required any studies to be performed. Its justification for this omission is that this LCP requirement applies only to new wells installed by the water utility. This subversion of the LCP cannot be permitted. Since the moratorium on new connections was imposed decades ago, the County has permitted hundreds of new domestic wells to be installed on small residential lots in Montara and Moss Beach. Except for the 1989 EIR, the County has not undertaken any study or required anyone to undertake a study which would determine the amount of groundwater that can be safely withdrawn without any adverse impacts on sensitive habitats.

The LCP's intent that groundwater withdrawals be limited to those which will not impact on sensitive habitats cannot be avoided so cavalierly. Hundreds of individual domestic wells will obviously withdraw as much groundwater as a new well installed by the water utility. Because the County's interpretation of the LCP will result in harm to sensitive habitats, the Coastal Commission must firmly reject it and require studies to be performed before any additional wells are are permitted to be drilled in Moss Beach or Montara and before any of the existing wells on vacant lots are permitted to be utilized to support approval of new well-based residential development.

The County's insatiable desire for the tax revenue provided by new residential construction has overwhelmed any respect for the LCP. The County is trying to bypass the water connection moratorium by permitting new urban residential construction based solely on individual domestic wells on small parcels. Since groundwater is the only water supply for the existing residences in Montara and Moss Beach, the County's conduct threatens to deprive these existing residences of their water by permitting unrestricted withdrawals of groundwater by hundreds of new domestic wells.

LCP Policy 1.22 requires that development stop when it is found that water or other public works have insufficient capacity so as to protect sensitive habitats. That is what is required here. The continued existence of the water connection moratorium combined with the information provided in the 1989 EIR compels a conclusion that further development poses a significant threat to sensitive habitats. Hence, the County is obligated to stop issuing permits for new residential development.

The County has never instituted the monitoring program required by the EIR and, astoundingly, has also admitted it has failed to accurately catalog and maintain a database of new wells permitted for new residential construction. The result is that there are wells throughout the Midcoast that the County is not even aware of.

LCP Policies 7.1 through 7.5 mandate that the County require applicants to demonstrate that there will be no significant impact on sensitive habitats. The Upper Seal Cove area is surrounded by many sensitive habitats. The area abuts Fitzgerald Marine Reserve which has much sea and coastal life dependent on water flow. The area also includes and is abutted by much undeveloped land which provides a habitat for frogs and snakes (possibly including protected species). The 1989 study indicates that water flow is very limited in this area and that wells will deprive sensitive habitat of this requirement for life. The Upper Seal Cove area also abuts commercial flower fields which are entitled to priority under LCP Policy 2.25. Since these fields are undoubtedly irrigated with groundwater from wells, additional domestic wells in the area may deprive them of adequate water resources.

Conclusion

The County is ignoring the LCP and permitting development in the absence of adequate water. It has refused for many years to monitor wells or to undertake or require applicants to undertake the studies which the LCP requires before groundwater withdrawals are significantly increased. The County should have long ago made the required finding that water supplies are inadequate to permit any additional residential development until new water supplies are developed. The County's ongoing policy of develop first, study never must end. The County's failure to comply with its duties under the LCP has placed our sensitive habitats on the Midcoast at grave risk. We urge the Commission to hear our appeal, overturn the County's approval of Michael Mahon's project and institute a moratorium on both well drilling and new well-based residential development in Montara and Moss Beach pending the completion of studies on the impact of well-based development on our cherished sensitive habitats.

Jim Elliot
P.O. Box 1016
El Granada, CA 94018
650-726-0473

RECEIVED
APR 06 2001
CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
45 Fremont Street
San Francisco CA 94105-2219
Attn: Sarah Borchelt

04/05/01

Honorable California Coastal Commissioners and Staff,

I wish to **object to the appeal** of the Coastal Development Permit(s) for Mike and Joanne Mahon on San Ramon Ave. in Moss Beach and **support issuance of the CDP** as unanimously approved by the San Mateo County Supervisors.

I believe that the issues are not so complex as to require a continuance or additional study and that the commission can easily rule ***"no substantial issue"*** based on review of the **LCP Policies** and of the ***facts*** included in the staff reports submitted to the Supervisors. Simply, the appeal is an objection to a CDP for a single domestic well. On approving the CDP, the Supervisors requested an update from the Planning Division on groundwater status and there is no regulation governing domestic wells in the LCP. This should be readily apparent to Coastal Commission staff.

The concerns of the appellant Ellen Zeff are misdirected to the Coastal Commission and are aimed at defeating an individual applicant, when her problem is with the San Mateo County LCP itself and with rightful discretionary judgment of County Supervisors. The concerns of adjacent neighbors boil down to not wanting a house next door. None of their arguments have sufficient substance to merit serious Coastal Commission consideration.

The CDP unanimously approved by the Supervisors is for a single domestic well and a single residence between two existing homes. This is not a permit for 58, 100, or "hundreds" of wells as Zeff claims.

Inappropriate appeal
This appeal is an inappropriate venue for the complaints of the appellants. More appropriate action by concerned parties would be to lobby for amendment of the LCP to create a policy requiring "ground water monitoring" by the County in Urban areas and in the interim to lobby for a moratorium on "urban", "domestic" well drilling. The LCP contains no "groundwater monitoring requirement".

EXHIBIT NO. 7
APPLICATION NO. A-2-SMC-01-008
Mahon
Letter-Elliot

Appropriate Supervisor Action
While the appellants hyperbolically claim fear of the County's permitting of "..hundreds of new domestic wells.", this is a permit for a single well. While the appellants accuse the Supervisors of disrespect for the LCP stating, "The County's insatiable desire for tax revenue provided by new residential construction has overwhelmed any respect for the LCP.", the Supervisors on granting this CDP, responsibly asked the Planning Division for an "update" of the EIR cited by the appellant.

Reversal by Coastal Commission Would Constitute a Moratorium
As there is no environmental argument specific to this well permit, action by the Coastal Commission reversing this approval would have the effect of the Coastal Commission's unilaterally declaring a moratorium on drilling of any "domestic" wells in "urban", if not all areas in the Coastal Zone. Reversal would have to involve the extreme and drastic action of stopping all well drilling (and development) until such time as the Commission was satisfied that environmental concerns were relieved. Such action would abrogate Supervisors power to interpret the LCP, would be based wholly on speculation that some problem might be immanent.

Project Exempt from EIR
The project is exempt from environmental review pursuant to California Environmental Quality Act, (CEQA) Section 15303, Class 3 relating to new construction of small structures. Appellant incorrectly seems to argue that it is not exempt.

Approval Complies with LCP
Reading the LCP, the County appears to have no specific obligation to monitor even Rural watersheds, let alone Urban watersheds. It is not appropriate to pretend the LCP says something it doesn't and it is not appropriate to attack a individual "infill" property owner when one's complaint is rightfully about a perceived longstanding deficiency in the LCP.

The San Mateo County LCP simply does not contain any policy controlling "domestic" wells in "urban" areas.
LCP Policy 1.23 cited by appellant Zeff has no relevance to the subject project. Appellant Zeff apparently attempts to mislead the Commission by citing Policy 1.23 Timing of Development on The South Coast when it has no bearing on the instant case.

The subject project is not located in the "South Coast" it is in the Midcoast . It is subject to Policy 1.22 Timing of Development in the Midcoast, where the only limitation is "..125 residential permits per year..", "..**unless the County Board of Supervisors makes the finding that water or other public works have insufficient capacity,..."[emphasis added]** and the Supervisors have made no finding that there is insufficient water. There is simply no requirement in the LCP for County monitoring of wells in the Urban areas

No LCP provision requiring County "groundwater monitoring" for either domestic wells or Public Utility wells in the Midcoast or any other area.

The County is required by LCP 1.25 Rural Watershed Monitoring Program only to undertake a "Rural" "monitoring program **"...,providing funding can be secured,.."**. This does not call for "groundwater monitoring" and conditions any monitoring on funding.

The "Urban" zoning designation does not become "rural" due to lack of water permit

Zeff spuriously claims that the subject lot (between two adjacent "urban" homes) is "rural" due to failure of the Private water utility to develop new sources of water and the ability to issue connections. She then attempts to argue that the LCP requires application of "rural" requirements for "public utilities" to "urban" domestic wells.

No Evidence of Environmental Risk.

In addition to the lack of applicable LCP policy, There are no identified sensitive habitats in the upper seal cove area that are groundwater dependent and no evidence that surface water will be impacted. Zeff and no other persons including the "Committee for Green Foothills" have identified in their information, a single specific sensitive habitat likely to be effected by this specific project "in or around the Seal Cove area". Rather, Zeff refers generally to an EIR for the whole of Montara and Moss Beach. Further, Zeff also inconsistently argues both that the (1989 Public Utility) EIR identifies potential risks and at the same time that it's assumptions were "based on no facts".

There was absolutely no evidence presented to the Supervisors that a ground water deficit problem was present or immanent in the area or in the actual aquifer involved. The adjacent appellants notably, are served by a public water supply and have no well that could be affected by the permit.

Information in the 1989 EIR should be useful in arguing for an amendment to the LCP, either requiring monitoring or even banning "domestic" wells, but no EIR is required for or relevant to this relatively insignificant "infill" project.

Unavailability of Public Water is a Political/economic contrivance.

Lack of "public" water resources in the Moss Beach Montara area is almost entirely due to anti-development politics, not lack of resources. The privately held "Citizens Utilities" has a history nationally, of providing marginal service in small communities, charging outrageous fees and refusing to invest significantly in improving their systems. As a private utility, Citizen's Utilities is barred from purchasing water from the local Coast County Water District and The City of San Francisco. This fact alone denies Moss Beach and Montara property owners access to ample water that is available the rest of the Midcoast and virtually every city on the Peninsula.

Supervisors complied with intent of LCP

Zeff's arguments regarding the intent of a Coastal Commission Director (who did not author the LCP) that no residential construction would proceed without water and sewer capacity is exactly exactly the standard Supervisors applied to the Mahon project. No water, no construction.

Appeal is unfounded and inappropriate
Prolonged consideration of this appeal is not a reasonable or appropriate use of the LCP appeal process or an appropriate use of Funds of the State and County. Additionally, it places an excessive and unfair burden on the Applicant. Without an overriding public interest, the Coastal Commission should not subject the applicants, The Mahon Family to additional delays.

Conclusion
I am extremely disturbed that over the past several years that in our area, anti-growth activists have started using the appeals process to obstruct individual projects (often for personal reasons) regardless of compliance with existing regulations. These folks are fully aware that to "delay is to deny" and that it is easier to discourage development by appealing numerous ***individuals*** with limited resources than it is to go out and obtain public support for a change in the zoning rules and LCP. This is damaging to the local sense of community, it is wasteful of public funds and resources (County and State), it is counter to the intentions of the LCP and the Coastal Act, and it is unreasonably damaging to individuals who wish to develop their property. This activity should not be condoned or supported by the Coastal Commission and the Commission should issue a finding of "No Substantial Issue"..

Sincerely,

Jim Elliot

Agenda# Th9B
Application# A-2-01-8
Michael and Joanne Mahon
Favor

Dear Commissioners,

My husband and I purchased this property 13 years ago and have been paying property taxes on it as well. There has been a sewer moritorioum for about 10 years. Once lifted we applied for a building permit which was April of 1999. Enc losed are 3 pictures of which shows that this is an in fill lot in a built up neighborhood. As you can see, there are homes to the left, and to the right. This is a developed area. We have experienced multiple delays regarding this project and all of these issues have already been addressed by theSan Mateo County Board of Supervisors. We have done nothing wrong. For the past 2 years we have been following the processes and rules that have been handed down to us. There are no current rules on individuals drilling for water in this area. Therefore it would be unfair to single us out and honor Ellen Zeffs appeal when others have been able to drill for water in this area. There are many flaws in Ms. Zeffs appeal that simply do not apply to us. 1. We are not in a wetlands area. 2. There aren't any current regulations for denying us the right to drill for water. 3. This is considered "Mid Coast" not " South Coast".Which Policy 1.22 Timing of Development int the Midcoast would apply. And the only limitation is 125 residential permits per year.

I would also like to note that we were advised to apply for a well and building permit together by the County of San Mateo over two years ago. We are requesting that these appeals be ruled as non substantial issue and let us continue on with our project. We are fully aware that if we drill and do not get water we will not be able to build at this time. Also, the EIR report that is requested as another appeal was a negative declaration by the County of San Mateo.

We are just a small family of three with one on the way. My husband and I both grew up here and our parents still reside here in Moss Beach, California. We just wanted to raise our family here and be closer to our children's Grandparents and our extended family.

Sincerely,

Joanne M. Mahon

Joanne M. Mahon

EXHIBIT NO. 8
APPLICATION NO. A-2-SMC-01-008
Mahon
Letter- Mahon with attachment

② 863 SAN RAMON AVE, MOSS BEACH - HOUSE TO RIGHT

③ 863 San Ramon Ave., Moss Beach - House to Left

① 863 SAN RAMON AVE., MOSS BEACH - MAHON PROPERTY

Jeff Tate & JanFreya Didur
855 San Ramon Avenue
Moss Beach, CA 94038-9751

March 31, 2001

RECEIVED
APR 05 2001
CALIFORNIA
COASTAL COMMISSION

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

Appeal #: A- 2- SMC- 01 -008

Dear Commissioners:

During my appeal process against the construction of the proposed house (SMC PLN1999-00244), I have learned many things about County Government, the LCP, and Seal Cove. My appeal to you rests partially on County documents, and partially on information I trust from knowledgeable people. It concerns water.

Water is scarce in Moss Beach. The local utility, Citizen's, draws all its water from wells, and has a moratorium on any new hookups. Water is scarce. If property owners drill wells and find water, they are drawing from the same aquifer that serves Citizen's current customers; sort of robbing Peter to pay Paul. Upper Seal Cove, however, is apparently not even connected to the aquifer, however.

Upper Seal Cove is heavily faulted: a fault runs right past the parcel in question. It rests on what I am informed is one side of a large fault slip, with the consequence that it is not even connected to the rest of the Moss Beach/Montara aquifer. I am told that the only source of water is rain that falls directly on Upper Seal Cove and filters into the formations.

So, if that is true, then sooner or later (and evidence from all over the States suggest sooner) the water in Upper Seal Cove will be exhausted. This will lead perhaps to subsidence and property damage, and certainly to *force majeure* applications for emergency connection to an already stressed water system.

In 1989 San Mateo County released a DEIR that states for Upper Seal Cove: "[L]ittle or no water is available in the aquifer" (Exhibit A, page 3). The FEIR that followed states this more crisply. It states that demand posed by proposed wells will likely cause "environmental impacts upon the individual owners, other community members, and habitat values" (Exhibit B, page 1)

Despite these existing documents, the Planning Department found their way to issue a Negative Declaration under CEQA (Exhibit D). Under the circumstances, it is hard to see just exactly how that could be, one of the many points made in a letter to The Board of Supervisors in support of the appeal from Ellen Zeff (Exhibit C). Ellen has been researching water issues on the Mid-Coast for years (she is the author of Exhibits A and B).

Included finally (Exhibit E) is a portion of a long-standing eMail conversation between Ellen and SMC Planning on the subject of wells and what appears to be a lack of a clear position on behalf of the County.

EXHIBIT NO. 9
APPLICATION NO. A-2-SMC-01-008
Letter + Tate with Attachments

On March 6th, the San Mateo Board of Supervisors met to consider our appeal. As they had not bothered to notify any of the appellants of the revised date (the appeal was held-over from a noticed date in January) there was nobody present to speak to the appeal and it was rejected. Interestingly though, they did task staff with reporting back on the feasibility of "a groundwater study of all or a portion of the MidCoast"

In summary therefore, I am requesting that you grant our appeal on the grounds that the County's finding of a Negative Impact Assessment under CEQA flies directly in the face of the only extant documents, the 1989 DEIR and subsequent FEIR. Further, seemingly reliable geological information, coupled with documented evidence of fault patterns, strongly implies that any working wells are replenished by a very poor source (runoff will move most of the rainfall either onto the airport or into the ocean) and that there is reason to expect exhaustion and possible subsidence in short-order.

Thank you for your kind attention.

Sincerely,

Jeff Tate

Ellen Zeff & Jeffrey W. Blaney
P.O. Box 371508
Montara, CA 94037
(650) 728-2871

January 10, 2000

Steve Scholl
Deputy Director, North Coast Region
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Re: **Revocation of San Mateo County's Categorical Exclusion**

Dear Mr. Scholl,

In his December 1999 letter, Terry Burnes mentioned that the County had completed an EIR in 1989 studying "the use of water wells in Montara" which had "set a limit on the aggregate number of residential wells which could safely be drilled in that aquifer." We were recently able to obtain a copy of the 1989 Draft Environmental Impact Report that was prepared for the County in 1989. We have not yet been able to obtain the Final EIR, but our analysis of the DEIR demonstrates that this EIR does not provide any support for the County's position that the environmental impact of all new wells has already been studied.

The 1989 Project's Limited Scope

In 1989, Montara Sanitary District granted 58 additional sewer permits to lots in Montara and Moss Beach. The EIR was prepared solely to study the impact of the installation and use of the 58 new domestic wells which could be expected to be drilled on the lots granted sewer permits. [DEIR 1, 10, 109, 137] The DEIR considered the "worst-case" scenario to be the actual installation of these 58 wells. [DEIR 109] 26 of the new wells would be in the exemption zone. [DEIR 12, 113] The study area did *not* include *all* of Moss Beach and Montara. For some unknown reason, the area west of Farallone in Montara was excluded from the study area even though at least one of the permits was granted to a Montara home in the exemption zone but not in the study area. [DEIR 51-57, but see DEIR 4]

Reason for Project
Citizen's Utilities, the water purveyor to Montara and Moss Beach, was (and is still) under a moratorium imposed by the California Public Utilities Commission (CPUC) due to inadequate water supply. Citizen's Utilities could not grant any new connections until it increased its water supply capacity to 500 gallons per minute. [DEIR 30] Citizen's water supply at that time was 350 gallons per minute. [DEIR 30]

Lack of Information
The DEIR noted that the LCP required the County to implement a "water monitoring program" to determine water availability for resource protection, but the County had never complied with this requirement. [DEIR 15] The DEIR stated that the proposed project (the 58 new wells) would comply with the LCP *only* if the County implemented the monitoring program. [DEIR 16]

The DEIR pointed out that "much" of the information necessary to respond to comments was unavailable. The DEIR project team lacked information on (1) seasonal and year-to-year variations in ground water levels in the project area's six sub-units, (2) ground water quality, (3) health and sensitive habitat areas, (4) aquatic habitat and (5) special-status plants and the San Francisco Garter Snake. [DEIR 140] The DEIR recommended that the County begin a monitoring program to obtain these types of data. [DEIR 140-141] We believe that the County has never implemented a monitoring program.

Water Supply in the Project Area
The local aquifers are small, discrete and rainfall-dependent. [DEIR 35] The DEIR seemed to indicate that there were then 32 existing wells in Montara and Moss Beach. [DEIR 44] The vast majority of these wells had been drilled between 1985 and 1988. [DEIR 45]

Problems Associated With The Project's Proposed New Wells
The DEIR identified six sub-units in the project area: Montara Terrace, Montara Heights, Upper Montara Creek, Upper Seal Cove, Upper Moss Beach and Moss Beach Terrace. The DEIR voices concerns that wells in all of the sub-units in the project area could become contaminated by "the introduction of fuel or chemical solvents into the ground water supply via leaking underground storage tanks or other private or commercial disposal practices." [DEIR 85] This risk has already come to pass. Last year, MTBE was found in Citizen's Utilities' wells in Montara. The apparent source was a leaking underground fuel tank. Because it had inadequate water supply to substitute for the contaminated wells, Citizen's provided MTBE-contaminated water to its customers in Montara and Moss Beach for a significant portion of 1999.

The DEIR projected that the installation of *these 58 wells **alone*** would not have a significant impact on the water supply from the existing Citizen's Utilities wells because these 58 wells would draw about 5% of the "estimated annual outflow during normal years" which was below the safe threshold of 40% of normal-year outflow. During dry years, overall the 58 wells would draw from 7% to 11% of the available outflow. [DEIR 115] Although the overall impact of these 58 wells was not projected to have a significant impact on water supply, the impact of these 58 wells on some of the individual sub-units was forecast to be more significant.

The **Montara Terrace** sub-unit would face serious "water-level declines" in drought years which might render the yield from these wells inadequate in drought years. [DEIR 53] The "water budget" for this sub-unit projected a large "deficit" in dry years. [DEIR 62] "Anticipated withdrawals from the new wells [in Montara Terrace] is likely to be about 22 percent of the normal-year estimated outflow." [DEIR 118] This would approach, but not exceed, the maximum safe level. Groundwater development in this sub-unit should only proceed with "observation and caution." [DEIR 118]

The **Upper Moss Beach** sub-unit would also face a large water deficit in dry years. In addition, the wells in this sub-unit had to be very deep and "[a]nticipated pumpage" from the installation of the 58 wells would draw 15% of the available water in normal years. This would also approach, but not exceed, the maximum safe level. As in Montara Terrace, wells should only be drilled in this sub-unit with "observation and caution." [DEIR 118] In this sub-unit, the DEIR projected "difficult well drilling, low yields, and low reliability of yields." [DEIR 127] Wells could go dry and produce the need for unavailable public water service connections. [DEIR 127]

In the **Montara Heights** sub-unit, the DEIR forecast that "closely spaced wells" posed a danger of "well-interference problems" which could not be quantified due to the lack of data. [DEIR 54] The water budget for this sub-unit showed no surplus even in normal years. [DEIR 65, 67] This area too would have "difficult well drilling, low yields, and low reliability of yields." [DEIR 127] Wells might go dry and "homes lacking water during dry periods are likely to require *supplemental public services*." [DEIR 127] New connections to public water service in Montara are not available, and there is no indication that such service will become available in the foreseeable future.

The **Upper Seal Cove** sub-unit had no known wells and was thought to have insufficient ground water to support any wells. [DEIR 56] "[L]ittle or no surplus water is available in the aquifer." [DEIR 79-81] Completion of the 58 wells contemplated by the project would cause draws in Upper Seal Cove to "exceed prudent levels." This area too was subject to "difficult well drilling, low yields, and low

reliability of yields" and wells could be expected to go dry prompting homeowners to seek unavailable public water service. [DEIR 127]

The **Upper Montara Creek** sub-unit water budget projected a serious deficit in dry years, although the DEIR suggested that normal-year surplus might compensate for dry-year deficits. [DEIR 67, 72] "[D]evelopment of additional wells could affect dry year performance of existing wells." [DEIR 72] In addition, "the nearly continuous well operation [by Citizen's Utilities] lowers the water table, inducing percolation of surface water and shallow ground water . . . ." [DEIR 72]

Other Impacts

According to the DEIR, the installation of the project's 58 wells might affect riparian habitats by reducing stream flows and causing water stress to riparian vegetation. Aquatic habitat would suffer detrimental impact even before riparian habitats were damaged. The DEIR downplayed these potential impacts because "this impact is incremental and cumulative," but it warned that the impact "could become significant *at a future, more intensive level of development.*" [DEIR 121]

Although the DEIR did not study the potential impact of wells beyond the 58 involved in the proposed project, it did state that, if a substantial number of additional wells were drilled, particularly in Upper Seal Cove, Montara Heights and Upper Moss Beach, the safe threshold could be exceeded with the result being "increased risk of well failure" and "potential impacts upon sensitive-area biota." [DEIR 138]

Recent Proliferation of New Wells

The County has not yet revealed the precise number of new wells that have been drilled since the installation of the 58 wells contemplated in the 1989 EIR. The County has disclosed that at least 75 new wells have been added in the last two years. For example, at least six new wells have been drilled in the last two years in Montara in the exemption zone *outside the "project area"* that was studied in the 1989 EIR. On a single square block in Montara, in the exemption zone, outside the "project area" and west of Farallone (bounded by 11th Street, 12th Street, Farallone and Highway 1), there are a total of six parcels. Four are developed with residences. Three of these residences are supplied by Citizen's Utilities. One has a well which was part of the 1989 group (even though it is outside the project area studied in the 1989 EIR). The remaining two parcels have had wells drilled on them in the last 18 months. One of the two has been granted a building permit by the County premised on that well. A third well is directly across the street from that parcel. There have also been new wells drilled in the Seal Cove area of Moss Beach in the last year or two, and it is common knowledge that at least one well-dependent home in Moss Beach is now uninhabitable

due to its well going dry. And this is before most of the new wells have gone into production.

Conclusion

The 1989 EIR does not support the County's current position that *any* number of wells may be drilled in *any* portion of Moss Beach or Montara without a study of the environmental impact of these wells. The 1989 EIR was limited to the impact of the 58 wells which were then installed, and it did not study the impact of further well drilling. In fact, the 1989 EIR suggests that drilling additional wells would not be prudent particularly in three of the six sub-units.

Notwithstanding the clear warnings in the 1989 EIR, the County has permitted at least 75 new wells to be drilled in all parts of Moss Beach and Montara without regard to their location. Nearly all of these new wells have been drilled to support new residential construction. As in 1989, there is no public water service available to serve these new homes and the groundwater supply is inadequate to support the wells which the County is allowing to be drilled to support the construction of these new residences. If an EIR was necessary in 1989 for 58 wells, an EIR is obviously necessary now when the County is handing out building permits on a daily basis for new residences in the exemption zone (and elsewhere) where the only available water supplies are new domestic wells.

This large addition of new wells poses many risks which have not yet been studied. The County should not be permitted to continue issuing building permits in the exemption zone until it has completed an EIR studying the impact of these new wells. Furthermore, the Coastal Commission should impose a moratorium on new well-dependent building permits in Moss Beach and Montara, both within and without the coastal exemption zone, until an EIR has been completed which evaluates the impact of new wells in this area. Coastal resources including riparian habitat and aquatic habitat are at risk if the County's current practices are allowed to continue.

We are very concerned that, due to the County's failure to assess the impact of new wells, the citizens of Montara and Moss Beach must face the distinct possibility that our homes may lack adequate water supply in the very near future. This enormous problem affects not only the habitability of new homes but the habitability of ***all*** homes since groundwater is the only source of water supply for our communities. The County's inexcusable conduct also threatens to cause irreversible environmental damage.

We strongly urge the Commission to put an immediate stop to well-dependent construction on the Midcoast pending completion of an EIR studying the impact of these wells.

Sincerely,

Ellen Zeff and Jeff Blaney

cc: Midcoast Community Council
Montara Sanitary District
Jack Liebster, California Coastal Commission
George Bergman, San Mateo County Planning Department
Dean Peterson, San Mateo County Environmental Health
Terry L. Burnes, San Mateo County Planning Administrator
Paul M. Koenig, San Mateo County Environmental Services Director
Bill Rozar, San Mateo County Development Review Services Manager

Ellen Zeff & Jeffrey W. Blaney
P.O. Box 371508
Montara, CA 94037
(650) 728-2871

February 15, 2000

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

Dear Jack,

This letter is intended to supplement our previous letter addressing the 1989 DEIR on wells in Montara and Moss Beach. This letter addresses solely the FEIR. We are attaching copies of excerpts from the Final Environmental Impact Report (FEIR) prepared in 1989 on wells in Montara and Moss Beach and a copy of the 1987 newspaper article that we discussed. The FEIR excerpts include all of the comments made by Citizens Utilities and Montara Sanitary District and some of the comments submitted by an organization called "The Montara Moss Beach Water Improvement Association." The excerpts also include relevant portions of the FEIR's additions to the DEIR and the most significant of the FEIR's responses to comments on the DEIR. This letter addresses these excerpts.

The FEIR's Additions to the DEIR

Upper Seal Cove Lacks Adequate Water Supply

The FEIR confirms that the Upper Seal Cove subunit does not have an adequate supply of groundwater to support additional domestic wells. [FEIR 31] In fact, according to the FEIR, the demand posed by the wells proposed in that subunit in 1989 alone will likely cause "environmental impacts upon the individual owners, other community members, and habitat values in the pond area immediately to the east." [FEIR 31-32]

Project Limited to 58 to 60 Wells

The FEIR suggests that a hydrologic study is not required prior to construction of the proposed 58 to 60 domestic wells[1] so long as this number of wells "is not substantially exceeded." [FEIR 33] "So long as the project is limited to providing ground water to 60 homes, the environmental effects of all alternatives (including the proposed project) are very limited." [FEIR 36]

The FEIR's Responses to Comments

Unsupported Assumptions; No Monitoring

The FEIR makes assumptions based on the ***absence*** of data, instead of making inferences based on known facts. The FEIR acknowledges that "no data" has been amassed on "aquatic biota" in the streams in the project area, but it "is assumed" by the FEIR that impacts "are not significant at the scale of this project." [FEIR 38] The FEIR insists that monitoring implemented in conjunction with the installation of the proposed 58 wells "will develop the information needed" to assess whether adequate groundwater supplies are available. [FEIR 65] However, more than a decade has passed. No monitoring has ever been implemented, and no data has been acquired. In other words, with ***no facts*** whatsoever, the FEIR ***assumed*** in 1989 that any environmental impact on streams caused by the installation and use of **58** new domestic wells would not be significant. Although the FEIR believed that the County would institute monitoring which would capture the data necessary to assess the adequacy of groundwater supplies, we still have no data. Whether the FEIR's 1989 assumptions were valid then is unverifiable, since they were based on no facts, and surely these assumptions cannot be relied upon today after the installation of many more wells and in the absence of any additional data.

DEIR/FEIR Did Not Assess The Environmental Impact of Any Additional Wells Beyond the Ones Proposed in 1989

The FEIR repeatedly restates that "[t]he project would entail drilling a maximum of 64 wells" and that this EIR is only assessing the impact of "the maximum development of 64 lots" with wells. [FEIR 42] The FEIR explicitly refutes the County's position that the DEIR authorized the drilling of any additional wells beyond the 58 to 64 wells contemplated in 1989. "**Further development of individual wells beyond the 58 to 64 wells of this project is strongly discouraged by the Draft EIR** (e.g., Sec. 9.6), pending collection and interpretation of sufficient information to support a quantitative assessment of a potentially significant set of environmental impacts. This **vital point** should be emphasized in discussion of the EIR's findings." [FEIR 70]

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[1] The FEIR variously refers to the number of wells as 58, 60, 58 to 60, 58 to 64 and 64. It is not clear why the number of wells varies.

Conclusion

In 1989, the County's DEIR/FEIR determined that the installation and use of 58 to 64 new domestic wells would not have a significant environmental impact. This determination was based on assumptions which were in turn based on the absence, rather than the presence, of data to support them. The County's DEIR/FEIR also "strongly discouraged" additional wells because it lacked the data to assess the significant environmental impacts that these wells would cause. To my knowledge, the County has not acquired any additional data or information since the completion of the 1989 DEIR/FEIR. It is self-evident that a new EIR is required and should have been required prior to the installation of the many many wells which have been installed since 1989.

Sincerely,

Ellen Zeff and Jeff Blaney

Ellen Zeff
P.O. Box 371508
Montara, CA 94037
(650) 728-2871

January 26, 2001

Members of the Board of Supervisors
County Government Center
Redwood City, CA 94063

Re: Appeal of PLN 1999-00244
Applicant: Michael Mahon
Appellants: Jeff Tate, Lennie Roberts, Jan Didur and Judith Macias
Hearing Scheduled for Tuesday, January 30, 2001 at 9:30 a.m.

Dear Supervisors,

I am writing in support of the appeal filed by Jeff Tate, Lennie Roberts and others challenging Michael Mahon's proposed development on San Ramon Avenue in the Seal Cove area of Moss Beach. The primary issue which concerns me is the permitting of additional well-based housing in an area which has already been identified as lacking sufficient groundwater reserves and in which there has been no study of the environmental impacts of further well drilling in an already overburdened area.

I. This Project Violates CEQA

The Board should not permit this project to proceed because it would violate CEQA. Although the construction of single family residences on infill lots would ordinarily be exempt from CEQA compliance (CEQA Regs., §§ 15303, 15332), such construction is not exempt where the development sites do not have water service (CEQA Regs., § 15332, subd. (e)) and the cumulative impact of the operation of numerous domestic wells will have a significant environmental impact (CEQA Regs., § 15300.2, subd. (b)).

The County has processed a negative declaration on this project, but in light of the 1989 EIR on well-drilling on the Midcoast, this negative declaration lacks any substantial basis.

II. This Project Threatens Existing Homeowners and Sensitive Habitats

The Board should not permit this project to proceed because the drilling of a new well at this site will threaten the viability of the existing wells in the area and will potentially harm sensitive habitats in the area.

A. 1989 Environmental Impact Report

An Environmental Impact Report was completed in 1989 to study the impact of no more than 64 new domestic wells which were then proposed for Moss Beach and Montara in connection with the allocation of approximately that number of new sewer connections in the absence of any additional water connections to the local water purveyor, Citizen's Utilities. Citizen's Utilities, then, as now, lacked sufficient capacity to service any new connections. Those 64 wells were installed as proposed, but since then many more wells have been drilled in this area with no further study of the environmental impact of these wells.

The 1989 EIR concluded that the 64 proposed wells would probably not have a significant environmental impact, but that any additional wells could have a significant environmental impact and that no further wells should be drilled in the absence of further environmental impact assessment. In particular, the 1989 EIR identified Seal Cove, an area which at that time apparently had no known wells, as having insufficient ground water to support any wells. (See 1989 Kleinfelder Draft EIR (hereafter DEIR), page 56.) "[L]ittle or no surplus water is available in the [Seal Cove] aquifer." (DEIR, pages 79-81.) In fact, the DEIR projected that the mere completion of the wells proposed in 1989 would cause groundwater draws in Seal Cove to "exceed prudent levels." The DEIR explained that this area was subject to "difficult well drilling, low yields, and low reliability of yields" and wells could be expected to go dry prompting homeowners to seek unavailable public water service. (DEIR, page 127.)

Ominously, the DEIR projected that 1989 wells themselves might affect riparian habitats by reducing stream flows and causing water stress to riparian vegetation. Aquatic habitat would suffer detrimental impact even before riparian habitats were damaged. The DEIR downplayed these potential impacts as to the 64 proposed wells because "this impact is incremental and cumulative," but it warned that the impact "could become significant *at a future, more intensive level of development.*" (DEIR, page 121.) The DEIR projected that, if a substantial number of additional wells were drilled in, among other places, Seal Cove, the safe threshold could be exceeded with the result being "increased risk of well failure" and "potential impacts upon sensitive-area biota." (DEIR, page 138.)

The 1989 Final Environmental Impact Report (a document which merely responded to the comments received on the DEIR) confirmed that Seal Cove did not have an adequate supply of groundwater to support any additional domestic wells. (Final EIR

(hereafter FEIR), page 31.) In fact, according to the FEIR, the demand posed by the wells proposed for Seal Cove in 1989 alone would likely cause "environmental impacts upon the individual owners, other community members, and habitat values in the pond area immediately to the east." (FEIR, pages 31-32.)

The FEIR buttressed the ominous tone adopted in the DEIR regarding further well-drilling. It "strongly discouraged" any "[f]urther development of individual wells beyond the 58 to 64 wells" then proposed "pending collection and interpretation of sufficient information to support a quantitative assessment of a potentially significant set of environmental impacts. This **vital point** should be emphasized in discussion of the EIR's findings." (FEIR, page 70.)

B. Analysis

Obviously the 1989 EIR identified Seal Cove as one of several areas where no further wells should be drilled (beyond those proposed in 1989) without a further EIR to study them. No further EIR has been done since then, yet the County has been permitting well after well after well to be drilled in all areas of the Midcoast with no consideration of groundwater availability or the environmental impact of these new wells. Already, according to Dean Peterson, one well in Seal Cove has failed due to insufficient groundwater supply. The proliferation of new wells means that the existing wells will have less and less groundwater to draw from. The Board has a duty to avoid endangering the habitability of current homes by permitting the erection of new homes without any proof of adequate water supply. The entire LCP premises new construction on the availability of water. The 1989 EIR indicates that water is not available in this area. No study has been done which contradicts this.

No further well drilling should be permitted in Seal Cove (or elsewhere on the Midcoast for that matter) until an EIR has been completed assessing the availability of groundwater to service new residential construction. Since all homes in Montara and Moss Beach are dependent on groundwater, whether by means of individual domestic wells or by dependence on Citizen's Utilities' wells, the continued habitability of all of our homes depends on the County's insistence on demonstrated water availability before the construction of new homes.

III. This Project Violates the LCP

The "urban" areas of the Midcoast are defined in the LCP as those which are "served by sewer and water utilities." (LCP Policy 1.3(a).) Because the proposed project would not be served by a water utility, it does not appear to qualify for treatment as an infill development in an "urban" portion of the Midcoast.

LCP Policy 2.32 requires that any new well drilling be preceded by a consideration of the "safe yield factor which will not impact water dependent sensitive habitats,

riparian habitats and marshes." The "safe yield factor" is supposed to be based on "studies conducted . . . which shall . . . prior to the granting of the permit, examine the geologic and hydrologic conditions of the site to determine a preliminary safe yield which will not adversely affect a water dependent sensitive habitat."

Nothing in the Planning Department's staff report indicates that any studies have been conducted regarding the impact that the drilling of this well will have on sensitive habitats in Seal Cove. The project is proposed for an area near the Fitzgerald Marine Reserve. Undoubtedly the Marine Reserve is a sensitive habitat. We have seen how merely the overcrowding of the Reserve has already degraded it. The absence of adequate groundwater in this area means that a well may cause saltwater intrusion and other effects on riparian and aquatic habitat which could have ripple effects that further degrade the Marine Reserve and other sensitive habitats in the area.

The proposed development should not be permitted because it would violate LCP Policy 2.32 and should not even qualify for consideration as an infill development since it is not properly within an "urban" area as defined in the LCP

Conclusion

The Board should uphold the appeal and reject this project.

Sincerely,

Ellen Zeff

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Attachment F

COUNTY OF SAN MATEO, PLANNING DIVISION

NEGATIVE DECLARATION

A notice, pursuant to the California Environmental Quality Act of 1970, as amended (Public Resources Code 21,000, et seq.) that the following project: Mahon Single-Family Residence and Domestic Well, when implemented will not have a significant impact on the environment.

FILE NO.: PLN 1999-00244

OWNER/APPLICANT: Michael Mahon/Joanne Mahon

ASSESSOR'S PARCEL NO.: 037-259-170

ENDORSED
FILED IN THE OFFICE OF THE COUNTY CLERK RECORDER OF SAN MATEO COUNTY, CALIF.

FEB 02 2000

WARREN SLOCUM, County Clerk
By CECILIA WOLFE
DEPUTY CLERK

PROJECT DESCRIPTION AND LOCATION

The project involves the construction of a 2,629 square foot single-family residence and a domestic well located on San Ramon Avenue in the Seal Cove area of unincorporated Moss Beach.

FINDINGS AND BASIS FOR A NEGATIVE DECLARATION

The Planning Division has reviewed the initial study for the project and, based upon substantial evidence in the record, finds that:

1. The project will not adversely affect water or air quality or increase noise levels substantially;
2. The project will not have adverse impacts on the flora or fauna of the area;
3. The project will not degrade the aesthetic quality of the area;
4. The project will not have adverse impacts on traffic or land use;
5. In addition, the project will not:
    a. Create impacts which have the potential to degrade the quality of the environment.
    b. Create impacts which achieve short-term to the disadvantage of long-term environmental goals.
    c. Create impacts for a project which are individually limited, but cumulatively considerable;
    d. Create environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.

The County of San Mateo has, therefore, determined that the environmental impact of the project is insignificant.

Exhibit D

MITIGATION MEASURES included in the project to avoid potentially significant effects:

1. At the building permit application stage, the applicant shall submit the geotechnical report in accordance with the standards of the San Mateo County Geotechnical Section to the Building Inspection Section. The recommended mitigation in the geotechnical report should be reviewed at that time.

2. At the time of application for a building permit, an erosion control and stormwater management plan shall be submitted for review and approval by the Planning Division.

3. The applicant is required to monitor the noise levels at the site so that the proposed construction activity will not exceed 80-dBA level at any one moment. In addition, all construction activities shall be limited to the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. Construction operations shall be prohibited on Sunday and any national holiday.

4. The applicant is required to submit a Stormwater Management Plan, which delineates permanent stormwater controls to be in place throughout the grading, building and life of the project.

5. The applicant shall ensure that if during construction or grading, archaeological traces (human remains, concentrations of shell, bone, rock or ash) are uncovered, all excavations within a 30-foot radius shall be halted, the Planning Division shall be notified, and a qualified archaeologist shall assess the situation and propose appropriate measures.

RESPONSIBLE AGENCY CONSULTATION

INITIAL STUDY

The San Mateo County Planning Division has reviewed the Environmental Evaluation of this project and has found that the probable environmental impacts are insignificant. A copy of the initial study is attached.

REVIEW PERIOD February 2, 2000 to February 22, 2000.

All comments regarding the correctness, completeness, or adequacy of this Negative Declaration must be received by the County Planning Division, 455 County Center, Second Floor, Redwood City, no later than 5:00 p.m., February 22, 2000.

CONTACT PERSON

Sara Bortolussi
650/363-1839

Sara Bortolussi, Project Planner

SB:cdn – SMBK0016_WCH.DOC

Jeff Tate

From: zephyr
Sent: Monday, March 05, 2001 11:51 PM
To: Jerry Hill
Cc: kathryn slater-carter; paul perkovic; jefftate@mindspring.com; lennie@darwin.ptvy.ca.us
Subject: 3/6 Hearing on Appeal in PLN 1999-00244

Re: Midcoast wells

Re: Wells

Hi Jerry,

Thanks for letting me know about the Planning Department's response to my concerns. It is really too bad that the Planning Department could not have sent me a copy of their supplemental report in advance of the meeting so that I could prepared a response to it other than at midnight the night before the meeting.

I am puzzled by the Planning Department's statement that only five wells are "operating" and therefore there is no need for concern. One year ago, Dean Peterson gave me a list of five wells that were operating in Seal Cove.

Here is the list:

037-278-070 BERNAL AVENUE W-270-87 10/8/1987
037-285-160 CORNER OF BERNAL/DEL MAR, MOSS W-79-98 8/27/1998
037-259-280 SAN RAMON/MADRONE, MOSS BEACH W-125-98 3/2/1999
037-256-140 170 LOS BANOS STREET W-107-90 7/19/1990
037-258-020 SAN RAMON AVE W-65-90 4/3/1990

As you can see, two of these wells were relatively recently installed, one of them, I believe, just two doors down from the property now in question.

When Dean provided me with this information in April 2000, he noted that his information was rather incomplete and probably did not include lots of other wells. In September 2000, he told me that he was still working on updating his well information but essentially had no idea when his information would be complete. (See attachments.)

I am personally aware of at least three or four additional wells that have been drilled in Seal Cove in the last 24 months which are not among the five on Dean's list. Probably this is because these wells are not yet "operating" since the houses they will feed have not yet been constructed. I am not aware of whether building plans have been approved for these lots or whether such plans are still in the works. Regardless, the property herein in question will not be the 6th well but rather at least the 9th or 10th well in Seal Cove and therefore well beyond the 7 wells which the Planning Department asserts were contemplated by the 1989 EIR. If the Planning Department was correct and 7 wells was the limit, the limit has already been exceeded.

I very much doubt that the Planning Department will ever see the need for an EIR or a study of any kind of the impact of further well-based development in Seal Cove or elsewhere. For whatever reason, the Planning Department seems to see its role as serving its developer-clients rather than its community-constituents.

If an EIR is not required for the 10th well in Seal Cove when the earlier EIR said one would be need for anything more than 7, how is the community protected?

Exhibit F

I would appreciate it if these issues were addressed by the Planning Department and Environmental Health, but I am convinced that the only appropriate response is requiring an EIR.

The Planning Department insists that this well will have no impact because up to 7 wells will have no significant impact. Even if it were true that seven wells would not have a significant impact, this would not justify approval of this well because we don't know how many wells there currently are in Seal Cove and there are certainly already more than 7.

Can you request that the Planning Department and Environmental Health provide the following information:

1. How many wells are currently "operating" in Seal Cove? Has Dean been able to confirm his estimate of 5 operating wells, or has this estimate been updated?

2. How many wells have been drilled but are not yet "operating" in Seal Cove?

3. What is the status of development plans for those lots in Seal Cove that have wells drilled but not yet "operating"? Have building permits been issued?

4. How many other well drilling permit applications are pending in Seal Cove?

5. How many well-drilling attempts have failed in Seal Cove due to lack of water?

Thanks for your help,

Ellen Zeff

Jeff Tate

From: Dean Peterson
Sent: Monday, April 03, 2000 8:44 AM
To: zephyr
Subject: Re: Wells

Ellen, here is the additional information you requested

1. The 145 is the total number installed since 1989 and so yes it includes the 58.

2. Finaled means that they have met our minimum requirements (quality and quantity) - additionally some of the wells installed are installed on property that has septic - since these properties end-up "recycling" the water - as opposed to using it and sending it down the hill - they are not included and in the original 89 report were not intended to be evaluated - so if you look at total number (sewered and septic properties) it would be 164 since 89 (14 since Nov 99) If a hole comes up a duster - they would never get a final.

3. Send me a mailing address and I will mail out our list.

4. The estimation for percent of a normal year outflow is 12% overall - 33% in the Upper Moss Beach unit and 82% in Montara Heights. Overall usage in percent of total storage is 1% (2% in Montara Heights)

5. Non-interference of neighbors water rights is maintained under code by requiring minimum setbacks from existing wells and property lines. Until a public water supply is made attractive to the area I would imagine people will gravitate towards groundwater usage. And legally if they meet quality/quantity then EH and Planning have to approve. Whether or not they will have water next year or in 30 years is a risk that everybody, anywhere takes when relying on groundwater. The attraction to go with reliable source is just not there.

We did meet with Chris Kern of the Coastal Commission and gave him this information and committed to work with him if they have any other concerns.

With the information we have today - we do not see a pending problem with the water resource in the area - However, it is still wise to to study it to make a better analysis of the aquifer. Again, we have not seen evidence of the typical signs of aquifer stress - elevation of chloride levels, a constant need to drill deeper and deeper, or ecological stress of plant species.

Personally, I would like to thank you for asking these questions and getting us to take a closer look at the area - It is something I have wanted to do for a number of years, my career has been dedicated to protecting water resources - mainly via site cleanups of chemical contamination - it is good to get back and focus on the basics.

dp